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federal register

Tuesday
May 29, 1984

Selected Subjects

Administrative Practice and Procedure
Animal and Plant Health Inspection Service
Navajo and Hopi Indian Relocation Commission

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Small Business Administration

Chemicals
Environmental Protection Agency

Child Support
Child Support Enforcement Office

Communications Common Carriers
Federal Communications Commission

Crop Insurance
Federal Crop Insurance Corporation

Disability Benefits
Social Security Administration

Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

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Selected Subjects

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Presidential Documents

Title 3—

The President

Proclamation 5199 of May 24, 1984

National Farm Safety Week, 1984

By the President of the United States of America

A Proclamation

Agriculture has always been one of our most important industries. Although our ancestors were bound to the land in order to survive, the remarkable advances of science and technology have overcome most limitations that dictated scarcity. American agriculture has emerged as a marvel of efficiency and productivity. Now, fewer than five percent of our people are able to supply an abundance of high-quality but low-cost food, freeing most others for the task of providing the incredible array of goods and services we enjoy.

Unfortunately, the accident rate for people engaged in agriculture is unacceptably high. Many thousands of farm and ranch residents and workers suffer disabling, crippling, or fatal injuries each year. This unhappy toll is further compounded by many job-related illnesses. The direct economic costs of these problems exceed $5 billion annually, and there is no way to measure the pain, despair and family disruption that also result.

This regrettable situation need not continue. The waste of life, limb, property and financial resources can be sharply reduced if rural people take a decisive stand for better safety and health. Accidents and job-related illnesses can be averted by safe and proper methods, control of hazards, and use of protective equipment when appropriate. In addition, guidance in safety and health is readily available to all from the Extension Service, safety councils, volunteer safety leaders and the manufacturers of the products we use.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of September 16 through September 22, 1984, as National Farm Safety Week. I urge every man and woman engaged in farming and ranching to make basic safety a priority in every activity and task—on the job, in the home and on the highway. I also urge those who serve and supply farmers and ranchers to encourage and support personal and community safety and health efforts in every possible way.

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

Ronald Reagan

[FR Doc. 84-14413
Filed 5-24-83; 4:46 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12479 of May 24, 1984

Management Reform in the Federal Government

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to coordinate and implement policies with respect to management reform in the Federal government, it is hereby ordered as follows:

Section 1. *Establishment of the President's Council on Management Improvement.*

(a) There is established as an interagency committee the President's Council on Management Improvement.

(b) The Council shall be composed of the following members:

(1) The Deputy Director of the Office of Management and Budget, who shall be Chairman of the Council;

(2) The Assistant Secretary for Administration, Department of Agriculture;

(3) The Assistant Secretary for Administration, Department of Commerce;

(4) The Assistant Secretary (Comptroller), Department of Defense;

(5) The Deputy Under Secretary for Management, Department of Education;

(6) The Assistant Secretary for Management and Administration, Department of Energy;

(7) The Assistant Secretary for Management and Budget, Department of Health and Human Services;

(8) The Assistant Secretary for Administration, Department of Housing and Urban Development;

(9) The Assistant Secretary for Policy, Budget and Administration, Department of the Interior;

(10) The Assistant Attorney General for Administration, Department of Justice;

(11) The Assistant Secretary for Administration and Management, Department of Labor;

(12) The Assistant Secretary for Administration, Department of State;

(13) The Assistant Secretary for Administration, Department of Transportation;

(14) The Assistant Secretary for Administration, Department of the Treasury;

(15) The Assistant to the Administrator for Management, Agency for International Development;

(16) The Assistant Administrator for Administration and Resources Management, Environmental Protection Agency;

(17) The Deputy Administrator, General Services Administration;

(18) The Associate Administrator for Management, National Aeronautics and Space Administration;

(19) The Associate Director for Management, Office of Management and Budget;

(20) The Associate Director for Administration, Office of Personnel Management;

(21) The Associate Deputy Administrator for Resource Management, Small Business Administration;

(22) The Associate Deputy Administrator for Information and Resources Management, Veterans' Administration;

(23) The Assistant to the President for Policy Development, or a Federal employee designated by that official, to advise on management and administration; and

(24) The Assistant to the President for Presidential Personnel, or a Federal employee designated by that official, to advise on human resource development.

Sec. 2. *Functions of the Council.* The Council shall:

(a) develop and oversee the implementation of improved management and administrative systems for government-wide application;

(b) formulate long-range plans to promote improvements in the management and administrative systems of the Federal government;

(c) identify specific department and agency management reforms applicable to other agencies and assist in their implementation;

(d) work to resolve interagency management problems; and

(e) work with the Office of Management and Budget, the General Services Administration and the Office of Personnel Management to ensure timely implementation and coordination of their policies.

In conducting these functions, the Council shall not interfere with existing lines of authority and responsibility in the departments and agencies.

Sec. 3. *Responsibilities of the Chairman.* The Chairman shall:

(a) establish, in consultation with the members of the Council, procedures for the Council and establish the agenda for Council activities;

(b) on behalf of the Council, report to the President; the goals and the results of the Council on management projects shall be reported to the President through the Cabinet Council on Management and Administration; the Chairman shall advise the Council with respect to the reaction of the President and the Cabinet Council to its activities;

(c) provide agency heads with summary reports of the activities of the Council;

(d) establish such committees of the Council, including an executive committee, as may be deemed necessary or appropriate for the efficient conduct of Council functions; committees of the Council may act for the Council in those areas that affect the membership of the committee;

(e) appoint Vice-Chairmen to one-year terms to assist the Chairman in representing the Council and perform duties as determined by the Chairman;

(f) appoint other Federal officials as at-large members to one-year terms to provide special expertise to the Council and perform duties as determined by the Chairman; and

(g) be supported by the Associate Director for Management of the Office of Management and Budget, who shall advise and assist the Chairman in the execution of the entire range of responsibilities set forth above and act for the Chairman in his absence.

Sec. 4. *Administrative Provisions.*

(a) The Director of the Office of Management and Budget shall provide the Council with such administrative support as may be necessary for the performance of its functions.

(b) The head of each agency represented on the Council shall provide its representative with such administrative support as may be necessary, in accordance with law, to enable the agency representative to carry out his or her responsibilities.

Ronald Reagan

THE WHITE HOUSE,
May 24, 1984.

[FR Doc. 84-14414
Filed 5-24-84; 4:47 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority; Correction

AGENCY: Department of Agriculture.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 84–7529, appearing Wednesday, March 21, 1984, 49 FR 10539, relating to revision of delegations of authority, amendment 2 appearing in the third column of page 10539 added a new paragraph to § 2.30 incorrectly numbered "(a)(77)". The correct paragraph number should be "(a)(78)".

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Siegler, Acting Assistant General Counsel, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C., (202) 447–6035.

Dated: May 23, 1984.

John R. Block,

Secretary of Agriculture.

[FR Doc. 84–14251 Filed 5–25–84; 8:45 am]
BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 84–314]

7 CFR Part 380

Rules of Practice Governing Proceedings Under Certain Acts

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends 7 CFR Part 380 to (1) state that the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture" are applicable to adjudicatory, administrative hearings under the Endangered Species Act of 1973, as amended, and the Lacey Act Amendments of 1981, and (2) provide that the Supplemental Rules of Practice, which contain a mechanism for settling cases without the institution of such formal proceedings, are applicable to adjudicative administrative proceedings under such acts.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5533.

SUPPLEMENTARY INFORMATION: Under the Administrative Regulations of the Department of Agriculture (7 CFR Part 1), any hearing to assess a civil penalty under section 11(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1540(a)) and Section 4 (a) and (b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3373 (a) and (b)) must be conducted in accordance with the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes" as contained in Subpart H of Part 1, Subtitle A, 7 CFR (7 CFR 1.130–1.161).

Further, 7 CFR Part 380 contains additional rules of practice, captioned "Rules of Practice Governing Proceeding Under Certain Acts", that provide a mechanism for settling certain adjudicatory, administrative cases without the institution of such formal proceedings. These rules of practice are to be used in addition to the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes" referred to above. Prior to the publication of this document, these supplemental rules of practice had not been extended to adjudicatory, administrative proceedings brought under the Endangered Species Act of 1973, as amended or the Lacey Act Amendments of 1981.

This document amends 7 CFR Part 380 to state that the rules of practice found in Part 380 also apply to adjudicatory, administrative proceedings brought under section 11(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1540(a)) and Section 4 (a) and (b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3373 (a) and (b)).

This rule relates to internal agency management, and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are unnecessary and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since these rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this section is not a rule as defined by Pub. L. 96–351, The Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 380

Administrative practice and procedure.

Accordingly, 7 CFR Part 380 is amended as follows:

PART 380—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

1. The authority section for 6 CFR Part 380 is revised to read as follows:

Authority: Sec. 1, 37 Stat. 315, as amended; Sec. 5, 37 Stat. 316, as amended; sec. 7, 37 Stat. 317, as amended; secs. 8 and 10, 37 Stat. 318, as amended; sec. 9, 37 Stat. 318; sec. 10, 45 Stat. 468; Sec. 15, 45 Stat. 565; 56 Stat. 40, as amended; secs. 103 and 105, 71 Stat. 32, as amended; sec. 106, 71 Stat. 33; sec. 108, 71 Stat. 34, as amended; sec. 11(a), 87 Stat. 897; sec. 4, 95 Stat. 1074; 7 U.S.C. 149, 150bb 150dd, 150ee, 150gg, 154, 159–164a, 167, 16 U.S.C. 1540(a), 3373 (a) and (b), 7 CFR 2.17, 2.51, 371.2(c).

2. Section 380.1 is revised to read as follows:

§ 380.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the following statutory provisions:

Act of August 20, 1912, commonly known as the Plant Quarantine Act, Section 10, as amended (7 U.S.C. 163, 164),

Act of January 31, 1942, as amended (7 U.S C. 149),

Federal Plant Pest Act, Section 108, as amended (7 U.S.C. 150gg),

Endangered Species Act Amendments of 1973, as amended, Section 11(a) (16 U.S.C. 1540 (a)), and

Lacey Act Amendments of 1981, Section 4 (a) and (b) (16 U.S.C. 3373 (a) and (b)).

In addition, the Supplemental Rules of Practice set forth in Subpart B of this part shall be applicable to such proceedings.

Done at Washington, D.C., this 23rd day of May 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-14207 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 417

[Amdt. 3]

Sugarcane Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1985 and succeeding crop years by: (1) changing the policy to make it easier to read; (2) eliminating the reduction in production guarantee for unharvested acreage provision and its related provisions; (3) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (4) adding a provision to provide a coverage level if the insured does not select one; (5) adding a 60-day claim for indemnity provision; (6) adding a provision regarding appraisals following the end of the insurance period for unharvested acreage; (7) adding a hail/fire provision for appraisals on uninsured causes; (8) changing the cancellation/termination dates to conform with farming practices; (9) providing that any change in the policy will be available in the service office by a certain date (10) adding a definition for "service office," (11) providing for a unit determination when the acreage report is filed; and (12) adding three sections on "descriptive headings," "determinations," and "notices."

In addition, FCIC issues a new subsection in the sugarcane crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring sugarcane in accordance with Departmental Regulation 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations. This document is redesignated as Amendment No. 3, as outlined herein.

EFFECTIVE DATE: June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35431, amending the policy for insuring sugarcane in accordance with the provisions of Departmental Regulation 1512–1, and issuing a new subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The document published on Thursday August 4, 1983, (48 FR 35431) was inadvertently designated as Amendment No. 4 and should have read Amendment No. 3. That error is corrected herein. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, with the exception of minor and non-substantive changes in the language, the proposed rule as published is hereby issued as a final rule to be effective with the 1985 crop year.

List of Subjects in 7 CFR Part 417

Crop insurance, Sugarcane.

Final Rule

PART 417—[AMENDED]

Accordingly; pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 417 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 417.3 is added to read as follows:

§ 417.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 417) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR § 417.7(d) is revised to read as set forth below:

§ 417.7 The application and policy.

* * * * *

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Sugarcane Insurance Policy for the 1985 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugarcane—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) When an irrigation practice apply, failure of the water supply from an unavoidable cause occurring after insurance attaches, unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good sugarcane farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured.

a. The crop insured shall be sugarcane grown for processing for sugar on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be *plant* and *stubble* cane grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured sugarcane at the time insurance attaches.

d. We do not insure any acreage:

(1) Cut for seed;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed, it is practical to replant to sugarcane, and such acreage is not replanted;

(5) Initially planted after the final planting date established by the actuarial table;

(6) Planted to a type or variety of sugarcane not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with a crop other than sugarcane.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good sugarcane irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good sugarcane irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of Acreage, Share, Practice and Yield.

You shall report on our form:

a. All the acreage of sugarcane in the county in which you have a share;

b. The practice;

c. Your share at the time insurance attaches; and

d. The most recent year's production for the insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any sugarcane in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1–½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on:

(1) *Plant* cane at the time of planting; and

(2) *Stubble* cane on the later of the April 15 following normal harvest or 30 days after harvest.

b. Insurance ends at the earliest of:

(1) Total destruction of the sugarcane;

(2) Harvest;

(3) Final adjustment of a loss; or

(4) These dates immediately following the normal starting of harvest.

(a) Louisiana, January 31;

(b) All other states, April 30.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the sugarcane on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sugarcane and given written consent. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested sugarcane (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the sugarcane on the unit; or

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the sugarcane which is not to be harvested.

c. If an indemnity is to be claimed on any unit you shall leave intact the stalks on unharvested acreage and the stubble on harvested acreage until inspected by us.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for Indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the surgarcane on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of sugarcane on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sugarcane to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Sugarcane production damaged by freeze within the insurance period which adversely affects boiling house operation shall be adjusted by:

(a) Dividing the value of the damaged sugarcane by the value of undamaged standard sugarcane; and

(b) Multiplying the results by the number of tons of the damaged sugarcane.

The applicable price for undamaged standard sugarcane shall be the local market price on the earlier of: the day the loss is adjusted or the day such sugarcane was sold.

(2) Appraised production to be counted shall include:

(a) Any appraisal on *stubble* acreage with inadequate stand;

(b) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sugarcane farming practices;

(c) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(d) Any appraised production on unharvested acreage. Any appraisals made by us and any harvested production not processed for sugar shall be in net tons and considered as standard sugarcane.

(3) We may make an appraisal of not less than the production guarantee per acre on any harvested acreage on which the stubble is destroyed prior to our inspection.

(4) The appraisal for indequate stand shall be made (at the time of inspection) on any *stubble* acreage with less than 1,000 plants for each ton of guarantee. The per acre appraisal shall be the difference between the production guarantee and the results obtained by dividing the number of plants by 1,000.

(5) Any appraisal we have made on insured acreage for which we have given written

consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of sugarcane becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested sugarcane on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the sugarcane is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units shall be allocated to such units in proportion to the liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your tranferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all sugarcane produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are September 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall disssolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by May 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sugarcane crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sugarcane insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period (1) from planting for *plant* cane and (2) from the later of April 15 or 30 days after harvest for *stubble* cane until the end of the insurance period and shall be designated by the calendar year in which the sugarcane is normally harvested.

d. "Harvest" means the cutting and removing of sugarcane from the field.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "*Plant*" (see definition of sugarcane).

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Standard sugarcane" means net sugarcane containing the percent sucrose in the normal juice or in the cane and, where applicable, the purity factor as shown in the actuarial table.

k. *"Stubble"* (see definition of sugarcane).

l. "Sugarcane" means either:

(1) Sugarcane the initial year planted (*"plant"* cane).

(2) Sugarcane previously harvested and the stubble left to produce another crop (*"stubble"* cane).

m. "Tenant" means a person who rents land from another person for a share of the sugarcane or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of sugarcane in the county on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugarcane on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

8. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

9. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A.—Counties Designated for Sugarcane Crop Insurance

The following counties are designated for Sugarcane Crop Insurance under the provisions of 7 CFR 417.1.

Florida

Glades	Martin
Hendry	Palm Beach

Louisiana

Ascension	Rapides
Assumption	St. James
Avoyelles	St. John the Baptist
Iberia	St. Martin
Iberville	St. Mary
Lafayette	Terrebonne
Lafourche	Vermilion
Pointe Coupee	West Baton Rouge

Texas

Cameron	Willacy
Hidalgo	

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: May 22, 1984.

[FR Doc. 84-14220 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 430

[Amdt. 1]

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Sugar Beet Crop Insurance Regulations (7 CFR Part 430), effective for the 1984 and succeeding crop years in all states except Arizona and California, where it will be effective for the 1985 and succeeding crop years by: (1) changing the policy to make it easier to read; (2) eliminating the substitute crop provision; (3) providing that sugar beets are to be insurable the year following sugar beets in certain states when designated by the actuarial table; (4) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time, (5) adding a provision to provide a coverage level if the insured does not select one, (6) adding a replanting payment provision; (7) adding a 60-day claim for indemnity provision; (8) adding a provision regarding appraisals following the end of the insurance period for unharvested acreage; (9) adding a hail/fire provision for appraisals on uninsured causes; (10) providing that all uninsured appraisals count; (11) changing the cancellation/termination dates to conform with farming practices; (12) providing that any change in the policy will be available in the service office by a certain date; (13) adding a definition for "service officer;" (14) providing for unit determination when the acreage report is filed; and (15) adding three sections regarding "descriptive headings," "determinations," and "notices".

The intended effect of this rule is to update the policy for insuring sugar beets in accordance with Departmental Regulation No. 1512–1, requring a review of the regulations as to need, currency, clarity, and effectiveness.

This rule is redesignated as Amendment No. 1, as outlined below.

EFFECTIVE DATE: June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Friday, June 24, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 28994, amending the policy for insuring sugar beets in accordance with the provisions of Secretary's Memorandum No 1512–1 (now Departmental Regulation 1512–1). The notice of proposed rulemaking as published, incorrectly listed the rule as Amendment No. 3. This should have read Amendment No. 1, and is corrected herein. The public was given 60 days in which to submit written data, comments, and opinions on the rule, but none were received.

Therefore, with the exemption of minor and non-substantative changes in language the proposed rule is hereby issued as a final rule to be effective for the 1984 and succeeding crop years in all states except Arizona and California and for the 1985 and succeeding crop years in Arizona and California.

List of Subjects in 7 CFR Part 430

Crop insurance, Sugar beets.

Final rule.

PART 430—AMENDED

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Sugar Beet Crop Insurance Regulations (7 CFR Part 430), effective for the 1984 and succeeding crop years in all states except Arizona and California and for the 1985 and succeeding crop years in Arizona and California, in the following instances:

1. The Authority citation for 7 CFR Part 430 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 430.7(c) and (d) are revised to read as set forth below:

§ 430.7 The application and policy.

* * * * *

(c) Sugar Beet contracts in effect for the 1983 crop year are amended by the substitution of the 1984 contract and are continuous unless terminated in accordance with their terms. A new application is not required by this amendment for the 1984 crop year.

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR Part 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Sugar Beet Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Corp Insurance Corporation

Sugar Beet—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following losses occuring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) When an irrigation practice apply, failure of the water supply from an unavoidable cause occurring after the beginning of planting,

unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(7).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good sugar beet farming practices.

(3) Damage resulting from the impoundment of water by any Governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be sugar beets which are grown under a contract with a processor for processing as sugar, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be sugar beets planted on insurable acreage as designated by the acturial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured sugar beets at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for in the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, it is practical to replant to sugar beets and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing, on our form to coverage reduction;

(5) Excluded from the processor contract for, or during, the crop year;

(6) Planted to a type or variety of sugar beets not established as adapted to the area or excluded by the actuarial table;

(7) Planted to sugar beets:

(a) The preceding crop year in Michigan, Minnesota, North Dakota and Ohio unless otherwise designated by the actuarial table; or

(b) The two preceding crop years in all other states unless otherwise designated by the actuarial table;

(8) In California, except Imperial county, planted before filing of the application until a normal stand is obtained;

(9) Of volunteer sugar beets; or

(10) Planted with a crop other than sugar beets.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good sugar beet irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good sugar beet irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unvoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, practice and yield.

You shall report on our form:

a. All the acreage of sugar beets in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. The most recent year's production records for the insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any sugar beets planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. The production guarantee per acre shall be as follows:

(1) First Stage applies from planting until July 1 except in California and Arizona where it is from planting until the earlier of thinning or 90 days after planting. The first stage shall also apply to any acreage we determine was damaged in the first stage to the extent that growers in the area generally would not further care for the sugar beets.

(2) Second Stage applies from the end of the first stage until the sugar beets are harvested.

(3) Third Stage applies to sugar beets which have been harvested (see section 17d).

The production guarantee applicable to any acreage within a unit shall be that established for the stage reached by the sugar beets on such acreage.

c. Coverage level 2 will apply if you have not elected a coverage level.

D. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the sugar beets are planted and ends at the earliest of:

a. Total destruction of the sugar beets;

b. Harvest of the unit;

c. Final adjustment of a loss; or

d. The following date of the year in which the sugar beets are normally harvested:

(1) July 15 for Arizona and Imperial County, California;

(2) The last day of the 12th calendar month after the date of planting on the unit in all other California counties, unless a request for extension of the insurance period is received before such date and we approved the request;

(3) November 25 in Ohio; and

(4) November 15 in all other states.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant sugar beets damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the sugar beets on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested sugar beets (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the sugar beets on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the sugar beets on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the sugar beets which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sugar beets on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of sugar beets on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sugar beets to be counted (see section 9f);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The indemnity shall be reduced by the amount of any replanting payment.

f. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Any harvested production of sugar beets shall be adjusted by:

(a) Dividing the average percentage of sugar in such sugar beets, by the percentage of sugar shown in the actuarial table; and

(b) Multiplying the results (round to three places) by the tons of such sugar beets. The average percentage of sugar shall be determined by the processor from individual tests taken at the time of delivery. If individual tests of sugar content are not made at the time of delivery, the factor shall be 1.000.

(2) Any harvested sugar beets which are not acceptable under the contract with a processor due to insurable causes shall be adjusted by:

(a) Dividing the value of such sugar beets, as determined by us, by the value of undamaged sugar beets containing the percentage of sugar shown in the actuarial table; and

(b) Multiplying the results by the number of tons of such sugar beets.

(3) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sugar beet farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause.

(4) There shall be no adjustment for quality on any appraisal. For acreage which does not qualify for the third stage guarantee, any amount of appraised and harvested production in excess of the difference between the third stage guarantee and the guarantee applicable to such acreage shall be counted. However, any appraised production lost due to uninsured causes shall be counted in its entirety and not reduced by the difference between stage guarantees.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of sugar beets becomes general in the country;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested sugar beets on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the sugar beets are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(8) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting payment may be made on any insured sugar beets replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but shall not exceed 1 ton multiplied by the price election times your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

Any replanting payment will be considered as an indemnity.

h. You shall not abandon any acreage to us.

i. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

j. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than on individual and such entity is dissolved after the sugar beets are planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

l. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. This transfer must be made on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our prescribed form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party).

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all sugar beets produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in

force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and cancellation and termination dates

Arizona and California, August 31
All other states, April 15

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by May 31 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sugar beet crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sugar beet insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producting area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the sugar beets are normally grown and shall be designated by the calendar year in which the sugar beets are normally harvested.

d. "Harvest" means: (1) the completion of lifting and topping of sugar beets on any acreage from which at least 15 percent of the production guarantee per acre has been lifted and topped for delivery to a processor.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to sugar beets.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the sugar beets or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of sugar beets in the county on the date of planting for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugar beets on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on January 14, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: May 22, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-14219 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 437

[Amdt. 2]

Canning and Freezing Sweet Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Canning and Freezing Sweet Corn Crop Insurance Regulations (7 CFR Part 437), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read; (2) eliminating the substitute crop provision; (3) eliminating the reduction of production guarantee for unharvested acreage and its related provisions; (4) providing for determination of indemnities based on the acreage report rather than at loss adjustment time; (5) adding a provision to provide for a coverage level if the insured does not select one; (6) providing that residue will be left intact in the event of a probable loss; (7) adding a 60-day claim for indemnity provision; (8) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (9) adding a hail/fire provision for appraisals for uninsured causes; (10) changing the cancellation/termination dates to conform with farming practices; (11) providing that any change in the policy will be available in the service office by a certain date; (12) adding a definition for "service office;" (13) providing for a unit determination when the acreage report is filed; (14) adding three sections regarding "descriptive headings," "determinations," and "notices;" and (15) redesignating Appendix B to Part 437 as Appendix A. Listing the counties wherein Sweet Corn Crop insurance is authorized to be offered.

In addition, FCIC issues a new subsection in the canning and freezing sweet corn crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget

(OMB) to information collection requirements of these regulations.

The intended effect of this rule is to update the policy for insuring sweet corn in accordance with Departmental Regulation 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 (December 15, 1983). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action: (1) Is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Wednesday, August 3, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35112, amending the policy for insuring sweet corn in accordance with the provisions of Departmental Regulation 1512–1, and issuing a new subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which to submit written data, comments, or opinions on the proposed rule, but none were received. Therefore, with the exception of minor and non-substantive changes in language and the additions referred to herein, the proposed rule is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 437

Crop insurance, Canning and freezing sweet corn.

PART 437—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Canning and Freezing Sweet Corn Crop Insurance Regulations (7 CFR Part 437), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 437 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR § 437.3 is added to read as follows:

§ 437.3 OMB control numbers.

The information collection requirements in these regulations (7 CFR Part 437) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 437.7 [Amended]

3. 7 CFR § 437.7(d) is revised to read as set forth below:

* * * * *

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR §400.37, § 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Canning and Freezing Sweet Corn Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sweet Corn—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) When an irrigation practice apply, failure of the water supply from an unavoidable cause occurring after the beginning of planting, unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(4).

b. We shall not insure against any loss of production due to:

(1) Sweet corn not being timely harvested, unless we determine that, due to unusual weather conditions, a substantial number of acres of sweet corn in the area were ready for harvest at the same time.

(2) The neglect of malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good sweet corn farming practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(5) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be canning and freezing sweet corn which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be sweet corn planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured sweet corn at the time of planting.

d. We do not insure any acreage:

(1). Of sweet corn not grown under a contract executed with a processor before you report your acreage or excluded from the processor contract for, or during, the crop year;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and we determine it is practical to replant to sweet corn and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table;

(6) Of volunteer sweet corn;

(7) Planted to a type of variety of sweet corn not established as adapted to the area or excluded in the actuarial table;

(8) Planted for the development or production of hybrid seed or for experimental purposes; or

(9) Planted with a crop other than sweet corn.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good sweet corn irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good sweet corn irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

g. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and which provides for delivery of the crop under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a contract under which you have the share in the crop.

3. Report of acreage, share, practice and where applicable yield.

You shall report on our form:

a. All the acreage of sweet corn in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. The most recent year's production records for the insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any sweet corn planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. If you have not elected a coverage level, you shall have coverage level 2.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

Insurance attaches when the sweet corn is planted and ends at the earliest of:

(1) Total destruction of the sweet corn;

(2) Harvest;

(3) Final adjustment of a loss;

(4) The date by which sweet corn acreage should have been harvested, as determined by us; or

(5) The following dates of the calendar year in which the sweet corn is normally harvested:

(a) Washington—October 10;

(b) Benton, Clackamas, Columbia, Lane, Marion, Multnomah, Polk, Washington, Yamhill Counties, Oregon—October 20;

(c) All other Oregon counties and states—September 20.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) during the period before harvest, the sweet corn on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) you want our consent to put the acreage to another use; or

(c) after consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sweet corn and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested sweet corn (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) If you are going to claim an indemnity on any unit which is not to be harvested or on which harvest has been discontinued, notice shall be given not later than 48 hours:

(a) before harvest would normally start; or

(b) after discontinuance of harvest.

If such notice is not given or if unharvested acreage is not left intact, the appraisal on such acreage shall be the production guarantee.

(5) Unless notice has been given under subsection (4) above, and in addition to the other notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the sweet corn on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the sweet corn which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sweet corn on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of sweet corn on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sweet corn to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sweet corn farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(2) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of sweet corn becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(3) We may determine the amount of production of any unharvested sweet corn on the basis of field appraisals conducted after the end of the insurance period.

(4) When you have elected to exclude hail and fire as insured causes of loss and the sweet corn is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(5) The commingled production of units shall be allocated to such units in proportion to out liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the sweet corn is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery at our option shall belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all sweet corn produced on each unit including separate records showing the same

information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15 for all states.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sweet corn crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sweet corn insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the sweet corn is normally grown and shall be designated by the calendar year in which the sweet corn is normally harvested.

d. "Harvest" means the removal of the ears and husks from the stalks for the purpose of delivery to the processor.

e. "Insurable acreage" means the land classified as insurable by us and shown as such in the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the sweet corn or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of sweet corn in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sweet corn on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. 7 CFR Part 437 is further amended by redesignating Appendix B as Appendix A and revising Appendix A to read as follows:

Appendix A

Counties Designated for Canning and Freezing Sweet Corn Crop Insurance

The following counties are designated for Canning and Freezing Sweet Corn Crop Insurance under the provisions of 7 CFR 437.1.

State: Minnesota

Faribault	Martin
Goodhue	Renville
McLeod	

State: Wisconsin

Adams	Ozaukee
Brown	Portage
Columbia	Rock
Dane	St. Croix
Dodge	Sauk
Fond Du Lac	Sheboygan
Green Lake	Walworth
Jefferson	Washington
Marinette	Waushara
Outagamie	Winnebago

Done in Washington, D.C., on January 20, 1984.

Approved by:

Edward Hews,

Acting Manager.

Dated: May 21, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 84-14173 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-08-M

Commodity Credit Corporation

7 CFR Part 1476

Compensation for Certain Losses Resulting From the 1980 Soviet Embargo

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the procedures under which the Secretary of Agriculture will pay outstanding claims for losses sustained by businesses dealing in pork and frozen hog carcasses, edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs, and perishable egg products as a result of the 1980 embargo on the exportation of certain commodities to the Soviet Union, in accordance with the provisions of Section 2002 of Pub. L. 98-181 (97 Stat. 1297).

EFFECTIVE DATE: June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Emery J. Polser, Fiscal Division, ASCS,

Room 6088–South, U.S. Department of Agriculture, 14th & Independence Avenue, SW., Washington, D.C. 20250 (Telephone (202) 447–4311).

SUPPLEMENTARY INFORMATION:

Background

Section 2002 of Pub. L. 98–181 (97 Stat. 1297) (the "Act") directs the Secretary of Agriculture, out of funds available to the Commodity Credit Corporation and upon proper proof of loss, to pay outstanding claims for losses resulting from the 1980 embargo on the exportation of certain commodities to the Soviet Union sustained by businesses dealing in pork and frozen hog carcasses, edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products.

This rule sets out the procedures under which the Commodity Credit Corporation (CCC) will pay outstanding claims covered by the Act. In order to receive compensation under the rule, businesses which had sustained losses compensable under this rule and which had filed a claim with the U.S. Department of Agriculture (USDA) on or before November 29, 1983, should so notify the Controller, CCC, by July 31, 1984.

Only losses sustained by a business covered by the Act under a contract with the Union of Soviet Socialist Republics or any of its instrumentalities (USSR) or under a contract with a third party under which the business undertook all of the obligations of the third party's contract with the USSR for the sale of articles covered by the Act to the USSR which contract was entered into by the business prior to 9:00 p.m. E.S.T., January 4, 1980, and could not be completed due to the implementation of the 1980 embargo on the exportation of certain commodities to the USSR will be compensated.

Discussion of Comments

A proposed rule entitled "Compensation for Certain Losses Resulting From 1980 Soviet Embargo" was published in the **Federal Register** on February 29, 1984 (49 FR 7399). Two letters containing comments were submitted to USDA regarding the proposed rule. All of the comments were considered in preparing this final rule.

The comments focused on provisions of the proposed rule which: (i) Required that a claimant have a contract directly with the USSR; (ii) did not provide for the payment of interest on claims; (iii) did not provide for compensation for lost profits; and (iv) required that a claimant sign a release as a condition of payment by CCC.

Discussion of Specific Comments by Section

Section 1476.2(e) Definition of eligible contract

One comment asserted that the requirement in the proposed rule that a claimant must have had a contract directly with the USSR for the sale of covered articles in order to receive compensation was contrary to the language of the Act. The comment suggested that the proposed rule be amended to take into account losses resulting from the 1980 embargo sustained by a business whether or not the business had a contract directly with the USSR.

We agree that there may be businesses which may not have had a contract directly with the USSR but which incurred losses compensable under the Act under contractual arrangements with third parties for the sale of covered articles to the USSR which placed the business in substantially the same position as if the business had had a direct contract with the USSR. Accordingly, the definition of "eligible contract" has been amended to provide for compensation to businesses which may not have had contracts directly with the USSR for the sale of covered articles, but which had entered into a contract with a third party under which the business undertook all of the obligations of the third party's contract with the USSR for the sale of covered articles.

Section 1476.2(f) Definition of outstanding claim

One comment objected to the requirement in the proposed rule that compensable claims must have been received by USDA prior to November 29, 1983. The comment also suggested that the Act and the legislative history of the Act indicated that the claim should be paid upon the presentation to USDA of proper proof of loss and that such proof need not have been submitted to USDA prior to November 29, 1983.

We have not changed the definition of "outstanding claim" (section 1476.2(f) of the rule) because the term "outstanding claim" as used in the Act clearly must refer to claims which had been received by USDA prior to the enactment of the Act, which occurred on November 29, 1983. USDA has no authority to consider new claims filed after November 29, 1983. This limitation applies to "claims" but not to the proof of loss for such claims which a business must submit in support of its claim in accordance with section 1476.3(c) of the rule. Sections 1476.2(f) and 1476.4 were included in the rule to give all businesses which might have compensable claims notice of the Act and the procedures under which they could receive compensation.

Section 1476.3(b)(1)(ii) Payment for monetary losses

One comment noted that the proposed rule did not provide for the compensation of amounts paid as interest on money borrowed to finance inventory during the period between the imposition of the 1980 embargo and mitigation of damages. It is CCC's intention to compensate claimants for all necessary costs incurred in their efforts to mitigate losses, including the type of interest payments described above. Had it not been for section 1476.3(b)(2)(iii) which excluded any compensation for interest, this expense could have been compensable under section 1476.3(b)(1)(ii) which provides for compensation for expenses incurred by claimants "which were necessary for the claimant to mitigate its losses", and also under section 1476.3(b)(1)(iii), if such interest payments were determined by the Controller, CCC, to be a compensable loss. Accordingly, section 1476.3(b)(1)(ii) has been amended to specifically include compensation for expenses, such as the above-mentioned interest payments, which were incurred by the claimant until the claimant could mitigate its losses. Also, section 1476.3(b)(2)(iii) has been amended to exempt amounts paid as interest on money borrowed to finance inventory until the claimant could mitigate its losses from that section's blanket exclusion of interest payments.

Section 1476.3 Payment for monetary losses

One comment objected to the provision in the proposed rule which limited compensation to actual monetary losses and defined what elements of a claim constitute actual losses. The comment asserted that the restrictive language of this provision was inconsistent with the Act, contrary to the plain and unambiguous language of the Act, and inconsistent with Congress' intent that losses in their broadest and undiminished sense be compensated.

Another comment, however, agreed with the provisions in the proposed rule which exclude lost or anticipated profits. It stated that Congress intended for claimants under the Act to receive similar compensation to that received by grain exporters who entered into agreements with CCC during 1980 in connection with grain contracted for shipment to the USSR prior to the 1980

embargo. Since lost profits were expressly excluded from compensation to be received by grain exporters under those agreements, the comment asserted that claimants under the Act also are not entitled to lost profits.

The Act does not explicitly define "loss" and does not give any indication as to the meaning of the word "loss." The legislative history of the Act, however, indicates that Congress intended to provide claimants under the Act with compensation similar to that given grain exporters by CCC. We do not believe it was the intent of Congress to compensate claimants for every conceivable loss that they may have suffered due to the 1980 embargo. Accordingly, the provisions in the rule defining actual loss were not changed in response to this comment.

Section 1476.3(b)(2)(iii) Payment for monetary losses

Both comments suggested that CCC should pay interest on a claim from the date of the loss. One comment asserted that CCC should pay such interest because: (i) The Act was an amendment to the Prompt Payment Act (Pub. L. 97-177, 96 Stat. 85, May 21, 1982) which authorizes the Government to pay interest, (ii) it is equitable for the CCC to pay interest on the claims, (iii) CCC paid interest on claims under the grain exporters agreements in 1980, and (iv) denial of interest payments constitutes an abuse of discretion by USDA. The other comment stated that interest should be paid because the term "loss" in the Act included damages resulting from the loss of the use of money which would have otherwise have been received if not for the 1980 embargo.

After review of the comments, we believe that CCC should not pay interest on claims from the date of the loss since USDA was not obligated to provide compensation for these losses until the Act was signed and the Act makes no specific provision for the payment of interest. Part of the Act merely clarifies certain terms appearing in the Prompt Payment Act. The legislative history of the Act does not indicate that the Act was intended to make any substantive changes to the provisions of the Prompt Payment Act. Moreover, the Prompt Payment Act requires payment of interest only on past due obligations of a Federal agency. There are no such past due obligations of CCC to the claimants in this case. Finally, CCC, in handling the grain exporters contracts with the USSR, did not pay any interest from the date of the embargo. CCC paid interest only from the date CCC received notice of a disputed claim under the CCC exporter agreement. Accordingly, section 1476.3(b)(2)(iii) of the rule was not amended for this purpose.

We have decided, however, to pay interest on the amount finally determined to be due the claimant, beginning ninety days after receipt by CCC of the claimant's final proof of loss or the effective date of this rule, whichever is later. We believe such compensation is appropriate because the Act obligates CCC to provide compensation to a claimant as soon as practicable after CCC has received the proof of loss from the claimant. Accordingly, section 1476.5(b) has been added to the rule for this purpose.

Section 1476.5(a) Determination and payment of compensation

One comment objected to the determination and appeal procedures set up under section 1476.5(a) of the proposed rule. The comment suggested that the determination of the USDA officials should not be considered final since the Administrative Procedure Act, 5 U.S.C. 500 *et seq.*, provides access to the courts for review of any determination rendered by USDA. The comment also asserted that the rule set up technical procedures for a determination of compensation which were contrary to the intent of Congress and that the claimant should be required only to produce documentation to support its claim.

The proposed rule provided that the Controller, CCC, would make the initial determination of compensation which determination could be appealed to the Executive Vice-President, CCC. There was nothing in the rule which would prevent a claimant from appealing any administrative decision to the courts. Obviously, the courts are open to the claimants by law. It is hoped that if there are any disputes, the administrative appeal process will resolve all the issues raised. The Controller, CCC, is the appropriate official for overseeing claims submitted to the CCC under this rule because the Controller is responsible for all the claim activities of CCC. The Executive Vice-President, the chief executive officer of CCC, is the appropriate reviewing official. It is our opinion, therefore, that the determination and appeal procedures are necessary and not unduly burdensome or complex. Accordingly, section 1476.5(a) of the rule has not been changed.

Section 1476.5(c) Determination and payment of compensation

One comment stated that the requirement in the proposed rule that each claimant sign a release stating that the payment received from CCC is in complete satisfaction of all compensation due from USDA was unfair since the statute of limitations has not run on possible claims by subcontractors. The comment also asserted that the Act does not limit indemnity losses fixed at the time the claims for compensation were filed.

The release requirement in section 1476.5(c) of the rule was designed to encourage claimants to seek out and settle with affected subcontractors and carriers before the claimant submits final proof of its loss to USDA and insures that USDA can settle all compensable claims in one efficient, fair procedure. The rule does not limit indemnity losses to those fixed at the time the claims for compensation were originally filed.

The release requirement is a reasonable method for USDA to insure an orderly settlement of all compensable claims. It is in the interest of USDA to reach a final settlement with all businesses which have a compensable claim. Accordingly, no change was made in section 1476.5(c) of the rule.

Other Comments

One party submitting comments requested an oral hearing before USDA in order for that party to fully express its suggestions. We believe that there has been adequate opportunity for interested parties to express their views regarding the proposed rule. After review of the comments, we do not believe that an oral hearing is necessary.

Other Changes in the Rule

Section 1476.4 of the proposed rule has been amended in order to extend the time in which claimants may notify the Controller, CCC, of their claim. In order to receive compensation under this rule, claimants must notify the Controller, CCC, of their claim no later than July 31, 1984.

Rulemaking Matters

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" since the rule will not have any of the effects specified in those documents.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Environmental Evaluation with respect to this rule has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement are needed.

List of Subjects in 7 CFR Part 1476

Embargo, Export controls, Exports, Foreign trade.

In accordance with the above, 7 CFR Chapter XIV is amended by adding the following new Part 1476—Special Indemnity Programs.

PART 1476—SPECIAL INDEMNITY PROGAMS

Subpart—Compensation for Certain Losses Resulting From the 1980 Soviet Embargo

Sec.

Authority: Sec. 2002, Pub. L. 98–181 (97 Stat. 1297); 15 U.S.C. 714b, 714c.

Subpart—Compensation for Certain Losses Resulting From the 1980 Soviet Embargo

§ 1476.1 General statement.

This subpart implements Section 2002 of Pub. L. 98–181 (97 Stat. 1297) (the "Act") by setting out the terms and conditions under which certain businesses may receive compensation from the Secretary of Agriculture for certain monetary losses sustained as a result of the imposition of the 1980 embargo on the exportation of certain commoditie to the Union of Soviet Socialist Republics. Section 2002 of the Act provides that the Secretary of Agriculture, out of funds available to the Commodity Credit Corporation and upon proper proof of loss, shall pay outstanding claims for losses resulting from the 1980 embargo sustained by businesses dealing in pork and frozen hog carcasses, edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products.

§ 1476.2 Definitions.

As used in this subpart:

(a) "CCC" means the Commodity Credit Corporation, an agency and instrumentality of the United States within the United States Department of Agriculture.

(b) "Claimant" means any individual, firm, corporation, partnership, association or other legal entity that was in the business of dealing with covered articles at the time of the 1980 embargo and is seeking payment for an outstanding claim from the Department in accordance with the provisions of this subpart.

(c) "Covered articles" means pork and frozen hog carcasses, edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products.

(d) "Department" means the United States Department of Agriculture, including CCC.

(e) "Eligible contract" means a contract between a claimant and the Union of Soviet Socialist Republics or any instrumentality thereof (USSR) for the sale of covered articles to the USSR or a contract between a claimant and a third party under which the claimant undertakes all the obligations of the third party under the third party's contract with the USSR for the sale of covered articles to the USSR, which—

(1) Was entered into prior to 9:00 p.m. E.S.T., January 4, 1980; and

(2) Could not be completed due to the imposition of restrictions on the exportation of certain commodities to the USSR under the 1980 embargo.

(f) "Outstanding claim" means a written claim presented to the Department (1) for monetary losses caused by inability to perform an eligible contract; (2) which was received by the Department on or before November 29, 1983; and (3) for which compensation has not been received.

(g) "1980 embargo" means the restrictions on exportation of certain commodities to the USSR announced by the President on January 4, 1980, and imposed under regulations issued by the U.S. Department of Commerce and published at 15 CFR 376.5, 386.7, and 399.1 (45 FR 1883, January 6, 1980) and effective as of 11:59 p.m. E.S.T., January 7, 1980.

§ 1476.3 Payment for monetary losses.

(a) The CCC shall pay, in accordance with the provisions of this subpart, outstanding claims for monetary losses sustained by any claimant due to the claimant's inability to fully perform an eligible contract.

(b) Monetary losses compensated under this subpart shall be limited to the claimant's actual losses arising from the claimant's inability to perform an eligible contract as determined in accordance with this section.

(1) Actual losses include the following items:

(i) Expenses incurred by the claimant after the eligible contract was entered into and before January 4, 1980, either in preparation for performance or in performance of the eligible contract, including expenses arising in connection with contracts with suppliers, service contracts, or other subordinate agreements entered into in order to facilitate performance of the eligible contract;

(ii) Necessary expenses incurred by the claimant after January 4, 1980, in mitigation of its losses caused by the claimant's inability to perform the eligible contract, including expenses incurred until the claimant could mitigate its losses; and

(iii) Other amounts determined by the Controller, CCC, to constitute a compensable monetary loss in accordance with this subpart.

(2) Actual loss does not include:

(i) The claimant's lost or anticipated profits from performance of the eligible contract;

(ii) Any cost that the claimant avoided by not having to perform the eligible contract or which the claimant otherwise recovered;

(iii) Any interest, except interest incurred in mitigation of the claimant's losses as provided by section 1476.3(b)(1)(ii); and

(iv) Other amounts determined by the Controller, CCC, not to constitute a compensable monetary loss in accordance with this subpart.

(c) The claimant has the burden of proving his or her monetary losses and must submit documentation acceptable to the Controller, CCC, supporting the monetary loss claimed.

§ 1476.4 Procedure for claiming compensation.

In order for a claimant to receive compensation under this subpart, the claimant must notify the Controller, CCC, Room 6096–South, U.S. Department of Agriculture, 14th & Independence Avenue, SW., Washington, D.C. 20250, of the claimant's outstanding claim after November 30, 1983, but no later than July 31, 1984. Each claimant must prove, with documentation acceptable to the Controller, CCC, that the claimant has an outstanding claim with the Department, and that such claim is based on an eligible contract.

§ 1476.5 Determination and payment of compensation.

(a) The Controller, CCC, will determine the amount of compensation

for monetary losses to be paid to a claimant in accordance with this subpart. A determination rendered by the Controller, CCC, may be appealed to the Executive Vice President, CCC, within 30 days after the determination.

(b) Interest will accrue on the amount of compensation ultimately found to be due the claimant by the Controller, CCC, beginning on the ninety-first day following receipt by the Controller, CCC, of the claimant's final documentation supporting the monetary loss claimed, in accordance with section 1476.3(c), or the ninety-first day following the effective date of this rule, whichever is latest, and ending on the date of payment. The interest will accrue at the same rate charged by CCC on delinquent debts and published in a notice in the **Federal Register** in accordance with 7 CFR 1403.5.

(c) As a condition of payment by the CCC, each claimant must sign a release which states that the payment received from the CCC is in complete satisfaction of all compensation due the claimant from the Department under these regulations and the Act.

Signed in Washington, D.C. on May 21, 1984.

C. Hoke Leggett,

Acting Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 84-14178 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-05-M

Foreign Agricultural Service

7 CFR Part 1540

Emergency Relief From Duty-Free Imports of Perishable Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the procedure by which an entity representative of a U.S. industry producing perishable products can submit a request to the U.S. Department of Agriculture (USDA) for emergency relief from increased, injurious imports of like perishable products entering duty-free from beneficiary countries under the provisions of the Caribbean Basin Economic Recovery Act.

DATE: Effective on June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Sharon Kelly, Western Europe and Inter-America Division, International Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, Tel: (202) 382-1338.

SUPPLEMENTARY INFORMATION:

Background

The Caribbean Basin Economic Recovery Act of 1983, Title II of Pub. L. 98-67, 97 Stat. 384 (19 U.S.C. 2701 *et seq.*) (the "Act") provides for duty-free treatment of imports from beneficiary countries designated by Presidential proclamation.

Section 213(f) of the Act provides, in part, that if a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974, as amended, regarding a perishable product and alleging injury from imports from beneficiary Caribbean countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted by the President.

Under the rule, a U.S. entity seeking emergency relief should submit a request to the Administrator, Foreign Agricultural Service, USDA, providing, to the extent possible, such information as is necessary to permit the Secretary of Agriculture to make a determination as to whether a recommendation should be made to the President that emergency relief should be granted. The request should identify the perishable product concerned and its country of origin, show that increased imports of the perishable product are the substantial cause of serious injury or the threat of serious injury to a domestic industry producing a perishable product like or directly competitive with the imported product, and indicate why emergency action is warranted. A copy of the petition filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974, as amended, should also be included.

Rule Making Matters

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major" since the rule would not have any of the effects specified in those documents.

The Administrator, Foreign Agricultural Service, USDA, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule implements Section 213(f) of the Act by establishing the procedure by which a U.S. industry producing perishable products may seek emergency relief from duty-free imports from beneficiary Caribbean countries during the time its request under Section 201 of the Trade Act of 1974 is under consideration by the International Trade Commission. Consequently, no regulatory flexibility analysis is requred under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

An assessment of the impact of this rule on the environment was made and, based on this evaluation, it has been determined that this action is not a major federal action and will have no foreseeable adverse effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this rule. The environmental assessment is available for review in Room 5506, South Building, USDA during normal business hours.

Discussion of Comments

A proposed rule entitled "Emergency Relief from Duty-Free Imports of Perishable Products" was published in the **Federal Register** on December 19, 1983 (48 FR 56060) with corrections published Janaury 4, 1984 (49 FR 414). Two written comments were submitted in response to the proposed rule and are available for inspection. All of the comments were considered in preparing the final rule.

Sufficiency of Evidence

One comment suggested that the decision by the Secretary of Agriculture whether to recommend that the President grant emergency relief be based not only on the information presented by the petitioning party but from all information available to USDA officials. Another comment suggested that the petitioner should have to submit hard evidence of the irreparable nature of the harm allegedly caused by the imports in order to prove that emergency action should be taken.

Under Section 1540.4 of the proposed rule, the petitioner is required to submit, to the extent possible, various information concerning the imported perishable product and the beneficiary country of origin, data on the importation of the perishable product, evidence of serious injury or threat thereof to the domestic industry substantially caused by the increased imports, and a statement indicating why emergency action would be warranted along with the request for emergency import relief. We believe that the information requested from the petitioner should, if provided, give USDA an adequate basis for the determination of the need for emergency relief. Obviously, USDA will utilize all other information available to it in making its determination. Accordingly, no change was made in the final rule.

Decision-Making Process

One comment suggested that the rule indicate how USDA will conduct its investigations. The comment proposed that some type of notification of the request for emergency relief be given to the affected Caribbean beneficiary countries and other affected persons. The comment also proposed that USDA coordinate closely with the International Trade Commission (ITC) when making its determinations regarding what product is like or directly competitive with the imports, what constitutes a "previous representative period" for comparison purposes, what is an acceptable indication of extraordinary conditions meriting emergency action, and the sufficiency of the causal link shown between the imports and the alleged injury. The comment also suggested that after one year or after several investigations the rule again be published for public comments.

The proposed rule establishes the procedure for the submission of petitions and is not designed to set out the decision-making process USDA will use in making a determination. It is not possible to define in advance detailed procedures that can be uniformly and appropriately applied to all cases. Under the Act, the Secretary of Agriculture is authorized to a make the determination that emergency action is warranted. There is no requirement for coordination or consultation with other government agencies. While USDA does expect to discuss and consult with other government agencies when appropriate, it believes that it is neither appropriate nor necessary to include such consultative procedures in this regulation. Accordingly, the final rule incorporates no changes in the language of the proposed rule. USDA will, of course, consider any appropriate changes to the regulations if its experience under this regulation indicates the need for such changes.

List of Subjects in 7 CFR Part 1540

Agricultural commodities, Imports, International agricultural trade.

In accordance with the above, 7 CFR Chapter XV is amended by adding the following new Part 1540—International Agricultural Trade:

PART 1540—INTERNATIONAL AGRICULTURAL TRADE

Subpart A—Emergency Relief From Duty-Free Imports of Perishable Products

Sec.

Authority: Sec. 213(f), Pub. L. 98-67, 97 Stat. 391 (19 U.S.C. 2703(f)); 5 U.S.C. 301.

Cross Reference: For United States International Trade Commission regulations on investigations of import injury and the rules pertaining to the filing of a Section 201 petition, see 19 CFR Part 206.

§ 1540.1 Applicability of subpart.

This subpart applies to requests for emergency relief from duty-free imports of perishable products filed with the Department of Agriculture under section 213(f) of the Caribbean Basin Economic Recovery Act of 1983, Title II of Pub. L. 98-67, 97 Stat. 384 (19 U.S.C. 2701 *et seq.*) (the Act).

§ 1540.2 Definitions.

(a) "Perishable product" means:

(1) Live plants provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (TSUS);

(2) Fresh or chilled vegetables provided for in items 135.10 through 138.42 of the TSUS;

(3) Fresh mushrooms provided for in item 144.10 of the TSUS;

(4) Fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS;

(5) Fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) Concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.

(b) "Beneficiary country" means any country listed in section 212(b) of the Act with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of the Act.

§ 1540.3 Who may file request.

A request under this subpart may be filed by an entity, including a firm, or group or workers, trade association, or certified or recognized union which is representative of a domestic industry producing a perishable product like or directly competitive with a perishable product that such entity claims is being imported into the United States duty-free under the provisions of the Act from a beneficiary country(ies) in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to such domestic industry.

§ 1540.4 Contents of request.

A request for emergency action under section 213(f) of the Act shall be submitted in duplicate to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington, D.C. 20250. Such requests shall be supported by appropriate information and data and shall include to the extent possible: (a) A description of the imported perishable product(s) allegedly causing, or threatening to cause, serious injury; (b) the beneficiary country(ies) of origin of the allegedly injurious imports; (c) data showing that the perishable product allegedly causing, or threatening to cause, serious injury is being imported from the designated beneficiary country(ies) in increased quantities as compared with imports of the same product from the designated beneficiary country(ies) during a previous representative period of time (including a statement of why the period used should be considered to be representative); (d) evidence of serious injury or threat thereof to the domestic industry substantially caused by the increased quantities of imports of the product from the beneficiary country(ies); and (e) a statement indicating why emergency action would be warranted under section 213(f) of the Act (including all available evidence that the injury caused by the increased quantities of imports from the beneficiary country(ies) would be relieved by the suspension of the duty-free treatment accorded under the Act). A copy of the petition and the supporting evidence filed with the United States International Trade Commission under section 201 of the Trade Act of 1974, as amended, must be provided with the request for emergency action.

§ 1540.5 Submission of recommendations.

If the Secretary has reason to believe that the perishable product which is the subject of a petition under section 1540.4 of this subpart is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported perishable product and that emergency action is warranted, the Secretary, within 14 days after the filing of the petition under section 1540.4 of this subpart, shall recommend to the President that the President take emergency action. If the Secretary determines not to recommend the imposition of emergency action, the

Secretary shall publish a notice of such determination and will so advise the petitioner within 14 days after the filing of the petition.

§ 1540.6 Information.

Persons desiring information from the Department of Agriculture regarding the Department's implementation of section 213(f) of the Act should address such inquiries to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington, D.C. 20250.

§ 1540.7 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations in accordance with 44 U.S.C. Chapter 25, and OMB Number 0551–0018 has been assigned.

Issued at Washington, D.C. this 27th day of April 1984.

Leo Mayer,

Acting Administrator, FAS.

[FR Doc. 84-14189 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-10-M

Rural Electrification Administration

7 CFR Part 1785

Loan Account Computations, Procedures and Policies

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends the agency's electric loan policies by adding a new part and section to 7 CFR Chapter XVII. The new part covers loan account payments, procedures and policies for electric borrowers. This final rule provides for the automatic termination of unadvanced loan fund commitments 4 years from the date of the loan contract or amendments thereto and includes provisions for needed exemptions. This helps to assure that REA's loan funds are used effectively and efficiently. The rule applies to insured loans from the Rural Electrification and Telephone Revolving Fund to electric distribution and power supply borrowers.

EFFECTIVE DATE: May 14, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Weaver, Director, Electric Borrowers Management Division, Room 3342–S, Department of Agriculture, Washington, D.C. 20250, telephone number (202) 382–1900. The Final Impact Analysis describing the options considered in developing and implementing the Final Rule is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 *et seq.*), REA hereby amends 7 CFR Chapter XVII by adding a new part 1785, Loan Account Computations, Procedures and Policies, and § 1785.17, Basis Dates and Termination of Unadvanced Loan Fund Commitments—Electric. This action has been issued in conformance with Executive Order 12291, Federal Regulation. It will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

Background

Currently REA insured loans are based on workplans submitted by borrowers. Generally, the workplans cover a 2-year construction program for electric distribution borrowers and 3 years for power supply borrowers. In some cases borrowers have not drawn funds committed under specific loans for many years after the planned construction period. An audit identified that funds remain unadvanced from loan commitments approved in calendar year 1979 and earlier for 238 electric borrowers. The audit revealed that approximately $220 million was unadvanced on these loan commitments.

Options Considered

Continue the present policy of approving loan contracts which do not provide for the automatic termination of advances. A second option would be to automatically terminate loan commitments after a specified time such as 4 years. A third option would be automatic termination after a period of time with exemptions provided in special circumstances when need is demonstrated.

REA considers the third option to be the preferred choice because it combines automatic termination of unused loan funds with the flexibility borrowers need to request extensions if circumstances so require. To assure that loan funds are used effectively and efficiently REA will terminate all unadvanced electric loan fund commitments automatically 4 years from the date of the loan contract or amendments thereto. If the borrower demonstrates, to the satisfaction of the Administrator, that the committed funds are needed for approved loan purposes, i.e., facilities included in a construction workplan which supported the loan or approved amendments, an extension of the obligation of the government to advance loan funds may be granted. This action does not affect the majority of borrowers. The majority of borrowers draw all funds from REA loan commitments covering their 2-year workplans within a 4-year period from the date of the loan contract or amendments thereto.

Public Comment

A notice of proposed rule making was published in the **Federal Register** on December 16, Volume *48*, Number *243*, pages 55871–72. Approximately 130 letters were received with comments and suggestions on the proposed action. Many of the letters registered some concern over the plan to terminate unadvanced funds after 4 years. Many cited various individual experiences relating to their construction programs, local development situations and zoning requiremens impacting on the drawdown of loan funds. Several indicated that 4 years would often be too short a time period for completing a transmission line. Such facilities may require environmental and other impact assessments prolonging construction periods. Slow growth in service areas and the use of unanticipated general funds to provide construction financing were situations discussed by some borrowers as reasons for failing to draw all approved loan funds within the 4-year period. According to some affected borrowers, termination of unadvance loan funds for such situations would be unfair.

Several borrowers observed that automatic termination of an REA commitment to advance loan funds could generate more frequent applications for loans and force borrowers to complete some projects during the period covered by the loan even when they should be postponed.

The National Rural Utilities Cooperative Finance Corporation (CFC), a principal provider of supplemental financing for loans made concurrently with REA loans, also commented on the proposed rule. One of CFC's concerns regarding the automatic termination of a loan commitment after 4 years is that a

concurrent borrower not be forced into a supplemental loan ratio that is greater than the ratio for which it was eligible when the loan was made. It is possible, in the extreme instance, that the 70/30 REA/CFC loan ratio could result in a 54/46 ratio on a particular loan if the last half of an REA loan is terminated after the supplemental portion is advanced.

The National Rural Electric Cooperative Association (NRECA) responded to the proposed rule through recommendations of its Management Advisory Committee as follows:

(1) The Committee recommends that REA notify the borrower by mail at least six months prior to termination of unadvanced loan fund commitments and provide the borrower with the necessary documentation of procedures required for consideration of an extension.

(2) The Committee recommends that unadvanced loan fund commitments terminated under this rule be made available in the year of termination as an increase to new loan funds available for approval in addition to the minimum level established by the Congress.

(3) The Committee strongly recommends that REA simplify to the greatest extent possible the loan application and loan approval procedure to reduce the time lag between initiation of the planning process and the construction and permanent financing of facilities.

(4) The Committee does not support termination of unadvanced loan funds in instances where approved construction has been completed in a timely fashion but where general fund restrictions have not allowed the actual drawdown of the approved funds.

REA has considered all of the foregoing comments and observations in development of the final rule. The rule provides a procedure for borrowers to request an extension of time to draw such unadvanced funds. Because borrowers would be in the best position to monitor their own circumstances, construction schedules and financial needs, they would best know if and when an extension of time was required. It should therefore be the borrowers' responsibility to notify REA at least 120 days before the loan commitment termination dates.

REA will continue to make efforts to simplify and shorten the loan application and approval process. In addition, regarding the issue of permissible general funds levels as related to loans and the advance of loan funds, REA is developing a policy that will meet borrower needs while protecting the Rural Electrification and Telephone Revolving Fund (RETRF) from excessive and/or premature drain. By termination of unused commitments for funds, the future liabilities and cash demands are reduced, thereby enhancing the cash flow of the RETRF. REA believes that terminated amounts from prior years' loans should not be added to the current year's authorization of insured loans.

The concern of CFC regarding the resulting loan proportions between REA and a supplemental lender as a result of a termination is also recognized. Such a termination would occur only if the affected borrower could not demonstrate a need for the remaining portion of the REA loan funds. Termination of a portion of a single loan would not normally materially affect the overall proportion of REA and supplemental loans of a borrower. In those cases where loan proportions are substantially affected, appropriate adjustments may be made in future loans.

List of Subjects in 7 CFR Part 1785

Administrative practice and procedure, Loan programs—energy.

In view of the above, 7 CFR Chapter XVII is hereby amended by adding Part 1785 and § 1785.17 to read as follows:

PART 1785—LOAN ACCOUNT COMPUTATIONS, PROCEDURES, AND POLICIES

Sec.

1785.1–1785.16 [Reserved].

1785.17 Basis dates and termination of unadvanced loan fund commitments—electric.

Authority: 7 U.S.C. 901 et seq.

§§ 1785.1–1785.16 [Reserved].

§ 1785.17 Basis dates and termination of unadvanced loan fund commitments—electric.

(a) Termination of Loan Fund Advances: Loan contracts or amendments thereto providing for insured loans approved by the Administrator on or after June 1, 1984, shall provide that the obligation of the Government to advance insured loans pursuant to such loan contract, as amended, shall terminate without further action by the Government after four years from the date of the loan contract or the most recent amendment thereto, unless the Administrator shall agree, in writing, to an extension of the obligation.

(b) Request for Extension: The Administrator may agree to an extension of the obligation of the Government to advance loan funds if the borrower demonstrates to the satisfaction of the Administrator that the loan funds continue to be needed for approved loan purposes (i.e., facilities included in an REA-approved construction workplan). To apply for an extension, Borrowers must send to the appropriate REA office, at least 120 days before the Government's obligation to advance loan funds terminates, the following: (1) a certified copy of a board resolution requesting an extension of the obligation of the Government to advance loan funds; (2) evidence that the unadvanced loan funds continue to be needed for approved loan purposes; and (3) notice of the estimated date for completion of construction. If the Administrator approves a request for an extension, the Administrator shall notify the borrower in writing of the extension and the terms and conditions thereof.

Dated: May 14, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84-14254 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-15-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2—Amdt. 36]

Delegations of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Regional Administrator in Region IV has proposed a change that would add authority for a new position of Center Manager in the Disaster Home Loan Center in Birmingham, Alabama. This proposal would give that position authority to take all necessary actions in connection with the administration, servicing, and collection of disaster home loans (with the usual exceptions) commensurate with existing authority of the Chief or Supervisory Loan Specialist, Portfolio Management Division for all SBA loans and guarantees.

After consideration by Central Office officials, the proposal's position title was changed to Supervisory Loan Specialist, Disaster Home Loans. The proposal, as modified, was then approved for Agencywide use by the Administrator.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Information Resources Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. Telephone No. (202) 653-8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 are not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure; Organization and functions (Government agencies).

PART 101—[AMENDED]

For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below.

Part IV, Section A, paragraph 2, add subparagraph (4) after subparagraph (3) and before paragraph 3 as follows:

§ 101.3–2 Delegations of authority to conduct program activities in field offices.

* * * * *

Part IV * * *

Section A * * *

(4) Supervisory loan specialist, disaster home loans (disaster home loan units only).

* * * * *

Dated: May 18, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–14188 Filed 5–25–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regs. No. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance Benefits; Supplemental Security Income for the Aged, Blind, and Disabled; Reentitlement to Disability Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The Social Security Administration is amending a portion of its regulations which cover Federal old-age, survivors and disbility insurance, and the regulations on supplemental security income for the aged, blind and disabled.

These rules implement section 303 of Pub. L. 96–265, the Social Security Disability Amendments of 1980. Section 303 became effective December 1, 1980. They provide disabled beneficiaries under titles II and XVI of the Social Security Act (the Act) who have completed 9 months of trial work with a 15-month reentitlement period immediately following the trial work period. During this 15-month reentitlement period, the beneficiary may continue to test his or her ability to do substantial gainful activity (SGA) and receive cash benefits for any months in which he or she does not perform SGA, without the need for a new application. However, title II disability benefits and title XVI benefits for persons who are disabled generally will not be paid for any month in the period in which the person preforms SGA.

These rules also provide a trial work period (and the reentitlement period) to disabled widows, widowers, and surviving divorced spouses under title II.

DATE: These rules will be effective May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301–594–7337.

SUPPLEMENTARY INFORMATION: Section 303 of Pub. L. 96–265, the Social Security Disability Amendments of 1980, enacted June 9, 1980, affects both the title II and title XVI disability programs. It (1) provides an extended period of 15 months during which beneficiaries with disabling impairments who have completed 9 months of trial work may continue to test their ability to work and remain eligible to have their disability payments reinstated if they do not continue substantial work, (2) provides a "termination month" for the payment of title II benefits and for the period during which a person may be considered disabled for SSI purposes under title XVI, (3) extends the trial work period provisions to disabled widows, disabled widowers, and disabled surviving divorced spouses who are receiving benefits under title II, and (4) revises the ending date of the title II period of disability in certain instances.

In order to obtain the public's views and comments before proceeding with these amendments implementing section 303, we published a Notice of Proposed Rulemaking in the **Federal Register** on October 19, 1982 (47 FR 46535). Interested persons and organization were invited to submit comments pertaining to the proposed amendments within a period of 60 days from the date of publication of the notice. We have carefully considered all the comments we received pertaining to the proposed amendments and we have responded to the issues raised by the commenters later in this preamble.

Background

Under the law and regulations relating to the title II and title XVI disability programs prior to December 1, 1980, the effective date of section 303 of the Social Security Disability Amendments of 1980, after a person completed a 9-month trial work period and then in a later month was able to perform work at the substantial gainful activity (SGA) level, the person's benefit payments were terminated. The person's disability and any period of disability established under title II ended. (A "trial work period" is a period of 9 months, not necessarily consecutive, during which a beneficiary can test his or her ability to work. Work in those months is not considered in determining whether disability ceased during this period. "SGA" is work activity done for pay or profit that involves significant physical or mental activities. A person who is able to do SGA is, by definition, not disabled. A "period of disability", applicable only in the title II program, is a continuous period during which a person is disabled. Benefits are generally paid during this period and it may favorably affect the way title II benefits may be computed for the person in the future.) Except where other provisions of title II or title XVI reduced or prevented payment of benefits, a person could receive full benefits throughout the trial work period. This is still true. In addition, the person was eligible for benefits for the first month in which he or she was able to perform SGA following the trial work period and for the next 2 months. The period of disability terminated with the month before the month he or she became age 65 or, if earlier, the second month following the month in which disability ceased. Disability would cease because a person was able to do SGA. As a result, anyone whose title II period of disability or whose title XVI benefits terminated and who was unable to continue working had to file a new application which had to be processed as a new claim. Consideration was given to reopening the prior determination that disability ceased on the basis that the work activity that caused the termination of the person's benefits did not show that the person was able to continue to do SGA. Even so, new medical evidence and other documentation had to be obtained. Also,

under title II, disabled widow(er)s and disabled surviving divorced spouses were not entitled to a trial work period. Title XVI contains no provisions for disabled widow(er)'s or disabled surviving divorced spouse's benefits.

Regulatory Provisions

These regulations apply to title II disabled worker's insurance benefits, disabled child's insurance benefits, disabled widow(er)'s and disabled surviving divorced spouse's insurance benefits, the period of disability, and title XVI supplemental security income benefits based on disability. They implement section 303 of Pub. L. 96–265, the Social Security Disability Amendments of 1980.

The regulations provide an extended period of time (the reentitlement period) during which a person with a disabling impairment who has completed 9 months of trial work and who engages in SGA remains eligible to have his or her disability payments reinstated if the work attempt ends.

The reentitlement period, described in §§ 404.1592a and 416.992a, begins with the first month following completion of the trial work period (but not earlier than December 1, 1980, the effective date of section 303), and generally ends with the 15th month following the end of the trial work period. A person must complete a trial work period before becoming entitled to a reentitlement period and may have only one reentitlement period in a period of disability (title II) or in a period of entitlement to supplemental security income benefits (title XVI). Under title II of the Act, a person may have only one trial work period during a period of disability. Under title XVI of the Act, a person may have only one trial work period during a period of entitlement to supplemental security income benefits based on the same disability. Therefore, since the reentitlement period immediately follows the trial work period, a person may have only one reentitlement period in that same period.

During the reentitlement period, a person who has a disabling impairment is paid benefits for all months in which he or she does not do SGA. A person is not paid benefits for months in the reentitlement period in which he or she does SGA (except for the first month that he or she does SGA after the trial work period and the two succeeding months). A person's benefits are automatically resumed when he or she stops doing SGA during the reentitlement period. (However, if payments are stopped because a person does not have a medically disabling physical or mental impairment, they are not automatically resumed.) Benefits may continue after the 15-month period if the person remains unable to do SGA.

In determining, for reentitlement purposes, whether an employee does SGA in a month in the reentitlement period, we consider only work in, or earnings for, that month; we do not consider the average amount of work or earnings over a period of months. In determining whether a self-employed person does SGA in a month in the reentitlement period, we consider that person's activities and services on a month-by-month basis. We do not average the activities and services over a period of months.

To effect the changes necessary to implement section 303, we have changed the rules in §§ 404.316, 404.321, 404.337, 404.352, 404.902, 404.1574, 404.1575, 404.1579, 404.1586, 404.1592, 404.1594, 416.974, 416.975, 416.994, 416.1331, and 416.1402. We have also added new §§ 404.325, 404.401a, 404.1511, 404.1592a, 416.911, and 416.992a and we have removed § 404.1580.

We amended §§ 404.316, 404.337, 404.352, and 416.1331 to show when disability benefits end for persons who, following completion of a trial work period, still continue to have disabling impairments.

In §§ 404.902 and 416.1402 we have provided that our determinations on whether a person has a disabling impairment are initial determinations and, therefore, subject to administrative review. In §§ 404.1511 and 416.911, we defined the term "disabling impairment" and in §§ 404.1592a and 416.992a we defined the term "reentitlement period."

These amendments also define (in §§ 404.325 and 416.994) the term "termination month" as established by section 303 of Pub. L. 96–265 as a reference point for determining when a person's disability benefits should end under title II and for determining when disability status ends under title XVI.

In addition, we modified the general discussion of the evaluation guides for employees in §§ 404.1574 and 416.974 to make it clear that a person's earnings may show whether or not he or she is able to do SGA.

We amended §§ 404.1579, 404.1586, 404.1594, and 416.1331 to show that a person may be paid benefits for certain months in and after the reentitlement period even though he or she has demonstrated the ability to do SGA.

These amendments also extend (in § 404.1592) the title II trial work period provisions to disabled widows, disabled widowers, and disabled surviving divorced spouses (who, for title II disability program purposes, are considered disabled widow(er)s). A conforming change in section 404.1579 and the removal of § 404.1580 also reflect this change in the law.

The Social Security Disability Amendments of 1980 also revise the ending date of the title II period of disability in certain instances for persons who have completed 9 months of trial work. These regulations reflect this statutory change (§ 404.321). In § 404.401a, we explain that after the 9-month trial work period, a person cannot be paid disability insurance benefits for months in which he or she does SGA (except for the first month that he or she does SGA and the two succeeding months whether or not he or she does SGA in those two months) even though severely impaired.

Comments Received Following Publication of the Notice of Proposed Rulemaking

These regulations were published as proposed rules on October 19, 1982 (47 FR 46535). Interested parties were afforded 60 days within which to submit comments. The comment period closed December 20, 1982. We received five letters—two from a retarded citizens' group, one each from two different State social services agencies, and one from an attorney in private practice. Four of the writers expressed their support for the proposed changes. Two of those writers stated that these changes will help their efforts to obtain employment for their clients. Another writer agreed that these regulations are consistent with the purpose of the statute.

Comment: One writer feels that paragraph (b) of § 404.316 can be misleading in that it states that a person's entitlement to disability benefits ends with the month before the month he or she becomes 65 years old. The writer suggested that language be added to clarify that disability benefits are converted to old-age benefits when a person becomes 65 years old and that there is no interruption in a person's monthly benefits when he or she becomes age 65.

Response: We believe the writer's comment (while not on one of the proposed changes) to be well taken and we have amended § 404.316(b)(2) to clarify the point raised by the writer.

Comment: Another writer suggested that we consider adding language to the regulations at this time describing in more detail what we mean by the term "unsuccessful work attempt". The writer feels that the more detailed description of this policy now contained in a section of our Program Operations Manual System should be added to the regulations.

Response: Several parts of the discussion in the Program Operations Manual System, to which the writer refers, are presently being clarified. In addition, we plan to expand on the present discussion to achieve further clarity and foster better understanding of our policy in this area. We are, therefore, not adopting the writer's suggestion at this time. We will, however, give further consideration to this suggestion following completion of the revisions to the Program Operations Manual System.

Additional Changes

We rewrote paragraph (a) of § 404.1579; which deals with when we will find that a widow's, widower's, or surviving divorced wife's disability has ended. This change more closely conforms the language of this paragraph with the similar discussions in § 404.1586 (statutory blind persons) and § 404.1594 (disabled workers and persons disabled since childhood).

In the rules published with a Notice of Proposed Rulemaking on October 19, 1982, we proposed to rewrite paragraph (e)(2) of 404.1592 to read:

> The month in which, based on new evidence, you are not disabled, even though you have not worked a full 9 months.

This revision would have removed the statement on work during the trial work period and the statement that we may find that a person's disability has ended at any time if the evidence shows that a person is able to do substantial gainful activity. These changes were merely attempts to shorten and streamline this paragraph and did not represent any changes in policy. However, it has been pointed out to us that these proposed changes could be interpreted as changes in policy. This was not our intent. To prevent any further misunderstanding, we have not made any change to paragraph (e)(2) in these final rules.

We had proposed in the Notice of Proposed Rulemaking not to apply the unsuccessful work attempt (UWA) policy during the reentitlement period following the trial work period. The UWA policy provides that although a person is receiving earnings from work at the SGA level but is forced to stop after a short time because of his or her impairment, such earnings do not necessarily show that he or she is able to do SGA. When applied in deciding whether a person continues to be disabled, this policy permits us to retain persons on the disability rolls who otherwise would have their disability benefits terminated because of brief work activity at the SGA level. However, upon further consideration we have decided that this policy, since it is an integral part of the definition of SGA, should be retained and applied in deciding whether a person continues to be disabled. We have therefore not proceeded with the proposal to eliminate the UWA policy during the reentitlement period. Sections 404.1574(a)(1) and 416.974(a)(1) have been revised accordingly.

Executive Order 12291

These regulations have been reviewed under Executive Order 12291. Because they do not result in a cost impact of $100 million or more yearly, or otherwise meet the criteria for a major rule, we have determined that a regulatory impact analysis is not required.

We estimate that these regulations will have only a negligible effect on benefits and payments to disabled persons. While some people may find it easier to return to the disability rolls because a new application is not required, we believe any resulting costs will be offset by the savings to the Social Security trust funds and general fund as a result of encouraging disabled persons to continue to test their ability to work and come off the disability rolls permanently. We believe that, overall, these regulations will have only a negligible effect on the number of disabled people drawing benefits. The cost attributable to the effect of these regulations will, in any event, be less than $100 million a year.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

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

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, survivors and disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 25, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: May 23, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart D of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 428, and 1302; and 5 U.S.C. Appendix; Sec. 303 of Pub. L. 96–265, 94 Stat. 451 (42 U.S.C. 402, 416, 422, 423).

2. Section 404.316 is amended by revising paragraph (b) and adding new paragraph (d) to read as follows:

§ 404.316 When entitlement to disability benefits begins and ends

* * * * *

(b) Your entitlement to disability benefits ends with the earliest of these months: (1) The month before the month of your death; (2) the month before the month you become 65 years old (at age 65 your disability benefits will be automatically changed to old-age benefits); (3) the second month after the month in which your disability ends as provided in § 404.1594(b)(1), unless continued subject to paragraph (c); or (4) subject to the provisions of paragraph (d) of this section, the month before your termination month (§ 404.325).

* * * * *

(d) If, after November 1980, you have a disabling impairment (§ 404.1511), you will be paid benefits for all months in which you do not do substantial gainful activity during the reentitlement period (§ 404.1592a) following the end of your trial work period (§ 404.1592). If you are unable to do substantial gainful activity in the first month following the reentitlement period, we will pay you benefits until you are able to do substantial gainful activity. (Earnings during your trial work period do not affect the payment of your benefit.) You will also be paid benefits for the first month after the trial work period in which you do substantial gainful activity and the two succeeding months, whether

or not you do substantial gainful activity during those succeeding months. After those three months, you cannot be paid benefits for any months in which you do substantial gainful activity.

3. Section 404.321 is revised to read as follows:

§ 404.321 When a period of disability begins and ends.

(a) *When a period of disability begins.* Your period of disability begins on the day your disability begins if you are insured for disability on that day. If you are not insured for disability on that day, your period of disability will begin on the first day of the first calender quarter after your disability began in which you become insured for disability. Your period of disability may not begin after you become 65 years old.

(b) *When disability ended before December 1, 1980.* Your period of disability ends on the last day of the month before the month in which you become 65 years old or, if earlier, the last day of the second month following the month in which your disability ended.

(c) *When disability ends after November 1980.* Your period of disability ends with the close of whichever of the following is the earliest—

(1) The month before the month in which you become 65 years old;

(2) The month immediately preceding your termination month (§ 404.325); or

(3) If you perform substantial gainful activity during the 15-month period following the end of your trial work period, the last month for which you received benefits.

4. A new § 404.325 is added to read as follows:

§ 404.325 The termination month.

If you do not have a disabling impairment, your termination month is the third month following the month in which your impairment is not disabling even if it occurs during the trial work period or the reentitlement period. If you continue to have a disabling impairment and complete 9 months of trial work, your termination month will be the third month following the earliest month you perform substantial gainful activity or are determined able to perform substantial gainful activity but in no event earlier than the first month after the 15th month following the end of your trial work period.

Example: You complete your trial work period in December 1980. You are then working at the substantial gainful activity level and continue to do so throughout the 15 months following completion of your trial work period and thereafter. Your termination month will be April 1982, which is the 16th month—that is, the first month in which you performed substantial gainful activity after the 15th month following your trial work period.

Example: You complete your trial work period in December 1980 but you are not able to work at the substantial gainful activity level unit December 1982. Your termination month will be March 1983—that is, the third month after the earliest month you perform or are determined able to perform substantial gainful activity.

5. Section 404.337 is amended by revising paragraph (b)(3) and by adding a new paragraph (d) to read as follows:

§ 404.337 When widow's and widower's benefits begin and end

* * * * *

(b) * * *

(3) If your widow's or widower's benefit is based upon a disability, the second month after the month your disability ends or, where disability ends on or after December 1, 1980, the month before your termination month (§ 404.325). However payments are subject to the provisions of paragraphs (c) and (d) of this section. You may remain eligible for payment of benefits if you became 65 years old before your termination month and you met the other requirements for widow's or widower's benefits.

* * * * *

(d) If, after November 1980, you have a disabling impairment (§ 404.1511), you will be paid benefits for all months in which you do not do substantial gainful activity during the reentitlement period (§ 404.1592a) following the end of your trial work period (§ 404.1592). If you are unable to do substantial gainful activity in the first month following the reentitlement period, we will pay you benefits until you are able to do substantial gainful activity. (Earnings during your trial work period do not affect the payment of your benefits.) You will also be paid benefits for the first month after the trial work period in which you do substantial gainful activity and the two succeeding months, whether or not you do substantial gainful activity during those succeeding months. After those three months, you cannot be paid benefits for any months in which you do substantial gainful activity.

6. Section 404.352 is amended by revising the first three sentences in paragraph (b)(1) and adding new paragraph (d) to read as follows:

§ 404.352 When child's benefits begin and end.

* * * * *

(b) Your entitlement to benefits ends with the month before the month in which one of the following events first occurs:

(1) You become 18 years old, unless you are disabled or a full-time student. If you become 18 years old and you are disabled, your entitlement to disability benefits ends with the second month following the month in which your disability ends. If your disability ends on or after December 1, 1980, your entitlement to disability benefits continues, subject to the provisions of paragraphs (c) and (d) of this section, until the month before your termination month (§ 404.325). If you become 18 years old and you qualify as a full-time student who is not disabled, your entitlement * * *

* * * * *

(d) If, after November 1980, you have a disabling impairment (§404.1511), you will be paid benefits for all months in which you do not do substantial gainful activity during the reentitlement period (§ 404.1592a) following the end of your trial work period (§ 404.1592). If you are unable to do substantial gainful activity in the first month following the reentitlement period, we will pay you benefits until you are able to do substantial gainful activity. (Earnings during your trial work period do not affect the payment of your benefits during that period.) You will also be paid benefits for the first month after the trial work period in which you do substantial gainful activity and the two succeeding months, whether or not you do substantial gainful activity during those succeeding months. After those three months, you cannot be paid benefits for any months in which you do substantial gainful activity.

7. The authority citation for Subpart E of Part 404 reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 427, 1302; Sec. 303 of Pub. L. 96–265, 94 Stat. 451 (42 U.S.C. 402, 416, 422, 423).

8. A new § 404.401a is added to read as follows:

§ 404.401a When we do not pay a disabled person because of work activity.

If you are receiving benefits because you are disabled or blind as defined in title II of the Social Security Act, we will stop your monthly benefits even though you have a disabling impairment. (§ 404.1511), if you engage in substantial gainful activity during the reentitlement period (§ 404.1592a) following completion of the trial work period (§ 404.1592). You will, however, be paid benefits for the first month after the trial work period in which you do substantial

gainful activity and the two succeeding months, whether or not you do substantial gainful activity in those two months. Earnings from work activity during a trial work period will not stop your benefits.

9. The authority citation for Subpart J of Part 404 reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302); Section 303 of Pub. L. 96-265, 94 Stat. 451 (42 U.S.C. 402, 416, 422, 423).

10. Section 404.902 is amended by revising paragraphs (q) and (r) and adding a new paragraph (s) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, survivors' and disability insurance programs, initial determinations include, but are not limited to, determinations about—

* * * * *

(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period;

(r) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled;

(s) Nonpayment of your benefits under § 404.468 because of your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony; and

(t) Whether or not you have a disabling impairment(s) as defined in § 404.1511.

11. The authority citation for Subpart P of Part 404 reads as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302. Sec. 303 of Pub. L. 96-265, 94 Stat. 451 (42 U.S.C. 402, 416, 422, 423).

12. A new § 404.1511 is added to read as follows:

§ 404.1511 Definition of disabling impairment.

(a) *Disabled workers and persons disabled since childhood.* If you are entitled to disability cash benefits as a disabled worker or to child's insurance benefits, a disabling impairment is an impairment (or combination of impairments) which, of itself, is so severe that it meets or equals a set of criteria in the Listing of Impairments in Appendix 1 or which, when considered with your age, education and work experience, would result in a finding that you are disabled. In determining whether you have a disabling impairment, earnings are not considered.

(b) *Disabled widows, widowers and surviving divorced spouses.* If you are entitled to disability benefits as a disabled widow, widower, or surviving divorced spouse, a disabling impairment is an impairment (or combination of impairments) which, of itself, is so severe that it meets or equals a set of criteria in the Listing of Impairments in Appendix 1 and would result in a finding that you are disabled. In determining whether you have a disabling impairment, earnings are not considered.

13. Section 404.1574 is amended by revising paragraph (a)(1) to read as follows:

§ 404.1574 Evaluation guides if you are an employee.

(a) *General.* We use several guides to decide whether the work you have done shows that you are able to do substantial gainful activity.

(1) *Your earnings may show you have done substantial gainful activity.* The amount of your earnings from work you have done may show that you have engaged in substantial gainful activity. Generally, if you worked for substantial earnings, this will show that you are able to do substantial gainful activity. On the other hand, the fact that your earnings are not substantial will not necessarily show that you are not able to do substantial gainful activity. We will generally consider work that you are forced to stop after a short time because of your impairment as an unsuccessful work attempt and your earnings from that work will not show that you are able to do substantial gainful activity.

* * * * *

14. Section 404.1575 is amended by revising paragraph (a) to read as follows:

§ 404.1575 Evaluation guides if you are self-employed.

(a) *If you are a self-employed person.* We will consider your activities and their value to your business to decide whether you have engaged in substantial gainful activity if you are self-employed. We will not consider your income alone since the amount of income you actually receive may depend upon a number of different factors like capital investment, profit sharing agreements, etc. We will generally consider work that you are forced to stop after a short time because of your impairment as an unsuccessful work attempt and your income from that work will not show that you are able to do substantial gainful activity. We will evaluate your work activity on the value to the business of your services regardless of whether you receive an immediate income for your services. We consider that you have engaged in substantial gainful activity if—

* * * * *

15. Section 404.1579 is amended by revising paragraph (a) to read as follows:

§ 404.1579 Why and when we will find that your disability has ended.

(a) *If you are not disabled.* If you are entitled to widow's or widower's benefits as a disabled widow, widower, or surviving divorced spouse, we will find that your disability ended in the earlier of the following months—

(1) The month your impairment, based on current medical evidence, no longer exists or is not an impairment listed in Appendix 1 or is not equal to a listed impairment; or

(2) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period); however, we may pay you benefits for certain months in and after the reentitlement period which follows the trial work period. (See § 404.1592 for a discussion of the trial work period, § 404.1592à for a discussion of the reentitlement period, and § 404.337 for when your benefits will end.)

* * * * *

§ 404.1580 [Removed]

16. Section 404.1580 is hereby removed.

17. Section 404.1586 is amended by revising paragraph (a)(1) and (a)(2) to read as follows:

§ 404.1586 Why and when we will stop your cash benefits.

(a) *When you are not entitled to benefits.* If you become entitled to

disability cash benefits as a statutorily blind person, we will find that you are no longer entitled to benefits beginning with the earliest of—

(1) The month your vision, based on current medical evidence, does not meet the definition of blindness (and any remaining impairments do not make you unable to do substantial gainful activity considering your age, education and work experience);

(2) If you are under age 55, the month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period); however, we may pay you benefits for certain months in and after the reentitlement period which follows the trial work period. (See § 404.1592a for a discussion of the reentitlement period, and § 404.316 for additional information on when your benefits will end.)

* * * * *

18. Section 404.1592 is amended by revising paragraphs (d) and (e) to read as follows:

§ 404.1592 The trial work period.

* * * * *

(d) *Who is and is not entitled to a trial work period.* (1) Those who are receiving disability insurance benefits, child's benefits based on disability and, beginning December 1, 1980, those who are receiving widows' or widowers' benefits based on disability, or surviving divorced spouses' benefits based on disability, generally are entitled to a trial work period.

(2) You are not entitled to a trial work period if—

(i) You are entitled to a period of disability but not to disability insurance cash benefits; or

(ii) You are receiving disability insurance benefits in a second period of disability for which you did not have to complete a waiting period.

(e) *When the trial work period begins and ends.* The trial work period begins with the month in which you become entitled to disability insurance cash benefits, to child's cash benefits based on disability or to widow's, widower's, or surviving divorced spouse's cash benefits based on disability. It cannot begin before the month in which you file your application for benefits and for widows, widowers, and surviving divorced spouses, it cannot begin before December 1, 1980. It ends with the close of whichever of the following calendar months is the earlier:

* * * * *

19. A new section 404.1592a is added to read as follows:

§ 404.1592a The reentitlement period.

(a) *General.* The reentitlement period is an additional period after 9 months of trial work during which you may continue to test your ability to work if you have a disabling impairment. You will not be paid benefits for any month, after the third month, in this period in which you do substantial gainful activity and you will be paid benefits for months in which you do not do substantial gainful activity. (See §§ 404.316, 404.337, 404.352 and 404.401a.) If your benefits are stopped because you do substantial gainful activity they may be started again without a new application and a new determination of disability if you discontinue doing substantial gainful activity during this period. In determining, for reentitlement benefit purposes, whether you do substantial gainful activity in a month, we consider only your work in or earnings for that month; we do not consider the average amount of your work or earnings over a period of months.

(b) *When the reentitlement period begins and ends.* The reentitlement period begins with the first month following completion of 9 months of trial work but cannot begin earlier than December 1, 1980. It ends with whichever is earlier—

(1) The month before the first month in which your impairment no longer exists or is not medically disabling; or

(2) The last day of the 15th month following the end of your trial work period. (See §§ 404.316, 404.337, and 404.352 for when your benefits end.)

(c) *When you are not entitled to a reentitlement period.* You are not entitled to a reentitlement period if:

(1) You are entitled to a period of disability, but not to disability insurance cash benefits;

(2) You are not entitled to a trial work period;

(3) Your entitlement to disability insurance benefits ended before you completed 9 months of trial work in that period of disability.

20. Section 404.1594 is amended by revising paragraph (b) to read as follows:

§ 404.1594 Why and when we will find that your disability has ended.

(a) *General.* When the medical or other evidence in your file shows that your disability has ended, we will contact you and tell you that the evidence in your file shows that you are able to do substantial gainful activity and that your eligibility for cash benefits and for a period of disability will end. Before we stop your benefits or a period of disability, we will give you a chance to give us your reasons why we should not stop your benefits or your period of disability. Section 404.1595 describes your rights and the procedures we will follow. We may also stop payment on your benefits if you have not cooperated with us in getting information about your disability or if we cannot find you (see paragraph (c) of this section).

(b) *Disabled workers and persons disabled since childhood.* If you are entitled to disability cash benefits as a disabled worker or to child's insurance benefits, we will find that your disability ended in the earliest of the following months—

(1) The month your impairment, based on current medical or other evidence, no longer exists or is such that you are able to do substantial gainful activity;

(2) The month in which you demonstrated your ability to engage in substantial gainful activity (following completion of a trial work period); however, we may pay you benefits for certain months in and after the reentitlement period which follows the trial work period. (See § 404.1592a for a discussion of the reentitlement period. If you are receiving benefits on your own earnings record, see § 404.316 for when your benefits will end. See § 404.352 if you are receiving benefits on a parent's earning as a disabled adult child.);

(3) The month in which you actually do substantially gainful activity (where you are not entitled to a trial work period).

* * * * *

PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

The authority citation for Subpart I of Part 416 reads as follows:

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act; 49 Stat. 647, as amended, 86 Stat. 1471, as amended by 88 Stat. 52, 86 Stat. 1475; 42 U.S.C. 1302, 1382c, and 1383. Section 303 of Pub. L. 96–265, 94 Stat. 453, (42 U.S.C. 1382, 1383).

2. A new § 416.911 is added to read as follows:

§ 416.911 Definition of disabling impairment.

A disabling impairment is an impairment (or combination of impairments) which, of itself, is so severe that it meets or equals a set of criteria in the Listing of Impairments in Appendix 1 of Subpart P of Part 404 of this chapter or which, when considered with your age, education and work experience, would result in a finding that you are disabled. In determining

whether you have a disabling impairment earnings are not considered.

3. Section 416.974 is amended by revising paragraph (a)(1) to read as follows:

§ 416.974 Evaluation guides if you are an employee.

(a) *General.* We use several guides to decide whether the work you have done shows that you are able to do substantial gainful activity.

(1) *Your earnings may show you have done substantial gainful activity.* The amount of your earnings from work you have done may show that you engaged in substantial gainful activity. Generally, if you worked for substantial earnings, this will show that you are able to do substantial gainful activity. On the other hand, the fact that your earnings are not substantial will not necessarily show that you are not able to do substantial gainful activity. We will generally consider work that you are forced to stop after a short time because of your impairment as an unsuccessful work attempt and your earnings from that work will not show that you are able to do substantial gainful activity.

* * * * *

4. Section 416.975 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 416.975 Evaluation guides if you are self-employed.

(a) *If you are a self employed person.* We will consider your activities and their value to your business to decide whether you have engaged in substantial gainful activity if you are self-employed. We will not consider your income alone since the amount of income you actually receive may depend upon a number of different factors like capital investment, profit sharing agreements, etc. We will generally consider work that you are forced to stop after a short time because of your impairment as an unsuccessful work attempt and your income from that work will not show that you are able to do substantial gainful activity. We will evaluate your work activity on the value to the business of your services regardless of whether you receive an immediate income for your services. We consider that you have engaged in substantial gainful activity if—

* * * * *

5. A new § 416.992a is added to read as follows:

§ 416.992a The reentitlement period.

(a) *General.* The reentitlement period is an additional period after 9 months of trial work during which you may continue to test you ability to work if you have a disabling impairment.

Generally, you will not be paid benefits for any month, after the third month, in this period in which you do substantial gainful activity unless you qualify for the special benefits explained in § 416.261. You will be paid benefits for months in which you do not do substantial gainful activity and you meet all the other eligibility requirements. (See § 416.1331.) If your benefits are stopped because you do substantial gainful activity they may be started again without a new application and a new determination of disability if you discontinue doing substantial gainful activity during this period. In determining, for reentitlement benefit purposes, whether you do SGA in a month during the reentitlement period we only consider your work in or earnings for that month; we do not consider the average amount of your work or earnings over a period of months.

(b) *When the reentitlement period begins and ends.* The reentitlement period begins with the first month following completion of 9 months of trial work but cannot begin earlier than December 1, 1980. It ends with whichever is earlier—

(1) The month before the first month in which your impairment is determined to no longer exist or not to be disabling; or

(2) The last day of the 15th month following the end of your trial work period. (See § 416.1331 for when your benefits end.)

6. Section 416.994 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 416.994 Why and when we will find that your disability has ended.

(a) *General.* When the evidence in your file shows that you are able to do substantial gainful activity we will contact you and tell you when your disability ended, and also tell you when your benefits will stop.

(b) *Disabled persons age 18 or over.* If you are age 18 or older, we will find that your disability ends in the following month—

(1) For purposes of § 416.1331 (under which benefits can be paid for the month in which disability ends and the two following months), the month in which your impairment is determined, based on current medical or other evidence, to no longer exist or to be such that you are able to do substantial gainful activity or, if earlier, the first month following completion of your trial work period for which it is determined that you have demonstrated the ability to do substantial gainful activity.

(2) For all other purposes, the month preceding the termination month. The termination month, as that term is used in this paragraph, is the first month, after the 15-month reentitlement period (described in § 416.992a), in which you engage in or are determined able to engage in substantial gainful activity or, if earlier, the first month after a trial work period in which your impairment is determined, based on current medical or other evidence, to no longer exist or not to be a disabling impairment as described in § 416.911.

(c) *Disabled persons under age 18.* If you are under age 18, we will find that your disability ends in the following month—

(1) For purposes of § 416.1331, the month your impairment is determined, based on current medical evidence, to no longer exist or not to be an impairment listed in Appendix 1 of Subpart P of Part 404 of this chapter or not to be equal to a listed impairment, or, if earlier, the first month following completion of your trial work period for which it is determined that you have demonstrated the ability to do substantial gainful activity;

(2) For all other purposes, the month preceding the termination month. The termination month, as that term is used in this paragraph, is the first month, after the 15-month reentitlement period (described in § 416.992a), in which you engage in or are determined able to engage in substantial gainful activity or, if earlier, the first month after a trial work period in which your impairment is determined, based on current medical or other evidence, to no longer exist or not to be a disabling impairment as described in § 416.911.

* * * * *

7. The authority citation for Subpart M of Part 416 reads as follows:

Authority: Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477; 42 U.S.C. 1302, 1382–1382d, 1383; Sec. 303 of Pub. L. 96–265, 94 Stat. 453 (42 U.S.C. 1382, 1383).

8. Section 416.1331 is revised to read as follows:

§ 416.1331 Termination of your disability or blindness payments.

(a) *General.* The last month for which we can pay you benefits based on disability is the earlier of the second month after the first month in which you are able to do substantial gainful activity following a trial work period (described in § 416.992), or the second month after the first month in which you are determined to no longer have a

disabling impairment (described in § 416.911). (See § 416.1338 for an exception to this rule if you are participating in an appropriate vocational rehabilitation program, and § 416.261 for an explanation of special benefits to which you may be entitled.) However, benefits may be resumed during the reentitlement period (described in § 416.992a) under certain circumstances. If you have a disabling impairment, you will receive benefits based on disability for any month in which you do not do substantial gainful activity in the reentitlement period and if we determine that you are not able to do substantial gainful activity in the first month following the reentitlement period, we will pay you benefits after the reentitlement period until you are able to do substantial gainful activity. These payments will stop with the earlier of the month before the first month in which you do substantial gainful activity or the month before the month in which you are determined to no longer have a disabling impairment. The last month for which we can pay you benefits based on blindness is the second month after the month in which your blindness ends (see § 416.986 for when blindness ends). You must meet the income, resources, and other eligibility requirements to receive any of the benefits described in this paragraph. We will also stop payment of your benefits if you have not cooperated with us in getting information about your disability or blindness.

(b) *After we make a determination that you are not now disabled.* If we determine that you do not meet the disability requirements of the law, we will send you an advance written notice telling you why we believe you are not disabled and when your benefits should stop. The notice will explain your right to appeal if you disagree with our determination. You may still appeal our determination that you are not now disabled even though your payments are continuing because of your participation in an appropriate vocational rehabilitation program. You may also appeal a determination that your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will not significantly increase the likelihood that you will not have to return to the disability benefit rolls and, therefore, you are not entitled to continue to receive benefits.

9. The authority citation for Subpart N of Part 416 reads as follows:

Authority: Sections 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b); Section 301 of Pub. L. 96-265, 94 Stat. 450 (42 U.S.C. 1382c, 1383).

10. Section 416.1402 is amended by revising paragraphs (j) and (k) and adding a new paragraph (l) to read as follows:

§ 416.1402 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

* * * * *

(j) Your disability;

(k) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled; and

(l) Whether or not you have a disabling impairment as defined in § 416.911.

[FR Doc. 84-14232 Filed 5-25-84; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Ivermectin Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories, providing for use of Eqvalan® (ivermectin) paste for horses for treating and controlling certain nematode and bot infections.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed NADA 134-314 providing for oral use of Eqvalan® (ivermectin) paste for horses for the treatment and control of infections of certain internal nematodes and bots. Adequate and well-controlled studies demonstrate the safety and effectiveness of the product for treating and controlling internal bot and nematode infestations. The NADA is approved and the regulations are amended to reflect this approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(a)), may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1192, to read as follows:

* * * * *

§ 520.1192 Ivermectin paste.

(a) *Specifications.* Paste contains 1.87 percent ivermectin.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Condtions of use*—(1) *Amount.* 200 micrograms per kilogram (91 micrograms per pound) of bodyweight.

(2) *Indications for use.* It is used in horses for the treatment and control of large strongyles (adult) (*Strongylus*

equinus), (adult and arterial larval stages) (*Strongylus vulgaris*), (adult and migrating tissue stages) (*Strongylus edentatus*), (adult) (*Triodontophorus* spp.), small strongyles (adult and fourth stage larvae) (*Cyathostomum* spp., *Cylicocyclus* spp., *Cylicodontophorus* spp., *Cylicostephanus* spp.), pinworms (adult and fourth stage larvae) (*Oxyuris equi*), large roundworms (adult) (*Parascaris equorum*), hairworms (adult) (*Trichostrongylus axei*), large mouth stomach worms (adult) (*Habronema muscae*), neck threadworms (microfilariae) (*Onchocerca* spp.), and stomach bots (first, second, and third instars, oral and gastric stages) (*Gastrophilus* spp.).

(3) *Limitations.* For oral use only. Do not use in horses intended for food purposes. Safety has not been demonstrated in horses under 4 months old. Do not administer to foals of this age class. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date. May 29, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 21, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-14169 Filed 5-25-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 300

[Docket No. N-84-1391; FR-1971]

List of GNMA Attorneys-in-Fact

AGENCY: Government National Mortgage Association, HUD.

ACTION: Rule-related Notice.

SUMMARY: This document updates the current list of persons appointed attorneys-in-fact by the Government National Mortgage Association (GNMA). Attorneys-in-fact are authorized to act for GNMA by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs. These appointments assist GNMA in carrying out its responsibilities under the National Housing Act.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: John Maxim, Associate General Counsel, Insured Housing and Finance, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-6274. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Government National Mortgage Association (GNMA) periodically approves staff members of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to be delegated signatory authority to act in GNMA's behalf as attorneys-in-fact.

Until recently, lists of persons appointed to act have appeared in the Code of Federal Regulations (see 24 CFR 300.11 (c) and (d), 1983 edition). In related documents published on August 12, 1983 (see 48 FR 36572, 36573) GNMA announced that it was removing these lists from the CFR, changing the procedure of announcing appointments to a notice document, and publishing a complete list of persons currently appointed to act as attorneys-in-fact. The rule removing the lists from the CFR, as well as the complete list of attorneys-in-fact, was effective on October 11, 1983. Additional changes to the list of persons appointed attorneys-in-fact were published on December 29, 1983 (see 48 FR 57371).

This notice today announces changes to the list of persons authorized to act as attorneys-in-fact. The changes include additions to and deletions from the Federal National Mortgage Association list. To enhance the usability of these notices, the Department has decided to republish the entire list of attorneys-in-fact each time changes are made.

Accordingly, the following lists represent all persons currently appointed as attorneys-in-fact delegated signatory authority to act in GNMA's behalf:

I. Staff members of the Federal National Mortgage Association, a government-sponsored private corporation, appointed attorneys-in-fact.

Name and Region

Leo E. Abueg, Los Angeles, CA
Robert E. Allen, Los Angeles, CA
Angelina P. Alleva, Philadelphia, PA
Ellen W. Allison, Atlanta, GA
Pan Andrus, Los Angeles, CA
Victoria L. Arrington, Chicago, IL
Glenn T. Austin, Jr., Atlanta, GA
J. J. Bacchus, Atlanta, GA
Irene S. Baggio, Philadelphia, PA
Darlene Bagley, Atlanta, GA
J. C. Bellinger, Atlanta, GA
J. M. Benavides, Dallas, TX
Frances E. Bennett, Atlanta, GA
James H. Benson, Los Angeles, CA
E. N. Biggerstaff, Atlanta, GA
James R. Blakley, Los Angeles, CA
Norman T. Bolas, Los Angeles, CA
Donna F. Bennett, Philadelphia, PA
W. R. Bowen, Los Angeles, CA
W. James Bradley, Washington, D.C.
Joseph E. Brody, Chicago IL
Craig J. Bromann, Chicago, IL
Rosemary M. Brown, Washington, D.C.
Burleigh O. Burshem, Washington, D.C.
Rena L. Busby, Los Angeles, CA
Donna M. Cabrera, Los Angeles, CA
Dennis J. Campbell, Philadelphia, PA
E. P. Carr, Atlanta, GA
Loretta Casey, Philadelphia, PA
James S. Cash, Atlanta, GA
Robert A. Chambers, Atlanta, GA
Heinrich F. Charles, Los Angeles, CA
Russell B. Clifton, Washington, D.C.
John M. Coan, Washington, D.C.
Vincent Colletti, II, Philadelphia, PA
Bettye Cook, Los Angeles, CA
Marie A. Correja, Philadelphia, PA
Diane E. Cozad, Los Angeles, CA
Edward F. Czubernat, Chicago, IL
Nitin J. Dave, Atlanta, GA
John J. Deisher, Dallas, TX
John C. Diebel, Chicago, IL
James E. Domenico, Chicago, IL
Lawrence J. Dondero, Jr., Philadelphia, PA
Elizabeth A. Downing, Los Angeles, CA
Samuel A. Duca, Philadelphia, PA
J. Ellis Dykes, Atlanta, GA
Joseph R. Elred, Philadelphia, PA
Julieta England, Los Angeles, CA
David J. Evans, Atlanta, GA
R. Douglas Ezzell, Atlanta, GA
Leon Fine, Philadelphia, PA
Pamela K. Fite, Atlanta, GA
Carlton T. Foster, Jr., Atlanta, GA
Robert R. Foster, Philadelphia, PA
Jimmy L. Gallahar, Atlanta, GA
Hettye D. Gates, Atlanta, GA
Robert R. Glinski, Philadelphia, PA
James D. Grady, Jr., Philadelphia, PA
John J. Hagerty, Philadelphia, PA
Mark S. Haney, Los Angeles, CA
Robert E. Haren, Chicago, IL
Charles W. Harvey, Jr., Philadelphia, PA
Ronald W. Harwig, Chicago, IL
John R. Hayes, Chicago, IL
Vincent C. Hehl, Philadelphia, PA
B. J. Hendryk, Dallas, TX
C. W. Haptinstall, Los Angeles, CA
J. W. Hester, Jr., Atlanta, GA
JoAnne Holbert, Los Angeles, CA
R. R. Hoist, Los Angeles, CA
Frederick J. Horak, Dallas, TX
Violet L. Howser, Dallas, TX
George L. Huckabee, Dallas, TX
Carmen I. Huertas, Los Angeles, CA
Arnold L. Hufstetler, Atlanta, GA
Robert A. Hunter, Atlanta, GA
Louise E. Isabel, Chicago, IL
Stuart J. Jaffee, Philadelphia, PA
William S. Jones, Atlanta, GA
Ed G. Kendrick, Dallas, TX
Arthurine C. Kent, Los Angeles, CA
Carol King, Los Angeles, CA
Thomas L. Kinney, Washington, D.C.

John H. Kline, Jr., Philadelphia, PA
Michael S. Koch, Chicago, IL
John S. Kolich, Dallas, TX
Denise Lee, Philadelphia, PA
Alfredo S. Loyola, Chicago, IL
Robert J. Mahn, Washington, D.C.
Noel J. Mangan, Chicago, IL
P. Jack Maniscalco, Dallas, TX
Allen P. Miller, Los Angeles, CA
Doris A. Morrow, Chicago, IL
Frederich W. Mowatt, Washington, D.C.
Charleen N. Munson, Philadelphia, PA
Randolph C. Nail, Jr., Chicago, IL
Harbir S. Narang, Los Angeles, CA
Vincent H. Nelson, Atlanta, GA
Philip R. Nichols, Jr., Philadelphia, PA
James W. Noack, Los Angeles, CA
B. J. Odom, Atlanta, GA
Zach Oppenheimer, Philadelphia, PA
Joyce A. Palgutta, Chicago, IL
Leslie A. Parsons, Los Angeles, CA
Dale L. Pea, Dallas, TX
Norman H. Peterson, Los Angeles, CA
Kathryn M. Phillips, Atlanta, GA
Robert G. Pike, Atlanta, GA
M. Kay Pollack, Los Angeles, CA
Douglass M. Porter, Washington, D.C.
Norman M. Reid, Los Angeles, CA
Max D. Robinson, Dallas, TX
A. E. Rodenberger, Los Angeles, CA
Samuel D. Russell, Dallas, TX
Tim J. Ryan, Chicago, IL
E. L. Schreiber, Dallas, TX
Frank L. Scrivano, Dallas, TX
R. L. Shanteau, Atlanta, GA
Patricia L. Shaw, Chicago, IL
Mary Simpson, Dallas, TX
M. Faith Smith, Philadelphia, PA
Samuel M. Smith, III, Atlanta, GA
Susan T. Smith, Dallas, TX
Roger Stewart, Washington, D.C.
Robert F. Sumbry, Atlanta, GA
T. J. Swanson, Jr., Atlanta, GA
Morton C. Swichkow, Dallas, TX
Robert N. Tanabe, Los Angeles, CA
Geri C. Thomas, Los Angeles, CA
Jimmie L. Thomas, Dallas, TX
Carmeleta Turner, Dallas, TX
Ruth C. Turner, Los Angeles, CA
J. H. Van House, Atlanta, GA
Mary E. Voight, Los Angeles, CA
Esther O. Walder, Philadelphia, PA
Erlinda C. Weaver, Los Angeles, CA
Nancy L. Webster, Chicago, IL
Edward W. Wendell, Chicago, IL
James H. Whitehead, Atlanta, GA
John Wilson, Philadelphia, PA
W. E. Yeager, Atlanta, GA
Dick A. Yockey, Los Angeles, CA

II. Staff members of the Federal Home Loan Mortgage Corporation, created under the laws of the United States, appointed attorneys-in-fact.

Name and Region

William T. Bings, Washington, D.C.
Philip R. Brinkerhoff, Washington, D.C.
Jerry Brooks, Atlanta, GA
Michael Coffey, Dallas, TX
Douglas R. Cottrell, Atlanta, GA
Kenneth Coulter, Los Angeles, CA
George E. Delgado, Arlington, VA
James L. Garrison, Arlington, VA
C. Gordon Gray, Chicago, IL
Ken Halterman, Dallas, TX
Philip N. Harrington, Washington, D.C.
Carl Hillis, Dallas, TX
John Horseman, Sr., Washington, D.C.
Victor H. Indiek, Washington, D.C.
David S. Latimore, Atlanta, GA
Leon L. Linkroum, Los Angeles, CA
John E. Lott, Chicago, IL
Peter R. McNulty, Arlington, VA
J. Michael Materie, Atlanta, GA
Walter P. Moenning, Jr., Chicago, IL
Ronald Morck, Atlanta, GA
Randall M. Nay, Dallas, TX
Jerry C. Nelson, Dallas, TX
Robert K. Ostengaard, Los Angeles, CA
Paul Quinn, Denver, CO
F. Michael Salb, Arlington, VA
Kenneth J. Sandin, Atlanta, GA
Fred Schwartz, Chicago, IL
Stu Strand, Los Angeles, CA
Ronald D. Struck, Washington, D.C.
Melvin L. Taylor, Seattle, WA
William R. Thomas, Jr., Dallas, TX
Glenn Vaupel, Los Angeles, CA
William J. Verant, Los Angeles, CA
Edward Voss, Chicago, IL
Clifford A. Walters, Chicago, IL

Dated: May 21, 1984.

Warren A. Lasko,

Executive Vice President.

[FR Doc. 84-14104 Filed 5-25-84; 8:45 am]
BILLING CODE 4210-32-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Eligibility

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: This notice adopts final rules regarding eligibility standards for receipt of benefits under Pub. L. 93-531, the Navajo and Hopi Indian Relocation Act. This action is necessary to clarify the current rules and to resolve ambiguities that have arisen in determinations of eligibility for benefits.

EFFECTIVE DATE: June 28, 1984.

ADDRESS: Comments may be sent to the Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002. Telephone No. (602) 779-2721.

The principal author of this final rulemaking is E. Susan Crystal, Attorney at Law, of the Navajo and Hopi Indian Relocation Commission.

SUPPLEMENTARY INFORMATION: The following is a section-by-section analysis of comment received.

Section 700.69—Head of Household.

Comment was received from the Navajo Tribe on § 700.69(a)(1) which defines a household. The Navajo Tribe recommended that the section specify that as a result of a court imposed construction freeze on the Former Joint Use Area, two or more households may be living together at a specific location. This comment was incorporated into the definition of household to clarify that separate households living at a specific location may be eligible separately for benefits.

Comment regarding § 700.69(a)(2) which defines a single person head of household was received from the Navajo-Hopi Legal Services Program recommending that the proposed definition be broadened to include all reasonable circumstances under which a single individual may be recognized as an independent household for purposes of these regulations. A portion of this comment proposed by the Navajo-Hópi Legal Services Program was incorporated into the definition. The final rule specified that these circumstances must exist while the individual continues to reside on land partitioned to the Tribe of which they are not a member.

Comment was received from the Navajo Tribe that § 700.69(b) which defines head of household be redrafted so that the household designates the individual who acts on behalf of the household members. The Commission makes such designation only in the event the household fails to do so. This clarification is consistent with Commission practice and has been incorporated into the final regulation.

Section 700.97—Residence.

The final rule reiterates the language of the proposed rule, limiting determination of residence to a specific point in time, December 22, 1974, the date of passage of Pub. L. 93-531.

The term "residence" in the final rule is meant to be given its legal meaning combined which requires an examination of a person's intent to reside combined with manifestations of that intent. An individual who was, on December 22, 1974, away from the land partitioned to the Tribe of which he/she is not a member may still be able to prove legal residence.

Comment was received from the Navajo Tribe that elimination of the term "substantial and recurring contacts" and the adoption of the term "legal residence" makes interpretation of the residence requirements less clear to the Commission administrative staff who must use the regulations. The factors which will be examined by the Commission in assessing an applicants' manifestations of intent to maintain legal residence in the partitioned lands as of December 22, 1974, include the following: Ownership of livestock, Ownership of improvements, Grazing Permits, Livestock sales receipts, Homesite leases, Public health records, Medical and Hospital records, including those of Medicinemen, Trading Post records, School records, Military records, Employment records, Mailing Address records, Banking records, Drivers license records, Voting records—tribal and county, Home ownership or rental off the disputed area, BIA Census Data, Information obtained by Certification Field Investigation, Social Security Administration records, Marital records, Court records, Records of Birth, Joint Use Area Roster, any other relevant data. It is the Commission's view that the concept of legal residence reflects the intent of Congress that those who were, in 1974, residents of land partitioned to a tribe of which they were not members, be eligible for benefits.

The proposed regulations provided that current occupancy was a criteria of residency. Comment received from the Navajo-Hopi Legal Services Program pointed out the inconsistency between this provision and the determination of legal residence as of December 22, 1974. Once legal residence is proven, current occupancy (which is a fluctuating condition) is not required for eligibility. The criteria of current occupancy has been eliminated from the final rule.

Comment was received from the Hopi Tribe concerning the restrictive language of Pub. L. 97–394, the Interior Appropriations Bill for FY 1983. The comment was not incorporated.

Section 700.147—Eligibility.

Section 700.147 (a) of the proposed rule states that in order to be eligible for benefits provided for under Pub. L. 93–531, the head of household and/or immediate family must have been residents on December 22, 1974 of an area partitioned to the Tribe of which they are not members. Regarding this section, comment was received from the Navajo Tribe objecting to this revision of existing regulations which allow benefits to be paid to individuals who moved from the Former Joint Use Area between December 22, 1974 and August 30, 1978, even though the land from which they moved was subsequently partitioned to the Tribe of which they were members. The Commission disagrees that benefits should be paid to said individuals. Pub. L. 93–531 was enacted to provide relocation assistance to individuals displaced from lands awarded to the Tribe of which they are not members. The Commission recognizes that until the final partition line was drawn, individuals living on the Former Joint Use Area were uncertain of the future disposition of their traditional use lands and some individuals may have moved voluntarily in order to establish a more secure homestead. However, Congress authorized the Commission to assist individuals specifically displaced by the Settlement Act.

Section 700.147(b) of the final rule states that the burden of proving residence and head of household status is on the applicant. No comment was received on this provision.

Section 700.147(c) of the final rule provides that eligibility for benefits is further restricted by 25 U.S.C. 640d–13(c) and 14(c). This citation is repeated from current regulations. No comment was received on this section.

Section 700.147(d) of the final rule states that individuals who are determined to be members of a household which has received benefits are not separately entitled to benefits. This section has been added to clarify any confusion on the part of clients that they may be separately entitled to benefits even though they have been included in the benefits package provided to the household of which they are members. Commission procedures specifically identify the members of the household who participate in the benefits award. A household member who believes he/she may be separately eligible may apply independently and receive a determination based upon eligibility criteria applicable to the particular case.

List of Subjects in 25 CFR Part 700

Administrative practice and procedure, Conflict of interests, Freedom of Information, Grant program-Indians, Indian-claims, Privacy, Real property acquisition, Relocation assistance.

Authority: Pub. L. 93–531, 88 Stat. 1712 as amended by Public Law 96–305, 94 Stat. 929 (25 U.S.C. 640d).

PART 700—[AMENDED]

Accordingly, 25 CFR, Subpart A, §§ 700.69, 700.97 and Subpart C, § 700.147 are revised to read as follows:

§ 700.69 Head of household.

(a) *Household.* A household is:

(1) A group of two or more persons living together at a specific location who form a unit of permanent and domestic character.

(2) A single person who at the time his/her residence on land partitioned to the Tribe of which he/she is not a member actually maintained and supported him/herself or was legally married and is now legally divorced.

(b) *Head of household.* The head of household is that individual who speaks on behalf of the members of the household and who is designated by the household members to act as such.

(c) In order to qualify as a Head of Household, the individual must have been a Head of Household as of the time he/she moved from the land partitioned to a tribe of which they were not a member.

§ 700.97 Residence.

(a) Residence is established by proving that the head of household and/or his/her immediate family were legal residents as of 12/22/74 of the lands partitioned to the Tribe of which they are not members.

§ 700.147 Eligibility.

(a) To be eligible for services provided for under the Act, and these regulations, the head of household and/or immediate family must have been residents on 12/22/74 of an area partitioned to the Tribe of which they were not members.

(b) The burden of proving residence and head of household status is on the applicant.

(c) Eligibility for benefits is further restricted by 25 U.S.C. Sections 640d–13(c) and 14(c).

(d) Individuals are not entitled to receive separate benefits if it is determined that they are members of a household which has received benefits.

Ralph A. Watkins, Jr.

Chairman Navajo and Hopi Indian Relocation Commission.

[FR Doc. 84–14218 Filed 5–25–84; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7959]

Income Tax; Related Group Election With Respect to Qualified Investments in Foreign Base Company Shipping Operations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the election made by a related group to determine foreign base company shipping income and qualified investments in foreign base company shipping operations on a related group basis. This T.D. deals with changes made by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 relating to foreign base company shipping income.

DATE: The regulations are effective for taxable years of controlled foreign corporations beginning after June 30, 1984, with respect to elections made for taxable years beginning after that date, and for taxable years of U.S. shareholders within which, or with which, the taxable years of such controlled foreign corporations end.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–58–83), 202–566–3289.

SUPPLEMENTARY INFORMATION:

Background

On May 19, 1983, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 955 of the Internal Revenue Code of 1954 (48 FR 22584). The proposed amendments concerned the related group election with respect to qualified investments in foreign base company shipping operations. Public comments were received with respect to the amendments proposed on May 19, 1983. A public hearing was neither requested nor held.

Discussion

Prior to this amendment the election of taxpayers to determine foreign base company shipping income and operations on a related group basis was an annual election. This amendment changes that rule so that, once the election is made, it cannot be changed and shall apply for the taxable year for which it is made and for all subsequent taxable years until the election is revoked. A revocation will require the consent of the Commissioner. An application to revoke the election with respect to any member of the related group of controlled foreign corporations will be treated as an application to revoke the election with respect to all members. The addition of new members to election coverage will be treated as a new election and does not require the consent of the Commissioner. If an election has been revoked, a new election may be made without consent of the Commissioner, notwithstanding that a greater or lesser number of members of the group were covered by the previous election.

The final regulations make three changes to the regulations as proposed. Section 1.954–1(b)(4)(ii)(*b*) provides that where a controlled foreign corporation's increase in qualified investments in foreign base company shipping operations for a year exceeds its foreign base company shipping income for that year and for the immediately preceding or succeeding year, that excess amount may be carried back or forward one year to offset in full the foreign base shipping income of that earlier or later year. In such a case, the Service will determine that there has not been a significant purpose of substantial tax reduction in that earlier or later year with respect to foreign base company shipping income for that year so offset. However, § 1.954–1(b)(4)(ii)(*b*) was not applicable to a corporation with respect to which a related group election under § 1.955A–3 was in effect for the taxable year in which the carryover arose or to which the carryover amount might otherwise have been carried. Since the amendment under section 1.955A–3 would make the related group election permanent, it was decided to modify § 1.954–1(b)(4)(ii)(*b*) to provide that this limitation on the carryover rule no longer applies if a related group election is in effect both for the year in which the carryover arose and the year to which the carryover amount would be carried. However, for the limitation not to apply, the carryover must arise in a taxable year beginning after June 30, 1984, the effective date of the change in the related group election.

The second change deals with a controlled foreign corporation ceasing to be eligible for inclusion in a related group by reason of ceasing to be a controlled foreign corporation or failing to satisfy other requirements of § 1.955A–3(b) dealing with the definition of a related group. If a member of the related group subject to the related group election ceases to so qualify as a related group member and if the action resulting in nonqualification is taken principally for the purpose of revoking the related group election without applying for and obtaining the Commissioner's approval, then, under paragraph (d)(2)(ii) of § 1.955A–3 as changed, no further election covering any member of that related group may be made by any United States shareholder for the remainder of the taxable year in which the action occurred and the five succeeding taxable years.

The third change is with respect to example (3) of § 1.955A–2(c)(3). The example in the existing regulations does not reflect the application of the rule in § 1.955A–2 (g)(1) for reducing assets by specific charges prior to an allocation of unsecured liabilities. The example has, therefore, been modified to reflect this rule.

A comment was received suggesting that the permanent related group election is inconsistent with the purpose of certain other rules of subpart F and that the election should continue to be made on an annual basis. After consideration, it was decided not to adopt the suggestion.

Regulatory Flexibility Act, Executive Order 12291, and Paperwork Reduction Act

The Secretary of the Treasury has certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6) and a Regulatory Flexibility Analysis is not required. The Commissioner of Internal Revenue has determined that these regulations are not major regulations as defined in the Executive Order 12291, and, therefore, a regulatory impact analysis is not required. These regulations were submitted to the Office of Management and Budget as a proposed rule for review under section 3504(h) of the Paperwork Reduction Act and approved. The OMB number is 1545–0755.

Drafting Information

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

List of Subjects in 26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Amendments to the Regulations

The Income Tax Regulations (26 CFR Part 1) are amended as follows:

Income Tax Regulations

Paragraph 1. The first full sentence following § 1.954–1(b)(4)(ii)(*b(2)*) is revised to read as follows:

§ 1.954–1 Foreign base company income, taxable years beginning after 1975.

* * * * *

(b) *Exclusions from foreign base company income.* * * *

(4) *No substantial reduction of income or similar taxes.* * * *

(ii) *Foreign personal holding company income and foreign base company shipping income.* * * *

(*b*) *Carryover rule for foreign base company shipping income.* * * * (*2*) * * * This subdivision (*b*) shall apply to a corporation with respect to which a related group election under § 1.955A–3 is in effect both for the taxable year in which the carryover arose and the taxable year to which the amount would be carried but only if the carryover arose in a taxable year beginning after June 30, 1984. * * *

* * * * *

Par. 2. Example (3) of § 1.955A–2(c)(3) is revised to read as follows:

§ 1.955A–2 Amount of a controlled foreign corporation's qualified investments in foreign base company shipping operations.

* * * * *

(c) *Stock and obligations.* * * *

(3) *Illustrations.* * * *

Example (3). On December 31, 1980, controlled foreign corporation J owns two notes of controlled foreign corporation K, which is a related person (within the meaning of section 954(d)(3)). Both J and K use the calendar year as the taxable year. J's adjusted basis in each of the two notes is $100,000. The first note is secured only by the general credit of K. The second note is secured by (and, therefore, constitutes a specific charge on) a hotel owned by K in a foreign country. On December 31, 1980, K has qualified investments in foreign base company shipping operation with an adjusted basis of $500,000 (before applying the rules of paragraph (g) of this section). The adjusted basis of all of K's corporate assets is $1,100,000. K's only liabilities are the two notes. The amount of K's qualified investments in foreign base company shipping operations (determined under paragraph (g) of this section) is $450,000. K's net worth is $900,000. The amount of J's qualified investment in foreign base company shipping operations in respect of the first note is $50,000, *i.e.*,

$$\frac{\$450,000}{\$900,000} \times \$100,000$$

The amount of J's qualified investment in respect of the second note is zero (see the last sentence of paragraph (c)(1) of this section).

Par. 3. Paragraphs (a), (b)(1)(iii), (c)(5), and (d) of § 1.955A–3 are revised to read as follows:

§ 1.955A–3 Election as to qualified investments by related persons.

(a) *In general.* If a United States shareholder elects the benefits of section 955(b) with respect to a related group (as defined in paragraph (b)(1) of this section) of controlled foreign corporations, then an investment in foreign base company shipping operation made by one member of such group will be treated as having been made by another member to the extent provided in paragraph (c)(4) of this section, and each member will be subject to the other provisions of paragraph (c) of this section. An election once made shall apply for the taxable year for which it is made and for all subsequent years unless the election is revoked or a new election is made to add one or more controlled foreign corporations to election coverage. For the manner of making an election under section 955(b)(2), and for rules relating to the revocation of such an election, see paragraph (d) of this section. For rules relating to the coordination of sections 955(b)(2) and 955(b)(3), see paragraph (e) of this section.

(b) *Related group.*—(1) *Related group defined.* * * *

(iii) Such United States shareholder elects to treat such corporations as a related group.

* * * * *

(c) *Effect of election.* * * *

(5) *Collateral effect.* (1) An election under this section by a United States shareholder to treat two or more controlled foreign corporations as a related group for a group taxable year shall have no effect on—

(A) Any other United States shareholder (including a minority shareholder of a member of such related group).

(B) Any other controlled foreign corporation, and

(C) The foreign personal holding company income, foreign base company sales income, and foreign base company services income, and the deductions allocable under § 1.954–1(c) thereto, of any member of such related group.

(ii) See § 1.952–1(c)(2)(ii) for the effect of an election under this section on the computation of earnings and profits and deficits in earnings and profits under section 952 (c) and (d).

(iii) The application of this subparagraph may be illustrated by the following example:

Example. United States shareholder A owns 80 percent of the only class of stock of controlled foreign corporations X and Y. United States shareholder B owns the other 20 percent of the stock of X and Y. X and Y both use the calendar year as the taxable year. A elects to treat X and Y as a related group for 1977. For purposes of determining the amounts includible in B's gross income under section 951(a) in respect of X and Y, the election made by A shall be disregarded and all of B's computations shall be made without regard to this section, as illustrated in § 1.952–3(d).

(d) *Procedure.*—(1) *Time and manner of making election.* A United States shareholder shall make an election under this section to treat two or more controlled foreign corporations as a related group for a group taxable year and subsequent years by filing a statement to such effect with the return for the taxable year within which or with which such group taxable year ends. The statement shall include the following information:

(i) The name, address, taxpayer identification number, and taxable year of the United States shareholder;

(ii) The name, address, and taxable year of each controlled foreign corporation which is a member of the related group and is to be subject to the election; and

(iii) A schedule showing the calculations by which the amounts described in this section have been determined for the taxable year for which the election is first effective. With respect to each subsequent taxable year to which the election applies, a new schedule showing calculations of such amounts for that taxable year must be filed with the return for that taxable year. A consent to an election required by paragraph (b)(1)(v) of this section shall include the same information required for the election statement.

(2) *Revocation.* (i) Except as provided in subdivision (ii) of this subparagraph, an election under this section by a United States shareholder shall be binding for the group taxable year for which it is made and for subsequent years.

(ii) Upon application by the United States shareholder (and any other United States shareholder controlled by such shareholder which consented under paragraph (b)(1)(v) of this section to the election), an election made under this section may, subject to the approval

of the Commissioner, be revoked. An application to revoke the election, as of a specified group taxable year, with respect to one or more (but not all) controlled foreign corporations, subject to an election shall be deemed to be an application to revoke the election. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. The application for consent to revocation shall be made by mailing a letter for such purpose to Commissioner of Internal Revenue, Attention: T:C:C, Washington, D.C. 20224, containing a statement of the facts which justify such consent. If a member of a related group subject to an election ceases to meet the requirements of paragraph (b) of this section for membership in the group by reason of any action taken by it or any member of the group or the electing United States shareholder, then the election will be deemed to be revoked as of the beginning of the taxable year in which such action occurred. If such action is taken principally for the purpose of revoking the election without applying for and obtaining the approval of the Commissioner to the revocation, then no further election covering any member of that related group may be made by any United States shareholder for the remainder of the taxable year in which the action occurred and the five succeeding taxable years.

* * * * *

Approved by the Office of Management and Budget under control number 1545-0755. This Treasury decision is issued under the authority contained in sections 955 (b)(2) and 7805 of the Internal Revenue Code of 1954 (89 Stat. 63; 26 U.S.C. 955(b)(2), and 68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: May 11, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-14135 Filed 5-25-84; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 5f

[T.D. 7960]

Information Returns of Brokers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to information returns of brokers. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The regulations contain a special rule for brokers engaged in "cash on delivery" transactions. In addition, the regulations provide a list of exempt recipients and a list of brokers which qualify for the multiple broker exception. The regulations affect brokers effecting dispositions (including short sales) of securities, commodities, regulated futures contracts, and forward contracts and provide them with guidance needed to comply with the law.

DATE: The regulations apply to sales effected on or after May 29, 1984 and are effective on or after that same date.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist or C. Scott McLeod of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3238 or 202-566-3288 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1983, the Federal Register published final regulations under section 6045 of the Internal Revenue Code of 1954 (48 FR 10302). These regulations generally require brokers to make returns of information with respect to sales by customers. Since the publication of these regulations, the Internal Revenue Service has received inquiries regarding the application of the regulations to "cash on delivery" transactions. In addition, the repeal of section 3452 of the Internal Revenue Code has raised questions regarding the class of exempt recipients and the class of brokers which qualify for the multiple broker exception. The temporary regulations contained in this document provide guidance with respect to these issues.

Explanation of Provisions

The temporary regulations clarify the reporting requirement with respect to "cash on delivery" transactions by providing that in the case of a sale of securities through a "cash on delivery" account or other similar account, only the broker which receives the gross proceeds from the sale against delivery of the securities sold is required to report the sale. If, however, such broker's customer is another broker ("second-party broker") which is an exempt recipient, then only the second-party broker is required to report the sale. In addition, the temporary regulations provide a list of exempt recipients and a list of brokers which qualify for the multiple broker exception. The persons listed as exempt recipients are the same as those treated as exempt recipients under § 1.6045-1(c)(3) (i) and (ii) of the current regulations (*i.e.*, persons described in former Code section 3452(c)(2) (A) through (I) and (K)(i)) with the addition of persons registered under the Investment Advisers Act of 1940 (54 Stat. 847; U.S.C. 80b) who regularly act as brokers within the meaning of § 1.6045-1(a)(1). The persons listed as brokers which qualify for the multiple broker exception are the same as those treated as exempt recipients under § 1.6045-1(c)(3)(ii) of the current regulations (*i.e.*, persons described in former Code section 3452(c)(2) (F) and (K)(i)) with the addition of persons registered under the Investment Advisers Act of 1940 (54 Stat. 847; 15 U.S.C. 80b) who regularly act as brokers within the meaning of § 1.6045-1(a)(1). Finally, the regulations clarify the reporting requirement for redemptions of partnership interests.

Regulatory Flexibility Act and Executive Order 12291

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

Drafting Information

The prinicipal authors of these regulations are Bruce H. Jurist and C. Scott McLeod 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 regulations on matters of both substance and style.

List of Subjects

26 CFR 1.6001-1 through 1.6109-2

Income taxes, Administrative practice and procedure, Filing requirements.

26 CFR Part 5f

Income taxes, Filing requirements, Tax Equity and Fiscal Responsibility Act of 1982.

Amendments to the Regulations

The amendments to 26 CFR Part 1 and Part 5f are as follows:

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Paragraph 1. The following § 5f.6045–1 is added at the appropriate place.

§ 5f.6045–1 Returns of information of brokers and barter exchanges.

(a) [Reserved]

(b) [Reserved]

(c) * * *

(1) [Reserved]

(2) [Reserved]

(3) *Exceptions*—(i) *Sales effected for exempt recipients*—(A) *In general.* No return of information is required with respect to a sale effected for a customer that is an exempt recipient as defined in paragraph (c)(3)(i)(B) of this section.

(B) *Exempt recipient defined.* The term "exempt recipient" means—

(*1*) A corporation as defined in section 7701(a)(3), whether domestic or foreign;

(*2*) An organization exempt from taxation under section 501(a) or an individual retirement plan;

(*3*) The United States or a State, the District of Columbia, a possession of the United States, a political subdivision of any of the foregoing, a wholly-owned agency or instrumentality of any one or more of the foregoing or a pool or partnership composed exclusively of any of the foregoing;

(*4*) A foreign government, a political subdivision thereof, an international organization or any wholly-owned agency or instrumentality of the foregoing;

(*5*) A foreign central bank of issue (as defined in § 1.895–1(b)(1) as a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency);

(*6*) A dealer in securities or commodities registered as such under the laws of the United States or a State;

(*7*) A futures commission merchant registered as such with the Commodity Futures Trading Commission;

(*8*) A real estate investment trust (as defined in section 856);

(*9*) An entity registered at all times during the taxable year under the Investment Company Act of 1940;

(*10*) A common trust fund (as defined in section 584(a));

(*11*) A financial institution such as a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or other similar organization; or

(*12*) A person registered under the Investment Advisers Act of 1940 who regularly acts as a broker within the meaning of paragraph (a)(1) of § 1.6045–1.

The terms used in this paragraph (c)(3)(i)(B) shall have the same meaning as those contained in 26 CFR 31.3452(c)–1 (revised as of April 1, 1983). A broker may treat any person described in paragraph (c)(3)(i)(B) (*1*) through (*11*) of this section as an exempt recipient without requiring such person to file an exemption certificate if the conditions of 26 CFR 31.3452(c)–1 (revised as of April 1, 1983) are satisfied. A broker may treat any person described in paragraph (c)(3)(i)(B)(*12*) of this section as an exempt recipient without requiring such person to file an exemption certificate if the person's status as a registered investment adviser who regularly acts as a broker within the meaning of paragraph (a)(1) of § 1.6045–1 is known generally in the investment community. Alternatively, a broker can require any exempt recipient to file an exemption certificate and may treat an exempt recipient who fails to file such certificate as a recipient which is not exempt.

(ii) *Multiple brokers.* In the case of a sale in which a broker is instructed to initiate the sale by a person that is an exempt recipient described in paragraph (c)(3)(i)(B) (*6*), (*7*), (*11*), or (*12*), of this section, no return of information is required with respect to the sale by the broker so instructed. In the case of a redemption of stock or retirement of securities, only the broker responsible for paying the holder redeemed or retired, or crediting the gross proceeds on the sale to such holder's account, is required to report the sale.

(iii) *Cash on delivery transactions.* In the case of a sale of securities through a "cash on delivery" account, a "delivery versus payment" account, or other similar account or transaction, only the broker which receives the gross proceeds from the sale against delivery of the securities sold is required to report the sale. If, however, such broker's customer is another broker ("second-party broker") which is an exempt recipient, then only the second-party broker is required to report the sale.

(iv) *Custodians, trustees and partnerships.* No return of information is required with respect to a sale effected by a custodian or trustee in its capacity as such or a redemption of a partnership interest by a partnership provided the sale is otherwise reported by the custodian or trustee on a properly filed From 1041 or the redemption is otherwise reported by the partnership on a properly filed Form 1065, and all Schedule K–1 reporting requirements are satisfied.

(v) *Sales at issue price.* No return of information is required with respect to a sale of an interest in a regulated investment company (within the meaning of section 851) that computes its current price per share for purposes of distributions, redemptions, and purchases so as to stabilize the price per share at a constant amount that approximates its issue price or the price at which it was originally sold to the public.

(vi) *Obligor payments on certain obligations.* No return of information is required with respect to payments representing obligor payments on—

(A) Nontransferable obligations (including savings bonds, savings accounts, checking accounts, and NOW accounts);

(B) Obligations as to which the entire gross proceeds are reported by the broker on Form 1099 under provisions of the Internal Revenue Code other than section 6045 (including stripped coupons issued prior to July 1, 1982); or

(C) Retirement of short-term obligations (*i.e.*, obligations with a fixed maturity date not exceeding one year from the date of issue) that have original issue discount, as defined in section 1232(b)(1).

(vii) *Callable obligations.* No return of information is required with respect to payments representing obligor payments on demand obligations that also are callable by the obligor and that have no premium or discount.

(viii) *Foreign currency.* No return of information is required with respect to a sale of foreign currency other than a sale pursuant to a forward contract or regulated futures contract that requires delivery of foreign currency.

(ix) *Fractional share.* No return of information is required with respect to a sale of a fractional share of stock if the gross proceeds on the sale of the fractional share are less than $20.

(x) *Certain retirements.* No return of information is required from an issuer or its agent with respect to the retirement of book entry or registered form obligations as to which the relevant books and records indicate that no interim transfers have occurred.

(4) *Examples.* The following examples illustrate the application of the reporting requirements:

Example (1). A, an individual who is not an exempt recipient, places an order with B, a person generally known in the investment community to be a federally registered broker/dealer, to sell A's stock in a publicly traded corporation. B, in turn, places an order to sell the stock with C, a second broker, which will execute the sale. B discloses to C the identity of the customer placing the order. C is not required to make a return of information with respect to the sale because C was instructed by B, an exempt recipient as defined in paragraph (c)(3)(i)(B)(6) of this section, to initiate the sale. B is required to make a return of information with respect to the sale.

Example (2). The facts are the same as in Example (1) except that B has an omnibus account with C so that B does not disclose to C whether the transaction is for a customer of B or for B's own account. C is not required to make a return of information with respect to the sale because C was instructed by B, an exempt recipient as defined in paragraph (c)(3)(i)(B)(6) of this section, to initiate the sale. B is required to make a return of information with respect to the sale.

Example (3). D, an individual who is not an exempt recipient, enters into a "cash on delivery" ("COD") stock transaction by instructing K, a federally registered broker/dealer, to sell stock owned by D, and to deliver the proceeds to L, a custodian bank. In addition, concurrently with the above instructions, D instructs L to deliver D's stock to K (or K's designee) against delivery of such proceeds from K. The records of both K and L with respect to this transaction show an account in the name of D. Pursuant to paragraph (h)(1) of § 1.6045–1, D is considered the customer of K and L. Under paragraph (c)(3)(iii) of this section, K is not required to make a return of information with respect to the sale because K will pay the gross proceeds to L against delivery of the securities sold. L is required to make a return of information with respect to the sale.

Example (4). The facts are the same as in Example (3) except that E, a federally registered investment adviser who regularly acts as a broker within the meaning of paragraph (a)(1) of § 1.6045–1, instructs K to sell stock owned by D and to deliver the proceeds to L. In addition, concurrently with the above instructions, E instructs L to delivery D's stock to K (or K's designee) against delivery of such proceeds from K. The records of both K and L with respect to this transaction show an account in the name of E. Pursuant to paragraph (h)(1) of § 1.6045–1, E is considered the customer of K and L. Under paragraph (c)(3)(iii) of this section, K is not required to make a return of information with respect to the sale because K will pay the gross proceeds to L against delivery of the securities sold. In addition, L is not required to make a return of information with respect to the sale because L's customer, E, is another broker which is an exempt recipient. E is required to make a return of information with respect to the sale. The result would be the same even if the records of K and L with respect to this transaction show an account in the name of D.

Example (5). F, an individual who is not an exempt recipient, owns bonds that are held by G, a federally registered broker/dealer, in an account for F with G designated as nomineee for F. Upon the retirement of the bonds, the gross proceeds are automatically credited to the account of F. G is required to make a return of information with respect to the retirement because G is the broker responsible for making payment of the gross proceeds to F.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Par. 2. 26 CFR Part 1 is amended by revising § 1.6045–1 (c)(3) and (c)(4) to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(c) * * *

(3) *Exceptions.* The exceptions set forth in paragraph (c)(3) of § 5f.6045–1 apply to sales effected on or after May 29, 1984. With respect to sales effected before May 29, 1984, the exceptions provided in 26 CFR 1.6045–1(c)(3) (revised as of April 1, 1983) apply.

(4) *Examples.* The examples set forth in paragraph (c)(4) of § 5f.6045–1 illustrate the application of the exceptions to sales effected on or after May 29, 1984. With respect to sales effected before May 29, 1984, the examples provided in 26 CFR 1.6045–1(c)(4) (revised as of April 1, 1983) illustrate the application of the exceptions.

* * * * *

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to issue it first under the notice and comment procedure under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

This Treasury decision is issued under the authority contained in sections 6045 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 600, 68A Stat. 917; 26 U.S.C. 6045, 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: May 17, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–14289 Filed 5–23–84; 4:34 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[AD–FRL 2594–8]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule amendments.

SUMMARY: Relocation of offices and internal reorganization within the Agency over the past several years have caused the published addresses to become outdated for EPA offices responsible for air pollution control and enforcement activities at EPA Regional Offices. These amendments make the addresses current for correspondence related to the provisions of new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP). These addresses are contained in 40 CFR Subpart A § 60.4(a) and Subpart A § 61.04(a).

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Ajax, (919) 541–5578.

SUPPLEMENTARY INFORMATION: Since the promulgation of 40 CFR 60.4(a) and 61.04(a), mailing addresses have changed for five of the EPA Regional Offices. Organizational changes have eliminated "Enforcement Divisions," and matters pertaining to air pollution control are now the responsibility of either an "Air Management Division" or an "Air and Waste Management Division" at EPA Regional Offices. Correcting these addresses in the CFR's will facilitate efficient handling of correspondence directed to air pollution program offices in the 10 EPA Regional Offices.

Because these amendments are purely administrative and impose no new regulatory requirements or any policy implications, they are not subject to review under Executive Order 12291 by the Office of Management and Budget.

Pursuant to the provisions of 5 U.S.C. 6905(b), I hereby certify that these amendments will not have a significant economic impact on a substantial number of small business entities because small business entities are not affected by the amendments.

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt,

Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

40 CFR Part 61

Asbestos, Beryllium, Hazardous substances, Mercury, Reporting and record keeping requirement, Vinyl chloride.

(Sec. 111 Clean Air Act, as amended (42 U.S.C. 7411))

Dated: May 21, 1984.

Joseph A. Cannon,

Assistant Adminstrator for Air and Radiation.

PART 60—[AMENDED]

1. 40 CFR § 60.4(a) is revised to read as follows:

§ 60.4 Address.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the appropriate Regional Office of the U.S. Environmental Protection Agency to the attention of the Director of the Division indicated in the following list of EPA Regional Offices.

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Air Management Division, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203

Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, Federal Office Building, 26 Federal Plaza, New York, New York 10278

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air Management Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago Illinois 60604

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 1210 Elm Street, Dallas, Texas 75270

Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Director, Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105

Region X (Alaska, Idaho, Oregon, Washington), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

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PART 61—[AMENDED]

2. Section 61.04(a) is revised to read as follows:

§ 61.04 Address.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the appropriate Regional Office of the U.S. Environmental Protection Agency to the attention of the Director of the Division indicated in the following list of EPA Regional Offices.

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Air Management Division, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203

Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, Federal Office Building, 26 Federal Plaza, New York, New York 10278

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air Management Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago Illinois 60604

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 1210 Elm Street, Dallas, Texas 75270

Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Director, Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105

Region X (Alaska, Idaho, Oregon, Washington), Director, Air and Waste Management Division, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

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[FR Doc. 84-14091 Filed 5-25-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 712

[OPTS-82014; TSH-FRL 2595-7]

Chemical Information Rules; Manufacturers Reporting—Preliminary Assessment Information, Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding five chemicals to the Toxic Substances Control Act section 8(a) Preliminary Assessment Information rule. The five chemicals were recommended by the Interagency Testing Committee (ITC) in its Fourteenth Report and designated for priority consideration by EPA within 1 year. A sixth chemical was recommended but not designated for response by EPA within 12 months. An amendment to the Preliminary Assessment Information rule, which was published in the **Federal Register** of May 11, 1983 (48 FR 21294), provides that chemical substances and designated mixtures that have been recommended for testing by the ITC and designated for 12-month response may be made subject to the rule by the publication of an amendment to that effect in the **Federal Register**. Thirty days after the publication of this amendment to the regulation, these chemicals will become subject to 40 CFR Part 712. Manufacturers of these chemicals will then have 60 days to submit a completed Preliminary Assessment Information report (EPA Form No. 7710–35) for each plant site at which they manufacture or import one of these five chemicals.

EFFECTIVE DATE: This regulation becomes effective on June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number 2000–0420.

I. Introduction

EPA issued the Preliminary Assessment Information rule, which was published in the **Federal Register** of June 22, 1982 (47 FR 26992), for reporting by chemical manufacturers. Those companies which manufactured, produced, or imported one of the approximately 250 chemical substances listed were to report general production, use, and exposure data to the Agency by Novermber 19, 1982. An amendment to the rule, published in the **Federal Register** of May 11, 1983 (48 FR 21294), added 40 CFR 712.30(c) which provides that chemicals designated by the Interagency Testing Committee may be made subject to the rule by the publication of a regulation to that effect in the **Federal Register**. Today's final rule uses the authority of 40 CFR 712.30(c) to add five chemicals to the list for reporting of preliminary assessment information.

Elsewhere in today's **Federal Register**, EPA is issuing a notice announcing the receipt of the Fourteenth Report of the Interagency Testing Committee, which was transmitted to the Administrator of EPA on May 8, 1984. The Fourteenth Report, which revises and updates the Committee's priority list of chemicals, adds five chemicals to the list for priority consideration within 12 months by EPA in the promulgation of test rules under section 4(a) of TSCA. In addition to adding the five chemicals designated by the ITC to the section 8(a) Preliminary Assessment Information rule, the Agency, in a separate action, is adding these chemicals to the list of substances and mixtures for which lists and copies of unpublished health and safety studies must be submitted under section 8(d) of TSCA. The ITC's Fourteenth Report also recommends testing consideration of a sixth chemical but does not designate it for response by EPA within 12 months.

In a separate action, EPA will propose for public comment the addition of that chemical to the section 8(a) Preliminary Assessment Information rule.

II. Chemicals To Be Added

The five ITC designated chemicals for which reporting is required under section 8(a) are as follows:

CAS	Chemical substances
80-05-7	Bisphenol A.
149-57-5	2-Ethylhexanoic acid.
3322-93-8	1,2-Dibrom-4-(1,2-dibromoethyl) cyclohexane.
25640-78-2	Isopropl biphenyl.
69009-90-1	Diisopropyl biphenyl.

III. Reporting Requirements

A Preliminary Assessment Information report (EPA Form No. 7710–35) must be submitted for each importing or manufacturing site which produces a subject chemical substance. A separate form must be completed for each chemical and submitted to the Agency no later than August 27, 1984. Copies of the form are available from the TSCA Assistance Office at the address given above.

Manufacturers who qualify as small with respect to the previously prescribed standards are exempt from this rule under 40 CFR 712.25(c).

Under § 712.30(a)(3) of the Preliminary Assessment Information rule, a company which has voluntarily submitted a Manufacturer's Report to the ITC will be allowed to submit a copy of the original report to EPA. Also under § 712.30(a)(3), persons who previously and voluntarily provided EPA with a Manufacturer's Report on one of the five substances listed in § 712.30(k) must notify EPA by letter of their desire to have this submission accepted in lieu of a current data submission and must follow all other procedures outlined in that section.

Any person who believes that reporting on a chemical is unnecessary should promptly submit to the Agency his reasons in detail for that belief. The chemical may then be removed from the rule at the Agency's discretion, for good cause. When withdrawing a chemical from the rule, the Agency will issue a rule amendment for publication in the **Federal Register**.

IV. Release of Aggregate Data

The Agency will follow the procedures for release of aggregate data and requesting exemptions from release of aggregate statistics as prescribed in the rule related notice published in the **Federal Register** of June 13, 1983 (48 FR 27041). Requests for exemptions from release of aggregate data for any substance must be received by EPA no later than August 27, 1984.

V. Economic Impact

Employing the analysis prepared for the Preliminary Assessment Information rule published in the **Federal Register** of June 22, 1982, as well as other relevant data, the Agency has estimated the impact of the addition of these chemicals on the firms that must report and upon the Agency in terms of data processing costs.

The Agency used the TSCA Inventory to generate a list of manufacturers of the five chemicals. After excluding firms which reported no production for the Inventory, 21 companies operating 23 sites were listed as manufacturers of the chemicals. Three of the companies subject to reporting for this rule qualify as a small business as defined in 40 CFR 712.25(c). Thus, 18 firms (or 20 sites) are expected to report for this rule. A total of 21 reports are expected.

The costs for reporting are broken down as follows:

Reporting Cost	
(a) 21 reports expected at $575/report	$10,815
(b) 20 familiarization cases at $590/case	11,800
Total	22,615
Average cost per site	$1,131
Average cost per firm	1,256
Reporting Burden	
(a) Familiarization (18 hours/site times 20 sites)	360
(b) Reporting (16 hours/report times 21 reports)	336
Total (hours)	696
EPA Cost	
Processing Cost = $80/report times 21 reports	$1,680

VI. Rulemaking Record

EPA has established a public record (docket number OPTS–82014) for this rulemaking document. All documents, including the index to this public record, are available for inspection in the OTS Reading Room, Rm. E–107, 401 M St., SW., Washington, D.C., from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. This record includes basic information considered in developing this rule.

VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Management and Budget (OMB) for review, because the automatic listing of designated substances is provided for in 40 CFR 712.30(c)—a final rule which had been previously reviewed by OMB under the terms of the Executive Order.

VIII. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provision of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2000–0420.

(Sec. 8(a), Pub. L. 94–469, 90 Stat. 2027 (15 U.S.C. 2607(a)))

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Reporting and recordkeeping requirements.

Dated: May 18, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 712—[AMENDED]

Therefore, Chapter I of 40 CFR Part 712 is amended by adding § 712.30(k) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(k) A Preliminary Assessment Information Manufacturer's Report must be submitted by August 27, 1984 for each chemical substance listed below.

CAS No.	Name
80–05–7	Bisphenol A.
149–57–5	2-Ethylhexanoic acid.
3322–93–8	1,2-Dibromo-4-(1,2-dibromoethyl) cyclohexane.
25640–78–2	Isopropyl biphenyl.
69009–90–1	Diisopropyl biphenyl.

[FR Doc. 84–14183 Filed 5–25–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 716

[OPTS–84011 TSH–FRL 2595–6]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This amendment will add five chemicals to the list of chemical substances and mixtures for which lists and copies of unpublished health and safety studies must be submitted under 40 CFR Part 716, Subpart A, the regulation implementing section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d). The chemical substances to be added were recommended for testing by the Interagency Testing Committee (ITC) in their Fourteenth Report to EPA and designated for priority consideration by EPA within 12 months. A sixth chemical was recommended but not designated for response by EPA within 12 months. Under 40 CFR 716.18(b), chemical substances and designated mixtures that have been designated for testing by the ITC may be made subject to the rule by the publication of a notice to that effect in the **Federal Register.** Thirty days after publication of the notice, the chemicals will become subject to 40 CFR Part 716, Subpart A.

EFFECTIVE DATE: Therefore, these substances designated by the ITC will become subject to 40 CFR Part 716, Subpart A, on June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the U.S.A.: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070–0004.

EPA issued regulations published in the **Federal Register** of September 2, 1982 (47 FR 38780), under section 8(d) of TSCA (40 CFR Part 716, Subpart A), to require submission by chemical manufacturers and processors of unpublished health and safety studies on specifically listed chemicals. That rule established standardized reporting requirements and provided for amending the list of chemicals subject to the rule.

Section 716.18(b) provides that ITC-designated chemicals may be made subject to the rule by the publication of a regulation to that effect in the **Federal Register.** Therefore, this regulation adding these chemicals to 40 CFR 716.17 constitutes the notice required by 40 CFR 716.18(b). On June 28, 1984, the chemical substances listed below will become subject to 40 CFR Part 716, Subpart A.

Elsewhere in today's **Federal Register,** EPA is issuing a notice announcing the receipt of the Fourteenth Report of the Interagency Testing Committee, which was transmitted to the Administrator of EPA on May 8, 1984. The Fourteenth Report, which revises and updates the Committee's priority list of chemicals, adds five chemicals to the list for priority consideration within 12 months by EPA in the promulgation of test rules under section 4(a) of TSCA. In addition to adding the five chemicals designated by the ITC to the section 8(d) Health and Safety Data Reporting rule, the Agency, in a separate action, is adding these chemicals to the list of substances and mixtures for which a completed Preliminary Assessment Information report must be submitted under section 8(a) of TSCA.

The ITC's Fourteenth Report also recommends testing consideration of a sixth chemical but does not designate it for response by EPA within 12 months. In a separate action, EPA will propose for public comment the addition of that chemical to the section 8(d) Health and Safety Data Reporting rule.

The five new designated chemicals are listed below.

CHEMICALS TO BE ADDED

CAS No.	Name
80–05–7	Bisphenol A.
149–57–5	2-Ethylhexanoic acid.
3322–93–8	1,2-Dibromo-4-(1,2-dibromoethyl)cyclohexane.
25640–78–2	Isopropyl biphenyl.
69009–90–1	Diisopropyl biphenyl.

Economic Impact

EPA estimates that submitting the required data on these additional chemicals will cost industry $29,568. This consists of the following:

Corporate rule review	$9,576
Corporate review (site identification)	2,964
File search	5,733
Title listing	247

Photocopying (materials and labor)	1,320
Managerial review	8,360
Ongoing reporting	1,368
Total	29,568

If the Agency assumes ±30 percent margin of error in these estimates, the range of probable cost varies from $38,438 to $20,698. These costs are minimal compared to the importance of obtaining information in time to evaluate ITC-designated chemicals within statutory deadlines.

Public Record

EPA has established a public record (docket number OPTS-84011) for this rulemaking document which, along with a complete index, is available for inspection in Rm. E-108, 401 M St., SW., Washington, D.C., from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. This record includes information considered by the Agency in adding the ITC chemicals to this rule. The record includes the following:

1. Health and Safety Study Reporting Regulations (40 CFR Part 716), Public Record, Docket No. 84003.
2. Information Impact Analysis for 40 CFR Part 716 and this regulation.
3. 14th Report of the Interagency Testing Committee (ITC).

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This final rule was not submitted to the Office of Management and Budget (OMB) for review, because the automatic listing of designated substances is provided for in 40 CFR 716.18(b)—a final rule which had been previously reviewed by OMB under the terms of the Executive Order.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0004.

(Sec. 8, Pub. L. 94-469, 90 Stat. 2029 (15 U.S.C. 2607(d)))

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements.

Dated: May 18, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 716—[AMENDED]

Therefore, Title 40, Chapter I, Part 716 is amended by adding § 716.17(a)(8) to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(8) As of June 28, 1984, the following chemical substances are subject to this subpart.

CAS No.	Name
80-05-7	Bisphenol A.
149-57-5	2-Ethylhexanoic acid.
3322-93-8	1,2-Dibromo-4-(1,2-dibromoethyl) cyclohexane.
25640-78-2	Isopropyl biphenyl.
69009-90-1	Diisopropyl biphenyl.

[FR Doc 84-14198 Filed 5-28-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 302

Elimination of Double Support Payments

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: Section 173 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, amends section 454(5) of the Social Security Act to require a State to pay directly to a family any child support payments for any month following the first month in which the amount collected is sufficient to cause ineligibility for Aid to Families with Dependent Children (AFDC). This will eliminate the situation which existed prior to the enactment of section 173 of Pub. L. 97-248 in which a family would receive, during the first month of ineligibility, both the support payment which caused AFDC ineligibility and the support payment collected during the first month of ineligibility. To implement section 173, these regulations amend 45 CFR 302.32 to require the State to use the support payment used to determine a family ineligible for AFDC to reimburse itself and the Federal government, in accordance with 45 CFR 302.51, for assistance payments made to the family.

EFFECTIVE DATE: Effective upon publication, except where the Secretary determines that State legislation is required in order to conform the State plan to these requirements. In such an event, the State plan shall not be regarded as failing to comply with these requirements solely by reason of its failure to meet the requirements prior to the end of the first session (whether regular, special, budget or other session) of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session until at least October 26, 1982. This is in accordance with section 176 of Pub. L. 97-248. Requests for extension of the effective date must be sent to the Regional Representative of the appropriate OCSE Regional Office and a copy of the request to the Secretary, Department of Health and Human Services.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Background

Prior to enactment of section 173 of Pub. L. 97-248, section 454(5) of the Social Security Act (the Act) required IV-D agencies to pay directly to the family the full amount of the child support which was collected and used to determine the family's ineligibility for an assistance payment under the AFDC program. This amount was paid to the family in the first month the family was ineligible for an AFDC payment. In addition, the family is entitled to receive any current support which is paid during the first month of ineligibility.

The following example illustrates a typical situation occurring under the old section 454(5). The IV-A agency makes the January assistance payment to the family. On January 15 the IV-D agency collects a payment equal to the current support obligation for January. The IV-D agency notifies the IV-A agency of the amount of this collection on February 14. The IV-A agency uses the amount of the January support collection to redetermine the family's eligibility for AFDC and on March 7, determines that the amount collected is sufficient to cause ineligibility. The IV-A agency then notifies the family and the IV-D agency that assistance terminates effective March 31. The IV-D agency pays the family the January support collection in April, the first month of ineligibility for AFDC. The IV-D agency also forwards any April support collection to the family as soon as it is

received. The family thus receives two child support payments in the first month of ineligibility for AFDC and the State and Federal governments are not reimbursed for the January assistance payment. Another way to describe this situation is that the family receives both the AFDC payment and the child support collection for January.

Statutory Provision

Section 173 of Pub. L. 97-248 amended section 454(5) of the Act to require States to pay directly to the family any support payments for any month following the first month in which the amount collected is sufficient to make the family ineligible for assistance. The effect of this amendment is that the State will use the support payment which caused AFDC ineligibility to reimburse itself and the Federal government for any AFDC payment made to the family. The effective date of this amendment was October 1, 1982.

Regulatory Provisions

These regulations revise 45 CFR 302.32 (a) and (b) to implement section 454(5) of the Act as amended by Pub. L. 97-248. Former regulations at § 302.32(b) required the IV-D agency to pay directly to the family any child support payment which was sufficient to make the family ineligible for AFDC. These regulations amend § 302.32(b) by deleting the requirement that the IV-D agency must pay the support which caused ineligibility directly to the family. Instead, they require the IV-D agency to distribute the amount collected pursuant to 45 CFR 302.51. Therefore, the child support which makes the family ineligible will be used by the IV-D agency to reimburse the State and Federal governments for any assistance payment made to the family. Thus, the family would no longer receive two support payments in the first month of ineligibility; the first being the collection which caused the ineligibility and the second being the support collected during the first month of ineligibility. We made a technical change to § 302.32(a) to conform with the revised § 302.32(b).

The changes made by these regulations would have the following effect on the example described earlier under "Background." The IV-A agency terminates assistance effective March 31 based on a support payment collected by the IV-D agency in January and reported to the IV-A agency in February. The State uses the January support collection which caused AFDC ineligibility to reimburse itself and the Federal government for assistance paid to the family and forwards the April (the first month of ineligibility) support collection to the family as soon as it is received. It is essential that the IV-D agency forward the support payment collected during the first month of ineligibility to the family as quickly as possible. Since AFDC will have been terminated, the family may be totally dependent on the support payment to meet its needs. Therefore, we urge States to forward that support payment to the family within 2 days of its receipt, if possible, to ensure continued self-sufficiency and to avoid a return to the public assistance rolls.

Response to Comments

We received two comments in response to the interim final regulations published in the Federal Register on January 20, 1983. Both comments were from State agencies. One State agency submitted a general comment in support of the regulations. The other State agency submitted comments which we are responding to as follows.

Comment: The regulations erroneously assume that the absent parent will make continuous monthly support payments.

Response: We recognize that child support obligations are not always met in a timely and responsible manner. However, these regulations implement section 454(5) of the Act which does not permit a State to pay the child support payment that caused ineligibility to the family in the first month of ineligibility. This payment is retained and used to reimburse the State for the assistance paid in the month that the child support which caused ineligibility was collected. As a result, the family is only entitled to any child support payment received by the IV-D agency in the first month of ineligibility. Therefore, we stress that the IV-D agency should forward the support payment collected during the first month of ineligibility to the family as quickly as possible, since the family may be totally dependent on the support payment to meet its needs. If the family does not receive a support payment in the first month of ineligibility, the family may reapply for AFDC.

Comment: In some States, clients who continue to receive IV-D services would never receive a double payment under the previous regulations. The State paid the family the collection that caused ineligibility in the first month of ineligibility because all child support payments are paid to the local Clerk of Court and forwarded to the IV-D agency in the next month. Therefore, the family would not receive the support *due* in the initial month of ineligibility until the next month and would only receive one payment, i.e., the collection that caused the ineligibility. These States should be allowed to continue distributing child support payments under the previous regulations.

Response: The commenter is correct that no double payment is made to individuals who continue to receive IV-D services in the first month of ineligibility for AFDC in its example. However, the double payment occurs because the family receives both the child support payment that caused ineligibility and the AFDC payment for the same month. State and Federal governments are not reimbursed for the AFDC payment made in the month the child support payment that caused ineligibility was collected (January, in the example under "Background").

In addition, the situation described by the commenter occurs only while the client continues to receive IV-D services. There would be a double payment in the first month the child support is paid directly to the family. For example, if the parent ceases receiving IV-D services in March, the family would receive both the child support for February, forwarded to the custodial parent by the IV-D agency in March, and the child support for March, received directly by the custodial parent.

Section 173 of Pub. L. 97-248 amends section 454(5) of the Act and these regulations implement the amended statute. Therefore, there is no authority to use the previous regulations because the statutory basis for the previous regulations has been changed.

Comment: Most States are unable to forward the support payment for the month of ineligibility to the family within two days of its receipt.

Response: The regulations do not require States to forward collections to the family within two days. This time frame is set forth in the preamble as an optimal goal. In States that do not have this capability, it may be possible to make procedural changes to reduce the time it currently takes to forward payments to the family.

Changes to Interim Final Regulations

We have considered the comments submitted and have determined that no changes are necessary to the interim final regulations as a result of comments received. We have made a technical change to delete the word "child" in the title and paragraph (a) of § 302.32. The word "child" was deleted in the December 23, 1982, Federal Register publication (47 FR 57277) of regulations governing collection of support for certain adults and inadvertently included in the January 20 interim final regulations at issue in this document.

Therefore, we have corrected the technical error in this document.

Paperwork Reduction Act

These regulations contain no information collection requirements which require Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Regulatory Burden

Section 1(b) of Executive Order 12291 states that a major rule is one that is likely to result in:

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

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

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

The Senate Finance Committee Report 97–494, dated July 12, 1982, estimated that implementation of section 173 of Pub. L. 97–248 would result in Federal savings of $3 million in FY '83 and $4 million in FY '84. In addition to the insignificant annual effect on the economy, elimination of the double payment will not increase costs or prices as described in criterion (2), or result in significant adverse effects on the entities described in criterion (3). Any cost impact is a result of the statutory change.

For these reasons, the Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section I of the Executive Order. The Secretary also certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

List of Subjects in 45 CFR Part 302

Child welfare, Grant programs—social programs.

The interim final regulations in § 302.32 published in the **Federal Register** on January 20, 1983 (48 FR 2540) are adopted as final with the following changes: Remove the word "child" from the title and from paragraph (a). Paragraph (b) is reprinted without change for the convenience of the reader.

§ 302.32 Support payments to the IV–D agency.

The State plan shall provide that:

(a) In any case in which support payments are collected for a recipient of aid under the State's title IV–A plan with respect to whom an assignment under § 232.11 is effective, such payments shall be made to the IV–D agency and shall not be paid directly to the family.

(b) As soon as possible but not later than 30 days after the end of a month, the IV–D agency will inform the agency administering the State's title IV–A plan of the amount of the collection which represents payment on the required support obligation for that month as determined in § 302.51(a). Upon being informed of this amount, the IV–A agency will determine if such amount is sufficient to make the family ineligible for an assistance payment pursuant to the State's IV–A plan (See § 232.20 of Chapter II of this title). If such amount is sufficient to make the family ineligible for an assistance payment, the IV–A agency will notify the IV–D agency and the IV–D agency will distribute the amount collected pursuant to § 302.51 of this part. The IV–D agency will notify the family if it will continue to collect and distribute current support payments pursuant to § 302.51(e)(1) of this part.

* * * * *

(Section 1102 of the Social Security Act (42 U.S.C. 1302) and Section 454(5) of the Social Security Act (42 U.S.C. 654(5))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program.)

Dated: April 5, 1984.

Martha A. McSteen,

Director, Office of Child Support Enforcement.

Approved: May 1, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–13721 Filed 5–25–84; 8:45 am]

BILLING CODE 4190–11–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 512, 513, 514, 520, 521, 522, 523, 524, 527, 528, 529, 531, 537 and 549

Maritime Carriers and Related Activities in Domestic Offshore Commerce; Final Rules To Redesignate, Correct and Update Regulations

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is restructuring, correcting and updating all its regulations as a result of the enactment of the Shipping Act of 1984. The final rules here do not directly implement the 1984 Act which requires implementation for waterborne commerce in the foreign trades of the United States, but merely continue some of the Commission's current regulations and limit them, where applicable, to the domestic offshore trades under the Shipping Act, 1916 and/or the Intercoastal Shipping Act, 1933. The existing parts of Chapter IV of Title 46 of the Code of Federal Regulations here amended, redesignated and made applicable to only the domestic trade, involve *rates* [Parts 512—financial reports (to become Part 552), 513—audits (to become Part 555), 514—Non-Vessel-Operator financial exhibits (to become Part 553), and 549—Military rates (to be removed)]; *tariffs* [Part 531 (to become Part 550); and *agreements* [Parts 520 and 524—exceptions (to become Parts 558 and 559), 521—time for filing (to become Part 561), 522—filing provisions (to become Part 560), 523-admission and withdrawal provisions of conference agreements (to become Part 564), 527—shipper's requests and complaints (to become Part 566), 528—self-policing (to become Part 568), 529—independent action (to become Part 569), and 537—conference minutes and records (to become Part 562)].

EFFECTIVE DATE: June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Shipping Act of 1984, the Commission's major statutory authority stemmed from the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933. The 1984 statute, enacted on March 20, 1984, prescribes an entirely new scheme for regulation of common carriers in the foreign trade and amends the Shipping Act, 1916, to limit the latter statute's application to the domestic offshore trades.

The Commission is, therefore, developing rules and regulations to implement the 1984 Act. At the same time, however, it is retaining many of its current rules, originally developed under the 1916 and/or 1933 statute, for application solely to the domestic offshore trades. The final rules contained in this rulemaking fall in the latter category and, although they are partially the by-product of the 1984 statute (to the extent it amends the 1916 Act) the Commission does not consider them absolutely necessary for direct

implementation of new statute. They are, however, intended to become effective on June 18, 1984, to coincide with the effective date of other Commission rules implementing the new statute.

In order to provide a suitable place for these existing regulations, the Commission is developing a new Subchapter C for such rules which will impact solely the domestic offshore trades, and, for this reason, is renumbering those parts for a more logical organizational structure. In doing this, the internal cross-references have to be changed as well.

The other changes in these final rules similarly involve typographical or style corrections, or purely administrative or technical matters, as further explained below:

Part 549 (Regulations Governing the Level of Military Rates) has been previously suspended by the Commission and is, therefore, removed from the CFR.

The citations to Title 46, United States Code are being changed throughout to reflect the new codification which results in most of the Commission's organic statutes being placed in the Appendix to that title. The Authority Citations are amended for this reason, and also, to delete references to parts of the 1916 Act being repealed, e.g., section 18(b).

References to obsolete matters are also being changed or deleted, e.g., those to General Order 5; the Bureau of Financial Analysis; the Bureau of Industry Economics; and the past effective dates of the 1916 Act and current regulations.

Where applicable, new sections have been added to each part displaying the Office of Management and Budget's clearance numbers for information collection requirements, except for sections that are deleted by these rules. These are currently displayed in tabular form in § 503.91 of Title 46, Code of Federal Regulations, but the new separate sections should be convenient, especially after the parts are redesignated.

Other than these, the only additions appearing in these final rules are as follows:

Sections 528.7 (exemption from self-policing requirements) and 528.8 (factors to be applied for obtaining such an exemption) track current §§ 530.10 and 530.13, of Title 46, Code of Federal Regulations, respectively.

Section 529.3 (implementation of the right of independent action), tracks current § 530.14 of Title 46, Code of Federal Regulations.

The revision of § 531.5(b)(6), (contents of tariffs), merely reflects the current practice of using letter symbols denoting rate actions, in addition to the traditional geometrical symbols, such as triangles, circles, etc.

Because all the changes in this rulemaking are purely technical, corrective, or organizational, it is being promulgated as final, without the need for comments.

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

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

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

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

The Chairman of the Federal Maritime Commission further certifies that this final rule will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

This final rulemaking contains no additional information collection requirements requiring approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects

46 CFR Parts 512, 513, 514, 531 and 549

Maritime carriers, Rates.

46 CFR Parts 520, 521, 522, 523, 524, 527, 528, 529 and 537

Antitrust, Contracts, Maritime carriers, Rates.

For the reasons set out in the preamble, Parts 512 through 514, 520 through 524, 527 through 529, 531, 537 and 549 of Title 46 of the Code of Federal Regulations are amended as follows:

PART 549—[REMOVED]

1. Part 549 is removed.

2. Add Subchapter C to read:

SUBCHAPTER C—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES IN DOMESTIC OFFSHORE COMMERCE

PART 512—FINANCIAL REPORTS OF COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES [REDESIGNATED AS PART 552]

1. Part 512 of 46 CFR, Chapter IV, is redesignated as Part 552 and added to Subchapter C and all internal references are changed.

PART 552—[AMENDED]

2. In Part 552, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; secs. 18(a), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. app. 817(a), 820, 841(a); and secs. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845a and 847).

3. In Part 552, remove "46 U.S.C.", wherever it appears, and insert "46 U.S.C. app.".

4. In Part 552, remove "46 CFR 531", wherever it appears, and insert "46 CFR Part 550".

5. Add § 552.91 to read as follows:

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

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

Section	Current OMB Control No.
552.2 (Form FMC—377)	3072-0029
552.2 (Form FMC—378)	3072-0030
552.2 through 512.4	3072-0009
552.6 (Form FMC—377)	3072-0029
552.6 (Form FMC—378)	3072-0030

PART 513—AUDITS AND AUDITING PROCEDURES [REDESIGNATED AS PART 555]

1. Part 513 of 46 CFR Chapter IV, is redesignated as Part 555 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 555 to read as follows:

PART 555—AUDITS AND AUDITING PROCEDURES IN THE DOMESTIC OFFSHORE TRADES

3. In Part 555, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a).

4. In Part 555, remove references to "General Order 5", wherever they appear.

5. In Part 555, remove "Bureau of Financial Analysis", wherever it appears, and insert "Bureau of Tariffs".

PART 514—FINANCIAL EXHIBITS AND SCHEDULES NON-VESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADES [REDESIGNATED AS PART 553]

1. Part 514 of 46 CFR, Chapter IV, is redesignated as Part 553 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 553 to read as follows:

PART 553—FINANCIAL EXHIBITS AND SCHEDULES OF NON-VESSEL-OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADES

3. In Part 553, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; secs. 18(a), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. app. 817(a), 820, 841a); and secs. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845a and 847).

4. In Part 553, remove "non-vessel operating", wherever it appears, and insert "non-vessel-operating".

5. In Part 553, remove "46 U.S.C.", wherever it appears, and insert "46 U.S.C. app.".

6. In Part 553, remove "46 CFR Part 531", wherever it appears, and insert "46 CFR 550".

7. In Part 553, remove "Bureau of Industry Economics", wherever it appears, and insert "Bureau of Tariffs".

8. Add § 553.91 to read as follows:

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

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

Section	Current OMB Control No.
553.2 (Form FMC-379)	3072-0032
553.2	3072-0031
553.3	3072-0031
553.4	3072-0031
553.6 (Form FMC-379)	3072-0032

PART 520—EXEMPTION OF HUSBANDING AND AGENCY AGREEMENTS [REDESIGNATED AS PART 558]

1. Part 520 of 46 CFR, Chapter IV, is redesignated as Part 558 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 558 to read as follows:

PART 558—EXEMPTION OF HUSBANDING AND AGENCY AGREEMENTS UNDER THE SHIPPING ACT, 1916

3. In Part 558, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 833a and 841a).

PART 521—TIME FOR FILING CERTAIN AGREEMENTS [REDESIGNATED AS PART 561]

1. Part 521 of 46 CFR, Chapter IV, is redesignated as Part 561 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 561 to read as follows:

PART 561—TIME FOR FILING CERTAIN AGREEMENTS UNDER THE SHIPPING ACT, 1916

3. In Part 561, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

PART 522—FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT 1916 [REDESIGNATED AS PART 560]

1. Part 522 of 46 CFR, Chapter IV, is redesignated as Part 560 and added to Subchapter C and all internal references are changed.

PART 560—[AMENDED]

2. In Part 560, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 21, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820, 821 and 841a).

3. In Part 560, remove "46 U.S.C.", whenever it appears, and insert "46 U.S.C. app.".

4. Add § 560.91 to read as follows:

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

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

Section	Current OMB Control No.
560.3 through 560.5	3072-0040
560.7	3072-0040
560.8	3072-0040

PART 523—ADMISSION, WITHDRAWAL AND EXPULSION PROVISIONS OF STEAMSHIP CONFERENCE AGREEMENTS [REDESIGNATED AS PART 564]

1. Part 523 of 46 CFR, Chapter IV, is redesignated as Part 564 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 564 to read as follows:

PART 564—ADMISSION, WITHDRAWAL AND EXPULSION PROVISIONS OF STEAMSHIP CONFERENCE AGREEMENTS UNDER THE SHIPPING ACT, 1916

3. In Part 564, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

4. In Part 564, remove "46 U.S.C.", wherever it appears, and insert "46 U.S.C. app.".

§ 564.1 [Amended]

5. In § 564.1(a), remove the introductory phrase "Section 2 of Pub. L. 87–346, effective on October 3, 1961, amends section 15 of the Shipping Act, 1916, to provide" and insert: "Section 15 of the Shipping Act, 1916, provides".

§ 564.2 [Amended]

6. In § 564.2, introductory paragraph, remove ", whether in effect on October 3, 1961, or initiated after that date,".

§§ 564.10,564.11 and 564.20 [Removed]

7. Remove Subpart B (§§ 564.10, 564.11) and Subpart C (§ 564.20).

8. Add § 564.91 to read as follows:

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

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

Section	Current OMB control No.
564.2	3072–0038

PART 524—EXEMPTION OF CERTAIN AGREEMENTS FROM THE REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916 [REDESIGNATED AS PART 559]

1. Part 524 of 46 CFR, Chapter IV, is redesignated as Part 559 and added to Subchapter C and all internal references are changed.

PART 559—[AMENDED]

2. In Part 559, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 833a and 841a).

3. In Part 559, remove "46 U.S.C.", wherever it appears, and insert "46 U.S.C. app.".

§ 559.2 [Amended]

4. In § 559.2(f) remove the words: "foreign or".

§ 559.5 [Amended]

5. In § 559.5, in the form of agreement, in each clause 2, remove the words "or (b)".

§ 559.7 [Amended]

6. In § 559.7, remove "Part 522" and insert "Part 560".

7. Add § 559.91 to read as follows:

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

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

Section	Current OMB control No.
559.3	3072–0039
559.4	3072–0039
559.5	3072–0039

PART 527—SHIPPERS REQUESTS AND COMPLAINTS [REDESIGNATED AS PART 566]

1. Part 527 of 46 CFR, Chapter IV, is redesignated as Part 566 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 566 to read as follows:

PART 566—SHIPPER REQUESTS AND COMPLAINTS UNDER THE SHIPPING ACT, 1916

3. In Part 566, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

4. In Part 566, remove "46 U.S.C. ", wherever it appears, and insert "46 U.S.C. app.".

§ 566.1 [Amended]

5. In § 556.1(a), remove the introductory phrase "Section 2 of Pub. L. 87–346, effective on October 3, 1961, amends section 15 of the Shipping Act, 1916, to provide" and insert "Section 15 of the Shipping Act, 1916, provides".

§ 566.3 [Removed]

6. Remove § 566.3.

§ 566.4 [Amended]

7. In § 566.4, remove the second sentence of the introductory text which reads: "The first such report shall be filed by January 31, 1981".

§ 566.5 [Amended]

8. In §566.5, remove the last sentence.

§ 566.6 [Amended]

9. In § 566.6, remove the second sentence which reads: "Appropriate tariff provision shall be accomplished within 90 days from the effective date of this part."

10. Add § 566.91 to read as follows:

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

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

Section	Current OMB Control No.
566.4 through 566.6	3072–0007

PART 528—SELF POLICING REQUIREMENTS FOR SECTION 15 AGREEMENTS [REDESIGNATED AS PART 568]

1. Part 528 of 46 CFR, Chapter IV, is redesignated as Part 568 and added to

Subchapter C and all internal references are changed.

2. Revise the title of Part 568 to read as follows:

PART 568—SELF POLICING REQUIREMENTS FOR AGREEMENTS UNDER THE SHIPPING ACT, 1916

3. In Part 568, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 14, 15, 16, 17, 18(a), 21, 35, and 43 of the Shipping Act, 1916 (46 U.S.C. app. 812, 814, 815, 816, 817(a), 820, 833a and 841a).

4. In Part 568, remove "46 U.S.C.", wherever it appears, and insert "46 U.S.C. app.".

§ 568.0 [Amended]

5. In § 568.0(b), remove the words: "foreign or".

6. Add § 568.7 to read as follows:

§ 568.7 Exemption from self-policing requirements.

(a) The provisions of this part require that every conference or other rate-fixing agreement between common carriers by water in the domestic offshore commerce of the United States shall contain provisions establishing and describing a system for self-policing its members, including designation of a policing authority.

(b) Section 568.3(b) requires that policing authorities be headed by, and composed of, persons not otherwise employed by, having any financial interest in, or affiliated with the conference or rate-fixing body or any member or associate therof. Provision is made § 568.3(b)(3), however, for petition to the Commission for an exemption from this "independent neutral body" requirement to allow officers or employees of the conference or rate-fixing body to act as the head of, or be assigned to duties under, the policy authority if such person or persons are not otherwise affiliated with any conference member and the conference establishes that the specific factual conditions of § 568.3(b)(3) are present.

(c) Pending Commission action on the petition for exemption under § 568.7(b), the petitioner is not relieved of the obligation to comply with the independent neutral body requirements of § 568.3(b). Unless and until the Commission grants an exemption, every conference or rate-fixing agreement must provide for the services of a policing authority that fully meets the requirements of § 568.3.

7. Add § 568.8 to read as follows:

§ 568.8 Factors to be applied to the criteria for obtaining an exemption from self policing requirements.

This section explains how the Commission applies the factors in § 568.3(b)(3) regarding exemption of conferences and rate-fixing bodies from the independent policing authority requirement of this part:

(a) *Qualifications of conference personnel.*—(1) In evaluating the qualifications of a conference employee to perform the requisite self-policing activities, the Commission considers:

(i) Knowledge of, and experience in, the commercial and administrative aspects of the ocean liner industry;

(ii) Investigative/auditing experience and expertise; and

(iii) Current duties, if any, under the conference and elsewhere and whether those duties significantly interfere with the policing function.

(2) The following factors will be considered in determining whether an individual's self-policing activities, including annual audits of each member line, would be substantially affected by other duties and responsibilities:

(i) Number of agreement members;

(ii) Number of sailings, by member, in the trade;

(iii) Scope of agreement;

(iv) Location of carrier member's books and records;

(v) Extent of official duties, including regular attendance at membership meetings;

(vi) Whether the official serves in a similar role as Chairman or Secretary for other agreements;

(vii) The description of the intended self-policing program, including budget authorized;

(viii) Whether cargo inspection duties will be performed; and

(ix) Assistance from other staff member(s).

(b) *Unrealistic financial burden.* In evaluating assertions of an unrealistic financial burden, the Commission considers:

(1) Prospective cost/fee for neutral body self-policing;

(2) How the cost was determined;

(3) Whether the cost represents the lowest bid of a qualified neutral body.

(4) Revenues earned in the trade; and

(5) Any other relevant data which petitioner submits.

(c) *Trade relatively free of malpractices.* The Commission will consider assertions that a given trade has been relatively free of malpractices. The Commission recognizes, however, that prior self-policing systems, which only responded to complaints and did not initiate investigations, may not reflect the full extent of malpractices in a trade.

8. Add § 568.91 to read as follows:

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

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

Section	Current OMB control No.
568.1 through 568.3	3072-0003
568.5	3072-0003

PART 529—RULES GOVERNING THE RIGHT OF INDEPENDENT ACTION IN AGREEMENTS [REDESIGNATED AS PART 569]

1. Part 529 of 46 CFR, Chapter IV, is redesignated as Part 569 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 569 to read as follows:

PART 569—RULES GOVERNING THE RIGHT OF INDEPENDENT ACTION UNDER THE SHIPPING ACT, 1916

3. In Part 569, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814 and 841a).

§ 569.1 [Amended]

4. In § 569.1(a), remove the introductory phrase "Section 2 of Pub. L. 87–346, effective on October 3, 1961, amends section 15 of the Shipping Act, 1916, to provide" and insert "Section 15 of the Shipping Act, 1916, provides".

§ 569.2 [Amended]

5. In § 569.2, remove the phrase: "whether in effect on October 3, 1961, or initiated after that date".

6. Add § 569.3 to Subpart A to read as follows:

§ 569.3 Implementation of the right of independent action in tariff filing.

It is the policy of the Federal Maritime Commission to promptly resolve any controversies concerning the right of members of rate fixing agreements approved under section 15 of the Shipping Act, 1916, to take independent rate action pursuant to provisions of such agreements and to have such action implemented by amendment of the conference tariff on file with the Commission. In instances where there is a difference of opinion as to the tariff filing obligations or rights of agreement parties, a Commission determination will be made upon submission of the matter to the Commission. The submission may be made by any party to the agreement in accordance with § 502.69 of this chapter.

§§ 569.20, 569.21, 569.22 and 569.40 [Removed]

7. In Part 569, Subpart B (§§ 569.20, 569.21, 569.22), and Subpart C (§ 569.40) are removed.

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE [REDESIGNATED AS PART 550]

1. Part 531 of 46 CFR, Chapter IV, is redesignated as Part 550 and added to Subchapter C and all internal references are changed.

2. In Part 550, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; secs. 14, 15, 16, 18(a), 21, 35, and 43 of the Shipping Act, 1916 (46 U.S.C. app. 812, 814, 815, 817(a), 820, 833a and 841a); and secs. 1, 2, 3(a), 3(b), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845a and 847).

§ 550.0 [Amended]

3. In § 550.0(b), remove "46 U.S.C. 844" and insert "46 U.S.C. app. 844".

§ 550.3 [Amended]

4. In § 550.3(e), remove "of the Commission's Rules" and insert "of this chapter".

5. In § 550.3(i)(4), remove "Part 512 of the Commission's Rules" and insert "Part 552 of this chapter".

6. In § 550.3(l), remove "Part 512 of Title 46 Code of Federal Regulations" and insert "Part 552 of this chapter".

§ 550.5 [Amended]

7. In § 550.5(a)(1), remove "nonvessel operating" and insert "non-vessel-operating".

8. Revise § 550.5(b)(6) to read as follows:

§ 550.5 Contents of tariffs.

* * * * *

(b) * * *

(6) A full explanation of any symbols, reference marks, or abbreviations employed. The following standard symbols and explanation are required for the purposes indicated:

(i) ↓ or (R) to denote reductions;
(ii) ◇ or (A) to denote increases;
(iii) Δ or (C) to denote changes resulting in neither increases nor reductions in rates or charges;
(iv) • or (X) to denote no change in rates;
(v) □ or (N) to denote reissued matters; and
(vi) ⊕ or (D) to denote deletions.

These symbols shall not be used for any other purpose nor shall any other symbol be used for the above purposes.

* * * * *

9. In § 550.5(b)(8)(xii), remove "Part 524 of the Commission's Rules" and insert "Part 559 of this chapter".

§ 550.10 [Amended].

10. In § 550.10(b), remove "46 CFR Part 512" and insert "Part 552 of this chapter".

11. In § 550.10(c), remove "46 CFR Part 512 and 46 CFR 502.67" and insert "Part 552 and § 502.67 of this chapter".

12. Add § 550.91 to read as follows:

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

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

Section	Current OMB control No.
550.3 through 550.6	3072-0005
550.8 through 550.19	3072-0005

PART 537—CONFERENCE AGREEMENT PROVISIONS RELATING TO CONCERTED ACTIVITIES

PART 537—[REDESIGNATED AS PART 562]

1. Part 537 of 46 CFR, Chapter IV, is redesignated as Part 562 and added to Subchapter C and all internal references are changed.

2. Revise the title of Part 562 to read as follows:

PART 562—CONFERENCE AGREEMENT PROVISIONS RELATING TO CONCERTED ACTIVITIES UNDER THE SHIPPING ACT, 1916

3. In Part 562, revise the authority citation appearing after the table of contents to read as follows and remove all other authority citations:

Authority: 5 U.S.C. 553; and secs. 15, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 814, 820 and 841a).

§ 562.3 [Amended].

4. In § 562.3(a), remove the introductory phrase: "Within 60 days of the effective date of this part," and initial capitalize "the".

5. In § 562.3(d), remove "46 CFR 536.4(f)" and insert "§ 580.4(f) of this chapter".

6. Add § 562.91 to read as follows:

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

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

Section	Current OMB control No.
562.2 through 562.4	3072-0013

By the Commission.
Francis C. Hurney,
Secretary.

[FR Doc. 84-14180 Filed 5-25-84; 8:45 am]
BILLING CODE 6730-01-M

46 CFR Parts 552 and 582

[Docket No. 84-25]

Certification of Company Policies and Efforts To Combat Rebating in the Foreign Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Interim rule and request for comments.

SUMMARY: The Commission is modifying its rules on the filing of certifications of company practices to combat rebating in the foreign commerce of the United States to bring them into conformity with the Shipping Act of 1984. The modification expands the application of the annual certification requirement from vessel operating common carriers to all common carriers.

DATES: Interim Rule effective on June 18, 1984. Comments at any time but no later than July 30, 1984.

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

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

SUPPLEMENTARY INFORMATION: The Shipping Act of 1984 (1984 Act) (46 U.S.C. app. 1701-1720) was enacted on March 20, 1984 and becomes effective on June 18, 1984, except for sections 17 and 18 thereof which became effective on enactment. Section 17(b) authorizes the Federal Maritime Commission to prescribe interim rules and regulations to carry out the Act, which rules can become effective notwithstanding the nature and comment provisions of the Administrative Procedure Act (5 U.S.C. 553) but must be superseded by final rules subject to the A.P.A.

Section 15(b) of the 1984 Act (46 U.S.C. app. 1714(b)) makes substantive changes to the previous requirements of section 21(b) of the Shipping Act, 1916 (1916 Act) (46 U.S.C. app. 820(b)), regarding the certification of company policies and efforts to combat rebating in the foreign commerce of the United States. The fundamental change is the expansion to all common carriers from the former limited application to vessel operating common carriers only. Although the statute imposes a new and mandatory reporting requirement for domestic as well as foreign NVOCCs, the Commission is allowing for comments from this affected class to determine the best method and procedure for assuring compliance.

These rules contain technical amendments to reflect certain changes in definitions and application contained in the 1984 Act. For instance, the 1916 Act permits the Commission to require an anti-rebating certification from any "consignor, consignee, forwarder, broker, other carrier, or other person subject to the Shipping Act, 1916." Section 15(b) of the 1984 Act alters the statutory scheme to permit the Commission to require certification from "any shipper, shippers' association, marine terminal operator, ocean freight forwarder or broker." This rule does not, however, require certifications from entities other than those mandated by statute. The requirement for certifications from ocean freight forwarders is continued in Docket No. 84-19, *Licensing of Ocean Freight Forwarders.*

Other amendments to the required certification are of the same genus, such as the amendments to the statutory references and *Code of Federal Regulations* citations.

To provide for the basic notice and comment provisions of the Administrative Procedure Act, therefore, the Commission requests comments on these interim rules to assist it in developing final rules to supersede and, where necessary modify, these interim rules by December 15, 1984. Accordingly, the public is provided with sixty days within which to comment on the interim rules but, if anyone believes that there are serious problems created by these rules which should be addressed immediately, the Commission urges them to bring their concerns to the attention of the Commission, without prejudice to subsequently filing additional comments within the sixty-day comment period.

A new § 582.91 is being added to display the Office of Management and Budget's clearance number for information collection requirements. These are currently displayed in tabular form in § 503.91 of Title 46, Code of Federal Regulations, but the new separate section should be convenient, especially after the part is redesignated.

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

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

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

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

The Chairman of the Federal Maritime Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects in Parts 552 and 582

Cargo, Cargo vessels, Exports, Foreign relations, Freight forwarders, Imports, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements, Water carriers, Water transportation.

For the reasons set out in the preamble, Part 552 of Title 46 of the Code of Federal Regulations is redesignated as Part 582, added to Subchapter D, and is revised to read as follows:

PART 582—CERTIFICATION OF COMPANY POLICIES AND EFFORTS TO COMBAT REBATING IN THE FOREIGN COMMERCE OF THE UNITED STATES

Sec.

Authority: 5 U.S.C. 553; secs. 2, 3, 8, 10, 13, 15, 16 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1701, 1702, 1707, 1709, 1712, 1714, 1715, and 1716).

§ 582.1 Scope.

(a) The requirements set forth in this part are binding upon every common carrier and, at the discretion of the Commission, will be applicable to any shipper, shippers' association, marine terminal operator, ocean freight forwarder, or broker.

(b) Information obtained under this part will be used to maintain continuous surveillance over common carrier activities and to provide a deterrent against rebating practices. Failure to file the required reports may result in a civil penalty of not more than $5,000, or if willfully and knowingly committed, not more than $25,000, for each day such violation continues.

§ 582.2 Form of certification.

The Chief Executive Officer (defined as the most senior officer within the company designated by the board of directors, owners, stockholders or controlling body as responsible for the direction and management of the company) of each common carrier and,

when required, at the discretion of the Commission, the Chief Executive Officer of any shipper, shippers' association, marine terminal operator, ocean freight forwarder or broker, shall file a written certification, under oath, as set forth in the format in Appendix A attesting to the following:

(a)(1) That it is the stated policy of the filing company that the payment, solicitation or receipt of any rebate, by the company which is unlawful under the provisions of the Shipping Act of 1984, is prohibited; and

(2) That such company policy was promulgated recently (together with the date of such promulgation) to each owner, officer, employee, and agent thereof; and

(b) The details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(c) That the filing company will fully cooperate with the Commission in its efforts to end those illegal practices.

§ 582.3 Tariff notification.

(a) Each common carrier shall file a provision in each of its tariffs that shall read substantially as follows:

(Name of Company) has a policy against the payment of any rebate by the company or by any officer, employee, or agent, which payment would be unlawful under the Shipping Act of 1984. Such policy has been certified to the Federal Maritime Commission in accordance with the Shipping Act of 1984 and the regulations of the Commission set forth in 46 CFR Part 582.

(b) When the common carrier's tariff is a conference/rate agreement tariff, the common carrier shall ensure that the conference or rate agreement publishes the common carrier's tariff provision set forth in § 582.3(a) in the conference/rate agreement tariff.

(c) The anti-rebate tariff provision, as set forth in § 582.3(a), shall be effective upon filing.

(d) Every common carrier tariff must contain the anti-rebate tariff provision set forth in § 582.3(a) by September 18, 1984.

§ 582.4 Change of Chief Executive Officer.

Every common carrier and any other person required by the Commission to file a certification in accordance with § 582.2 shall notify the Secretary, Federal Maritime Commission, of the identity of any new Chief Executive Officer within thirty (30) days of such appointment. Each new Chief Executive Officer shall file a certification as required by § 582.2 of this part within thirty (30) days of appointment.

§ 582.5 Reporting requirements.

(a) Every common carrier required by this part to submit a written certification as provided for in § 582.2 to the Secretary, Federal Maritime Commission, shall submit such certification on or before May 15 of each year.

(b) Every person other than a common carrier who is required by the Commission to submit a written certification under § 582.2 of this part shall submit the initial certification to the Secretary, Federal Maritime Commission, on the date designated by the Commission and, thereafter, as the Commission may direct.

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

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

Section	Current OMB control No.
582.2 through 582.5	3072-0028

Appendix A to 46 CFR 582.3—(Name of Filing Company), Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the United States

Pursuant to the requirements of section 15(b) of the Shipping Act of 1984, and Federal Maritime Commission regulations promulgated pursuant thereto, (46 CFR 582), I ——, Chief Executive Officer of (name of company) state under oath that:

1. It is the policy of (name of company) that the payment, solicitation, or receipt of any rebate which is unlawful under the provisions of the Shipping Act of 1984 is prohibited.

2. On or before ——, 19—, such company policy was promulgated to each owner, officer, employee and agent of (name of company) who is directly or indirectly connected with commercial ocean shipping, import or export sales or purchasing.

3. [Set forth the details of measures instituted by the filing company or otherwise to eliminate or prevent the payment of illegal rebates in the foreign commerce of the United States].

4. (Name of company) affirms it will fully cooperate with the Federal Maritime Commission in any investigation of illegal rebating and with the Commission's efforts to end such illegal practices.

Signature

Subscribed and sworn before me this —— day of ——— 19——.

Notary Public

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-14179 Filed 5-25-84; 8:45 am]

BILLING CODE 6730-01-M

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46 CFR Part 572

[Docket No. 84-26]

Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Interim rules with request for comments.

SUMMARY: These rules implement those provisions of the Shipping Act of 1984 which govern agreements by or among ocean common carriers and other persons in the foreign commerce of the United States. The statute authorizes the Commission to prescribe rules as necessary to effectuate the Act, including the issuance of interim rules. The Commission is also authorized to prescribe by rule the form and manner in which an agreement shall be filed and to obtain information needed to evaluate agreements. These rules set forth those agreements which are subject to the requirements of the Act, enumerate those agreements which are exempt from certain requirements of the Act, prescribe the form of agreements and the information which shall be filed, establish procedures for processing agreements, set forth record retention and reporting requirements, and establish certain transitional rules for existing agreements.

DATE: Interim rule effective on June 18, 1984. Comments on or before August 27, 1984.

ADDRESS: Send comments (original and 20 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, Washington, D.C. 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT:
Robert D. Bourgoin, General Counsel, (202) 523-5740
Joseph C. Polking, Director, Bureau of Agreements and Trade Monitoring, (202) 523-5787
Robert A. Ellsworth, Director, Office of Policy Planning and International Affairs, (202) 523-5870.

SUPPLEMENTARY INFORMATION:

I. Background

On March 20, 1984, President Ronald Reagan signed into law the Shipping Act of 1984, Pub. L. 98-237, 98 Stat. 67, 46 U.S.C. app. 1701-1720 (hereinafter referred to as "the Act" or "the 1984 Act"). The Act, among other things, establishes a new regulatory regime governing agreements by or among ocean common carriers and other persons subject to the Act in the foreign oceanborne commerce of the United States. Section 3 of the Act (46 U.S.C. app. 1702) defines an "agreement" and certain other terms. Section 4 (46 U.S.C. app. 1703) sets forth those types of agreements that are within the scope of the Act. Section 5 (46 U.S.C. app. 1704) requires parties to an agreement to file a true copy of the agreement together with relevant information and specifies certain provisions which must be contained in particular types of agreements. Section 6 (46 U.S.C. app. 1705) establishes procedures under which the Commission shall review and take action upon an agreement. Section 16 (46 U.S.C. app. 1715) establishes the authority of the Commission to exempt any class of agreements from any requirement of the Act. Under section 7 of the Act (46 U.S.C. app. 1706), agreements which have been filed and become effective, or which are exempt from filing, are not subject to the federal antitrust laws. Section 15 (46 U.S.C. app. 1714) authorizes the Commission to require periodiocal or special reports as well as the filing of conference minutes.

The purpose of these rules is to implement those sections of the Act that govern agreements. These rules are being issued pursuant to the general rulemaking authority provided under section 17(a) of the Act (46 U.S.C. app. 1716(a)). Certain sections of these rules are also issued pursuant to the Commission's specific authority under section 5(a) of the Act to prescribe the form and manner in which an agreement shall be filed and to obtain the information and documents necessary to evaluate an agreement (46 U.S.C. app. 1704(a)). The rules are also issued pursuant to the Administrative Procedure Act (APA) and thereby are subject to the normal notice and comment procedures of the APA (5 U.S.C. 553). These rules are intended to serve as interim rules until such time as final rules are adopted. Specific authority to prescribe interim rules without adhering to notice and comment requirements is contained in section 17(b) of the Act (46 U.S.C. app. 1716(b)). These interim rules will take effect on June 18, 1984, the effective date of the Shipping Act of 1984. If persons believe that there are serious problems created by these interim rules which should be addressed immediately, they may bring their concerns to the attention of the Commission in writing without prejudice to subsequently filing additional comments within the 90-day comment period. In any event, all interested persons have been provided 90 days to comment on these rules.

These rules are organized as a single Part 572 of Title 46 of the Code of Federal Regulations. Subpart A states the authority, purpose and policies of these rules and defines certain terms used in the Act and these rules. Subpart B sets forth those types of agreements which are within the scope of the Act as well as those categories of agreements to which these rules do not apply. Subpart C contains procedures for requesting and granting exemptions for agreements from any requirement of the Act, lists certain kinds of agreements which are excluded by statute from filing requirements, and enumerates certain classes of agreements which the Commission proposes to exempt from certain requirements of the Act. Subpart D states rules for filing, the form in which agreements shall be filed, and the information which shall be submitted with certain agreements. Subpart E sets forth requirements as to organization and content of agreements and includes mandatory provisions for conference agreements. Subpart F establishes procedures for action on agreements prior to implementation. Subpart G contains rules setting forth certain reporting and record retention requirements. Subpart H contains transitional rules affecting existing agreements. Subpart I states penalty rules. An Information Form to be completed and filed with certain agreements subject to the Act is attached as an Appendix A to Part 572. The following is a section-by-section discussion of proposed Part 572 of the Code of Federal Regulations which is to be included in new "Subchapter D—Regulations Affecting Maritime Carriers and Related Activities in Foreign Commerce."

II. Section-By-Section Discussion of Part 572 and the Information Form

Subpart A of the Rules—General Provisions.

This subpart contains provisions which apply generally to the rules throughout Part 572.

Section 572.101—Authority.

This section recites the statutory authority for the rules of Part 572.

Section 572.102—Purpose.

This section states the purpose of the rules of this part, namely to implement those provisions of the Act which govern or affect agreements.

Section 572.103—Policies.

The policies underlying the rules of this part are set forth in this section.

Section 572.104—Definitions.

This section includes definitions of terms used in the Act and these rules which are relevant to agreements.

Section 572.104(a)—Agreement.

The definition of the term "agreement" is based on the definition contained in section 3(1) of the Act.

Section 572.104(b)—Antitrust Laws.

The term "antitrust laws" is defined in section 3(2) of the Act.

Section 572.104(c)—Appendix.

The definition of the term "appendix" is new.

Section 572.104(d)—Assessment Agreement.

The term "assessment agreement" is defined in section 3(3) of the Act.

Section 572.104(e)—Common Carrier.

The term "common carrier" is defined in section 3(6) of the Act.

Section 572.104(f)—Conference Agreement.

The definition of the term "conference agreement" is based upon and further clarifies the definition contained in section 3(7) of the Act.

Section 572.104(g)—Consultation.

The definition of the term "consultation" is new.

Section 572.104(h)—Cooperative Working Agreement.

The definition of the term "cooperative working agreement" is new.

Section 572.104(i)—Effective Agreement.

The definition of the term "effective agreement" is new.

Section 572.104(j)—Equal Access Agreement.

The definition of the term "equal access agreement" is new.

Section 572.104(k)—Independent Neutral Body.

The definition of the term "independent neutral body" is new.

Section 572.104(l)—Information Form.

The definition of the term "Information Form" is new.

Section 572.104(m)—Interconference Agreement.

The definition of the term "interconference agreement" is based on section 5(c) of the Act.

Section 572.104(n)—Joint ServiceConsortium Agreement.

The definition of the term "joint serviceconsortium agreement" is new.

Section 572.104(o)—Marine Terminal Facilities.

The definition of the term "marine terminal facilities" is new.

Section 572.104(p)—Marine Terminal Operator.

The term "marine terminal operator" is defined in section 3(15) of the Act. The term includes any person, firm, company, corporation or government subdivision furnishing marine terminal facilities or marine terminal services, or which owns, leases or operates property used as a marine terminal facility. The term "marine terminal operator" includes, but is not limited to:

(i) Ports;

(ii) Commercial operators of public general cargo marine terminal facilities;

(iii) Operators of shipside grain elevators, bulk loaders, tank farms and lumberyard facilities handling cargo in connection with ocean common carriers;

(iv) Stevedores when engaged in performing any of the duties of a marine terminal operator;

(v) Operators of off-dock container freight stations handling cargo in connection with ocean common carriers, even when such facilities are not located at or proximate to the waterfront;

(vi) Carloaders and unloaders, truckloaders and unloaders, when furnishing equipment or labor;

(vii) Railroads which provide marine terminal facilities;

(viii) Any other person subject to the Commission's marine terminal tariff filing requirements.

The term marine terminal operator does not include persons engaged solely in the business of stevedoring and which furnish no marine terminal facilities or services.

Section 572.104(q)—Maritime Labor Agreement.

The term "maritime labor agreement" is defined in section 3(16) of the Act.

Section 572.104(r)—Modification.

The definition of the term "modification" is new.

Section 572.104(s)—Non-Vessel-Operating Common Carrier.

The term "non-vessel-operating common carrier" is defined in section 3(17) of the Act.

Section 572.104(t)—Ocean Common Carrier.

The term "ocean common carrier" is defined in section 3(18) of the Act.

Section 572.104(u)—Ocean Freight Forwarder.

The term "ocean freight forwarder" is defined in section 3(19) of the Act.

Section 572.104(v)—Person.

The term "person" is defined in section 3(20) of the Act.

Section 572.104(w)—Pooling Agreement.

The definition of the term "pooling agreement" is based on the definition in the Commission's current agreement regulations at 46 CFR 522.2(a)(3).

Section 572.104(x)—Port.

The definition of the term "port" is new.

Section 572.104(y)—Sailing Agreement.

The definition of the term "sailing agreement" is new.

Section 572.104(z)—Service Contract.

The term "service contract" is defined in section 3(21) of the Act.

Section 572.104(aa)—Shipper.

The term "shipper" is defined in section 3(23) of the Act. The term is inclusive of the ordinarily used terms, "consignee" and "cargo interest" and is used interchangeably.

Section 572.104(bb)—Shippers' Association.

The term "shippers' association" is defined in section 3(24) of the Act.

Section 572.104(cc)—Shippers' Requests and Complaints.

The definition of the term "shippers' requests and complaints" is new.

Section 572.104(dd)—Space Charter Agreement.

The definition of the term "space charter agreement" is new.

Section 572.104(ee)—Through Transportation.

The term "through transportation" is defined in section 3(26) of the Act.

Section 572.104(ff)—Transshipment Agreement.

The defintion of the term "transshipment agreement" is new.

Subpart B of the Rules—Scope.

Subpart B contains rules defining scope which are based on sections 3, 4, 5, and 7 of the Act. It recites the language of the Act regarding agreements by or among ocean common carriers. Agreements which fall within any one of seven designated categories are subject to the Act. These categories generally derive from section 15 of the Shipping Act, 1916 (46 U.S.C. 814). One new category of agreement, i.e., an agreement that regulates or prohibits the use of service contracts, is created under the 1984 Act.

Subpart B sets forth the Commission's interpretation of the scope of the 1984 Act insofar as marine terminal operator agreements involving foreign commerce are concerned. The Commission interprets the language of sections 4(b) and 5(a) of the 1984 Act, when read in conjunction with the Act's legislative history, as reflecting clear Congressional intent to carry forward under the 1984 Act the same areas of concerted marine terminal activity previously covered under the 1916 Act, with three exceptions. First, marine terminal agreements involving ocean transportation strictly in United States interstate commerce, which remain under the jurisdiction of 1916 Act, are outside the scope of the 1984 Act. Second, agreements among common carriers subject to the 1984 Act to establish, operate or maintain a marine terminal in the United States are not subject to the 1984 Act. Third, pooling agreements between marine terminal operators are not included, but marine terminal operators are permitted to enter into arrangements with vessel operators which vary rates with the volume of cargo offered. *See* 129 *Cong. Rec.* S1782 (daily ed. Feb. 28, 1983) (statement of Mr. Gorton).

Most marine terminal operators (and therefore the involved facility or service agreements and terminal conferences) simultaneously handle cargo moving in both interstate and foreign commerce. Indeed, the terminal facilities and services furnished to cargo and vessels are generally indistinguishable on the basis of the ultimate (i.e., foreign or domestic) origin or destination of the cargo or vessel concerned. In short, marine terminal operations are one area in the maritime industry wherein a virtually seamless operational interface exists between U.S. foreign commerce and interstate commerce.

The Commission has given careful consideration to formulating an interpretation of the relationship between the scopes of the two Shipping Acts in a practical manner insofar as marine terminal operator agreements are concerned. Certainly, the legislative history of the 1984 Act does not support a conclusion that Congress intended that marine terminal operator agreements which involve both streams of commerce be simultaneously subjected to the regulatory regimes of both the 1916 and 1984 Acts. Consequently, the Commission is adopting the position set forth in §§ 572.202 and 572.203 of this part, whereby it interprets the 1984 Act as extending to marine terminal operator agreements which relate to marine terminal facilities and/or services which, either wholly or in part, handle or are held out to handle foreign commerce, either directly or by transshipment, including: (1) Agreements involving both foreign and interstate commerce; and (2) agreements relating to facilities and/or services dedicated to interstate commerce which handle transshipment cargo moving under a through bill of lading to or from foreign ports or points.

Finally, in the interest of clarity, Subpart B explicitly states certain categories of agreements which are wholly outside the scope of these rules. Section 4 of the Act places acquistions of voting securities or assets outside the scope of the Act as does section 5(e) of the Act with regard to maritime labor agreements. In addition, Subpart B recognizes that two categories of agreements, those involving non-vessel-operating common carriers and those involving ocean freight forwarders, which were formerly within the jurisdiction of the 1916 Act, are not covered by the 1984 Act.

Section 572.201—Agreements By or Among Ocean Common Carriers.

This section recites the language of section 4(a) of the Act regarding agreements by or among ocean common carriers. Agreements which embrace any of the seven categories of activities enumerated here are subject to the requirements of these rules.

Section 572.202—Marine Terminal Operator Agreements Involving Foreign Commerce.

This section recites the language of section 4(b) of the Act with regard to agreements involving marine terminal operators. The Commission interprets section 4(b) to include all marine terminal operator agreements which involve foreign commerce of the United States.

Section 572.203—Marine Terminal Operator Agreements Exclusively in Interstate Commerce.

This section is intended to further clarify the Commission's jurisdiction under the Act. Where a marine terminal operator agreement involves interstate commerce exclusively, these rules do not apply.

Section 572.204—Common Carrier Terminal Agreements.

Agreements between common carriers to operate marine terminals in the United States are outside the scope of these rules. Under section 5(a) of the Act such agreements do not have to be filed. Moreover, such agreements do not have antitrust immunity as indicated in section 7(b)(3) of the Act. The effect of these statutory provisions is to remove these agreements from the scope of the Act.

Section 572.205—Non-Vessel-Operating Common Carrier Agreements.

The purpose of this section is to make clear that such agreements are outside the scope of these rules.

Section 572.206—Ocean Freight Forwarder Agreements.

The purpose of this section is to make clear that such agreements are outside the scope of these rules.

Section 572.207—Maritime Labor Agreements.

This section recites the language of section 5(e) of the Act. The Act excludes maritime labor agreements from filing requirements and from review by the Commission. Consequently, the Part 572 rules do not apply to maritime labor agreements. However, while a maritime labor agreement itself is outside the scope of these rules, activities pursuant to a maritime labor agreement are subject to other provisions of the Act and other statutes administered by the Commission. Thus, rates, charges, regulations, or practices of a common carrier that are required to be set forth in a tariff, whether or not those rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement will nevertheless be subject to scrutiny under other provisions of the Act.

Section 572.208—Acquisitions.

This section recites the language of section 4(c) of the Act. Such transactions are outside the scope of these rules.

Subpart C of the Rules—Exemptions and Exclusions.

Subpart C contains rules which partially implement the Commission's exempting authority under section 16. This subpart establishes general procedures for granting or revoking an exemption for an agreement or class of agreements. The formalization of these procedures by rule is new but is based on past Commission practice in considering exemption matters. In addition to formalizing exemption procedures by rules, Subpart C would continue to exempt under the 1984 Act certain classes of agreements which are presently exempt under the 1916 Act. The substantive standard for granting an exemption under section 16 of the Act has been expanded slightly from the section 35 standard of the 1916 Act to include a finding that the exemption does not result in a substantial reduction in competition. Moreover, the effect of an exemption under the 1984 Act differs from an exemption under the 1916 Act inasmuch as an exemption under the new statute confers antitrust immunity. The Commission has evaluated the current exemptions under the 1916 Act and believes that continuation of certain of these existing exemptions under the new Act is warranted. The current exemption for military household goods agreements, however, is not continued because such agreements between non-vessel-operating common carriers are outside the scope of the 1984 Act. Interested persons will have an opportunity to comment on the continuation, discontinuation or modification of the exemptions.

Sections 7(a)(4) and 7(a)(5) of the 1984 Act exclude foreign inland transportation agreements and foreign marine terminal agreements from the filing requirements of the Act and extend antitrust immunity to these agreements. For the purposes of clarity, Subpart C includes sections which restate these statutory exclusions.

Subpart C rules should be consulted to determine whether an agreement falls into a class which is excluded by statute or exempt by rule from filing or other requirements. However, in order to remove any uncertainty which a party may have as to the applicability of an exemption to an agreement, the rules of Subpart C allow for the optional filing of an exempt agreement.

Subpart C is organized so that the general procedures for applying for and granting exemptions are stated first. This is followed by a separate section for each exclusion or exemption. Organizing all exclusions and exemptions under a single subpart eliminates some redundancy in the current rules, and provides for the orderly addition of any new class of agreements which may be exempt in the future. The purpose of this subpart is to remove or minimize the delay in implementation of routine agreements and to avoid unnecessary costs.

Section 572.301(a)—Authority.

This section of the rules is based on section 16 of the Act and recites the language of the Act which authorizes the Commission to exempt certain classes of agreements from any requirement of the Act. This section implements only the authority to exempt any class of agreements and does not implement the Commission's authority to exempt any specific activity of persons subject to the Act. This section recites the finding which the Commission must make in order to grant an exemption, namely, that the exemption will not substantially impair effective regulation, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

Section 572.301(b)—Optional Filing.

Section 572.301(b) provides for the optional filing of an exempt agreement. The purpose of this paragraph is to enable parties who are uncertain of the application of an exemption to their agreement to file the agreement and thereby remove that uncertainty. Such optional filing of an exempt agreement, however, must be accompanied by the Information Form.

Section 572.301(c)—Application for Exemption.

Section 16 of the Act provides that persons may apply for an exemption of any agreement or class of agreement from any requirement of the Act or may seek revocation of an existing exemption. Section 572.301(c) restates that right to file such an application. Section 572.301(c) specifies the particular requirements of such an application including a requirement that information provided be relevant to the finding which must be made in order to grant or continue an exemption.

Section 572.301(d)—Participation by Interested Persons.

This section restates the language of section 16 which affords interested persons an opportunity for hearing regarding any proposal to adopt or revoke an exemption. The Act does not define the meaning of "opportunity for hearing." The appropriate "opportunity for hearing" will be decided on a case-by-case basis. In some cases the opportunity to comment on an exemption proposal in response to **Federal Register** notification may be sufficient.

Section 572.301(e)—Federal Register Notice.

Section 16 of the Act provides that no exemption may be adopted or revoked, in whole or in part, by the Commission unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States. This section establishes notice in the **Federal Register** as the means for informing interested persons. The **Federal Register** notice shall contain sufficient information concerning the exemption to enable interested persons to submit relevant comment.

Section 572.301(f)—Retention of Agreement by Parties.

Under this section parties are not required to file a copy of an exempt agreement, but merely to retain a copy of the agreement and make it available upon request by the Commission. This requirement is necessary in order to ensure that the Commission fulfulls its monitoring responsibilities with regard to such agreements.

Section 572.302—Foreign Inland Transportation Agreements—Exclusion.

Section 5(a) of the Act states, in part, that agreements related to transportation to be performed within foreign countries are not required to be filed with the Commission. Section 7(a)(4) provides that the antitrust laws do not apply to "any agreement or activity concerning the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade." The effect of these provisions is to extend antitrust immunity to a class of agreements that is excluded by statute from filing requirements. This section restates this statutory exclusion.

Section 572.303—Foreign Marine Terminal Agreements—Exclusion.

This section makes explicit the exclusion of foreign marine terminal agreements from the filing and Information Form requirements of the Act and these rules. Such agreements may be viewed as a specific type of foreign transporation agreement and thereby excluded from filing by section 5(a) of the Act. Foreign marine terminal agreements are specifically referred to and given antitrust immunity in section 7(a)(5).

Section 572.304—Non-Substantive Modification to Existing Agreements—Exemption.

This section continues, in a modified form, the present exemption of non-substantive agreements contained in 46 CFR 524.2 and exempts such agreements pursuant to section 16 of the 1984 Act. Paragraphs (d)(1) and (d)(2) of the current exemption are removed.

Section 572.305—Husbanding Agreements—Exemption.

This section clarifies and continues the exemption of husbanding agreements presently contained in 46 CFR Part 520 and exempts such agreements pursuant to section 16 of the 1984 Act.

Section 572.306—Agency Agreements—Exemption.

This section clarifies and continues the present exemption for agency agreements contained in 46 CFR Part 520 and exempts such agreement pursuant to section 16 of the 1984 Act.

Section 572.307—Equipment Interchange Agreements—Exemption.

This section continues the present exemption of equipment interchange agreements contained in 46 CFR Part 524 and exempts such agreements pursuant to section 16 of the 1984 Act.

Section 572.308—Joint Policing Agreements—Exemption.

This section continues, on an interim basis, the present exemption of joint policing agreements contained in 46 CFR Part 524. The Commission, however, proposes to terminate this exemption 30 days from the issuance of a final rule. The Commission believes that such agreements should be filed and reviewed because of their potential for adverse effects upon shippers.

Section 572.309—Credit Information Agreements—Exemption.

This section continues, on an interim basis, the present exemption for credit

information agreements contained in 46 CFR 524. The Commission, however, proposes to terminate this exemption 30 days from the issuance of a final rule. The Commission believes that such agreements should be filed and reviewed because credit is an important factor in price competition and should be placed under regulatory scrutiny.

Section 572.310—Non-Exclusive Transshipment Agreements—Exemption.

This section continues, in a modified form, the present exemption for non-exclusive transshipment agreements contained in 46 CFR Part 524. The modifications refine the description of the type of agreement which is exempt. This will permit inclusion of matters in the agreement which are more fully representative of the usual actual arrangement of the parties for the conduct of commercial transshipment activities. The modifications permit inclusion in the arrangement of any specifics of equipment interchange service rationalization and agency arrangements as may be necessary to complete the contemplated carriage. Additionally, these agreements now will be exempt from filing, but only if limited in scope to the provisions set forth. The exemption from filing eliminates the need to continue the requirement of a specified form of agreement.

Subpart D of the Rules—Filing and Form of Agreements

Section 5 of the Act establishes a requirement that every agreement subject to the Act shall be filed with the Commission. A special provision makes assessment agreements effective upon filing. The Commission is empowered under section 5(a) to prescribe by rule the form and manner in which an agreement shall be filed and the additional information and documents necessary to evaluate an agreement.

Subpart D contains rules implementing section 5 filing requirements. These rules contemplate that new agreements and modifications to existing agreements shall be filed in loose-leaf, notebook-style format. These requirements are designed to facilitate the necessary expedited processing of agrements, upgrade the Commission's agreement recordkeeping process and enhance its data retrieval ability. The requirements are developed from, and based upon, past Commission experience in these areas and the recognition of the difficulties encountered under former procedures.

The establishment of a loose-leaf, notebook-style requirement for filing of agreements is considered necessary for standardization and maintenance of the agency's record systems and their ultimate conversion to more automated storage and retrieval. It will also facilitate expedited review of agreements. The loose-leaf form is not a new notion with respect to agreement filings. It is presently used by some major conference agreements on their own initiative. Its convenience of use and maintenance should be apparent to the parties.

Subpart D also implements the information requirements under section 5 by requiring the filing of an Information Form with certain agreements. The purpose of the Form is to provide the Commission with the information needed to evaluate an agreement. Only that information which is needed for the Commission's initial substantive review shall be required. A more complete discussion of the basis and purpose of the Information Form appears below. The Information Form requirement is not being imposed on assessment or terminal agreements.

Section 572.401—Filing of Agreements.

All agreements shall be filed with the Secretary of the Commission. The Commission will require a true copy and 15 additional copies of an agreement and the Information Form. This number of copies will be needed to enable the various involved offices of the Commission to review a filed agreement. The requirements specifying who may file an agreement and how it is transmitted are designed to avoid delays in the agreement reception process and to minimize the number of rejections. This section shall apply to all agreements and modifications filed on or after June 18, 1984.

Section 572.402—Form of Agreements.

This section states certain technical requirements as to form. The purpose of the proposed loose-leaf style filing is to ensure compatability of agreements' documents with the Commission's records systems, and to ensure the legibility and durability of these documents. The specifications are modeled on those used in tariff publication. This system should also facilitate the modification of agreements and reduce the burden on parties filing modifications to their agreements. This section shall apply to all new agreements, other than assessment or marine terminal agreements, filed on or after June 18, 1984. It is not mandatory that modifications of existing agreements filed during the pendency of this rulemaking meet these requirements but the parties may do so if the modifications are incorporated in a restatement of the entire agreement. Upon completion of this rulemaking proceeding and final issuance of these provisions, all existing agreements will be required, within a reasonable period of time to be specified, to be refiled to meet the form requirements then imposed. Parties are invited to comment on the period of time to be specified.

Section 572.403—Modification of Agreements.

This section provides guidance for the filing of modifications to agreements. Modifications to agreements must include an Information Form where the modification may result in a reduction in competition.

Section 572.404—Application for Waiver.

This section provides procedures for the waiver of the form requirements of this subpart upon a showing of good cause.

Section 572.405—Information Form.

Section 5(a) of the Act authorizes the Commission to prescribe by rule the additional information and documents necessary to evaluate an agreement. The legislative history to section 6 of the Act (H.R. Rep. No. 98-600, 98th Cong., 2d Sess. 30 (1984)) indicates that the agreement review procedure established under the Act is modeled upon the Hart-Scott-Rodino procedures governing clearance of proposed acquisitions and mergers (Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a). Pursuant to its Hart-Scott-Rodino authority, the Federal Trade Commission has developed a reporting form to aid its review of proposed mergers. Section 572.401 of these rules implements the Commission's authority under section 5(a) of the Act by requiring the filing of an Information Form with certain agreements. The Information Form is intended to enable the Commission to obtain the information needed to carry out its responsibility to review an agreement under the substantive standard set forth in section 6(g). The information requested on the Form does not seek all information which may be relevant to an agreement. Rather it requires only that information which would enable the Commission to expeditiously perform its responsibilities under section 6(g) of the Act. Parties to an agreement will therefore not be burdened with supplying any more information than is necessary for the Commission to conduct its initial substantive review. Use of the Form should also benefit the parties by removing any uncertainty

about the depth of information which the Commission believes is necessary and relevant to its initial substantive review of an agreement. Only agreements where some further need for information is warranted would therefore be subject to a request for additional information. Parties also have the option of filing any additional information and documents which they believe may be relevant to the Commission's review of an agreement.

This section provides that where parties are unable to complete a particular item on the Form, they will not be deemed to be in non-compliance with these rules, provided that an adequate explanation for the incomplete item is submitted. This procedure is intended to fulfill the directives of the legislative history that information requirements should not be unduly burdensome and should be within the parties' grasp. The explanation of an incomplete item is intended to enable the Commission to determine whether compliance would be unduly burdensome or unreasonably beyond the information available to the parties. This procedure applies to each incomplete response on the Form.

Subpart E of the Rules—Content and Organization of Agreements

Sections 5 (b) and (c) of the Act require certain mandatory provisions in conference and interconference agreements. Subpart E implements these requirements and contains certain rules which establish a standard organization for agreements. Specific language is not required by these rules. Parties to agreements will retain the full measure of flexibility in fashioning their commercial arrangements. The purpose of these minimal organizational requirements is to facilitate the Commission's preliminary review to determine whether an agreement meets technical filing requirements and the substantive review of an agreement under the general standard set forth in section 6(g) and the prohibited acts listed in section 10. Moreover, as with the Subpart D requirements regarding form, these contents and organization requirements will enhance the Commission's data retrieval capabilities without imposing any significant burden on parties to agreements. In fact, these minimal requirements as to agreement organization may be of assistance to the parties in preparing their agreements.

As in the case of Subpart D form requirements, the organization and content requirements of Subpart E will apply immediately to all new agreements filed on or after June 18, 1984, except assessment or marine terminal agreements. Parties filing modifications to existing agreements may restate their agreements to conform to Subpart E requirements. Upon completion of this proceeding, parties to existing agreements will be given a reasonable period of time in which to meet the requirements of this subpart.

Section 572.501—Agreement Provisions—Organization.

This section sets forth certain basic articles which are required in most agreements. The purpose of this requirement is to facilitate review of the essential terms of an agreement. This section does not require specific language. The parties therefore are not restricted in establishing their commercial relationships. Since each of these nine articles may be found in virtually all agreements and since the articles are limited to what may be considered the essential terms of any agreement, the burden on agreement parties is minimal. Persons are encouraged to comment on the desirability of including additional specified provisions in the standardized organization set forth in this section. In the case of conference agreements, certain additional provisions are required by section 5(b) of the Act.

Section 572.502—Organization of Conference and Interconference Agreements.

This section specifies certain additional provisions required of conference, interconference, freight conference, and passenger conference agreements.

Subpart F of the Rules—Action on Agreements

Section 6 of the Act establishes procedures under which agreements shall be reviewed and acted upon by the Commission. A strict schedule for processing agreements is mandated. Section 6 provides for public notice of filed agreements and for rejection of agreements that fail to meet technical filing requirements. Filed agreements will go into effect in 45 days unless a request for expedited approval is granted or the Commission seeks additional information or injunctive relief. Section 6 contains the substantive standard under which agreements are reviewed and authorizes the Commission to bring suit to enjoin an agreement and to seek court enforcement of its information requests. Section 6 also preserves the confidentiality of information submitted with agreements.

Subpart F contains rules implementing the provisions of section 6. A fundamental purpose of section 6 is to streamline the processing of agreements filed with the Commission and to ensure that agreements will be acted upon in an expeditious manner. The model for Commission review of agreements is that portion of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94–435, 90 Stat. 1390, governing premerger clearance of proposed acquisitions and mergers. In most cases, agreements will become effective following the observance of a 45-day waiting period. The rules in Subpart F are intended to establish clear procedures for the processing of agreements, so that the Commission may be able to review agreements based on necessary and relevant information within the time allowed by the statute.

Section 572.601—Preliminary Review—Rejection of Agreements.

Section 6(a) of the Act provides that any filed agreement which fails to meet the requirements of section 5 of the Act shall be rejected. The first step in the processing of an agreement is a preliminary review to determine whether the agreement and accompanying Information Form meet the technical filing requirements of the Act and these rules. Where an agreement fails to provide for required statutory provisions or to meet the requirements of these rules, or where the Information Form is incomplete and an adequate explanation is not provided, the agreement shall be rejected. Parties will be notified in writing of the rejection of an agreement and the reasons for rejection. Along with the notice of rejection, the agreement, the Form, and all accompanying materials shall be returned to the parties. When an agreement is rejected, the running of the waiting period terminates. Should the parties refile, the refiled agreement would be subject to the full waiting period required under the Act.

Section 572.602—Federal Register Notice.

Section 6(a) of the Act requires the Commission to transmit notice of the filing of an agreement to the **Federal Register** within seven days of receipt. This section implements that requirement. The Commission will transmit such notice immediately upon completion of its preliminary review. The content of the **Federal Register** Notice is based on the Commission's current rule at 46 CFR 522.6.

Section 572.603—Comment.

This section provides for comment by any interested person on an agreement. Comments may include documentary or other information. Such comments and information shall be accorded the full measure of confidentiality permitted by law.

Section 572.604—Waiting Period.

Section 6 requires that parties to agreements observe a waiting period, usually 45 days, prior to implementing a filed agreement. This section sets forth certain technical provisions which make clear when the waiting period commences, when it may be tolled, when it is resumed, and when it terminates.

Section 572.605—Requests for Expedited Approval.

Section 6 of the Act allows parties to an agreement to request expedited approval of an agreement. Section 572.605 sets forth grounds and procedures for applying for and granting expedited approval. The rule makes clear that such requests will generally be granted only in exceptional circumstances.

Section 572.606—Requests for Additional Information.

Section 6(d) of the Act authorizes the Commission to issue requests for additional information. Section 572.507 implements that section of the Act.

Section 572.607—Failure To Comply With Requests for Additional Information.

Section 6(i) of the Act authorizes the Commission to seek court enforcement of its information requests. This section is based on that provision of the Act.

Section 572.608—Confidentiality of Submitted Material.

Section 6(j) of the Act provides that all information submitted by a filing party other than the agreement itself shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). This section of the rules implements the Act's confidentiality provision.

Section 572.609—Negotiations.

The section makes clear that the negotiation process may take place at any time after the filing of an agreement up to the conclusion of an injunctive proceeding. The negotiation process will thus be available throughout the pendency of an agreement to resolve differences over an agreement. Where more expeditious, alternative solutions may be found, the parties and the Commission may avoid the cost of litigation. The negotiation process is limited to the filing party and Commission personnel. Shippers, other government departments or agencies, and other third parties may not participate in negotiations.

Subpart G of the Rules—Reporting and Record Retention Requirements.

Section 15 of the Act authorizes the Commission to obtain reports from any common carrier subject to the Act. The Commission may also require a conference to file conference minutes with the Commission. Subpart G contains rules which implement the various record retention and reporting requirements under the Act. Some types of data, such as conference minutes, must be submitted directly to the Commission. Other information is required to be kept by the carrier and an index of the records is required to be filed with the Commission. The Commission seeks to ensure that sufficient information is available to satisfy its statutory responsibility to adequately monitor the concerted activities of regulated parties.

Section 572.701—General Requirements.

This section contains certain general requirements which apply to all reports required by this subpart.

Section 572.702—Filing of Reports Related to Shippers' Requests and Complaints and Consultations.

The Act requires conferences to provide for a consultation process and to establish procedures for considering shippers' requests and complaints. This section requires the filing of annual reports which will enable the Commission to determine whether conferences are fulfilling their responsibilities under the Act. This section reduces current requirements for shipper requests and complaints and establishes new requirements for reporting on consultations.

Section 572.703—Filing of Minutes.

This section requires certain agreements to file minutes of meetings. Discussions of certain matters, however, are exempt from the filing requirement of this section. This section is essentially a continuation of current requirements.

Section 572.704—Index of Documents.

This section requires that certain agreements maintain an index of certain documents distributed to member lines. Its purpose is to further assist the Commission in fulfilling its monitoring responsibilities under the Act. The index of documents is essential to the maintenance of effective surveillance over concerted ocean carrier activities. The Commission merely seeks the identity of the documents, rather than copies of the documents themselves.

Section 572.705—Waiver of Reporting and Record Retention.

This section provides for waiver of any of the provisions of this subpart.

Subpart H of the Rules—Transition Rules.

This subpart establishes rules dealing with certain transitional matters involving agreements in existence prior to the effective date of the 1984 Act. One purpose of this subpart is to bring existing conference agreements into conformance with the mandatory provisions for conference agreements set forth in section 5(b) of the Act. Section 20(d) of the Shipping Act of 1984 (46 U.S.C. app. 1719(d)) continues conference agreements previously approved under section 15 of the Shipping Act, 1916, "as if approved or issued under this Act." Even though conference agreements remain in effect and retain antitrust immunity, the legislative history of the Act supports Commission action to assure that such agreements meet certain requirements of the Shipping Act of 1984. H.R. REP. No. 53, Part 2, 98th Cong., 1st Sess. 33 (1983).

Conference agreements already contain provisions relating to their purpose and the admission, readmission and withdrawal of members which meet or may even exceed the requirements of section 5(b) in these areas. Model provisions implementing these statutory requirements, therefore, are not necessary. However, no conference agreement approved under section 15 of the Shipping Act, 1916 fully complies with all of the requirements of section 5(b). Although conferences are free after June 18, 1984 to file amendments in order to comply with section 5(b) and implementing rules issued by the Commission, any amendment will only become effective 45 days after filing. (*See* section 6 (46 U.S.C. app. 1705)). During the interim, conferences could be in violation of section 5(b). In order to alleviate this potential problem, the Commission is prescribing model provisions to be incorporated in existing conference agreements during this interim period. Rather than requiring conferences to file an amendment containing the model provisions, the Commission is permitting conferences simply to file a telex followed by a letter, or a letter, signed by all parties or their duly authorized representatives

evidencing the adoption of the mandatory provisions contained herein. It is not necessary for the parties to recite verbatim the mandatory provisions contained in § 572.801(a) through 572.801(e). It is sufficient to state that the conference adopts as a modification to its agreement § 572.801(a) through 572.801(e). The deadline for adoption is June 18, 1984.

Section 572.801—Mandatory Provisions in Existing Conference Agreements.

Section 5(b) of the Act sets forth certain required provisions for all conference agreements. This section provides certain model mandatory provisions which, if adopted, assure that existing conference agreements shall be fully in conformance with the Act on June 18, 1984 and will continue to remain in effect pursuant to section 20(d) of the Act.

Section 5(b)(4) of the Act requires conferences, at the request of any member, to require an independent neutral body to police the obligations of the conference and its members. Section 572.801(a) assures compliance with this statutory requirement by including such provision in a conference agreement. The Commission is removing its current self-policing regulations contained in 46 CFR Part 528 from application to agreements subject to the 1984 Act and is merely requiring the statement in section 572.801(a) to assure compliance with the 1984 Act. To the extent that conferences do have neutral body policing, those provisions are integral to the agreement and such authority and procedures must be included in the agreement.

Section 5(b)(5) of the Act requires conferences to contain a provision which states that the conference is prohibited from engaging in conduct prohibited by section 10(c) (1) or (3) of the Act. Section 572.801(b) assures compliance with this requirement.

Sections 5(b) (6) and (7) of the Act require conferences to provide for consultation procedures and procedures dealing with shipper's requests and complaints. Sections 572.801(c) and 572.801(d) assure compliance with this requirement.

Section 5(b)(8) of the Act requires every conference agreement to contain a provision permitting any member to take independent action on any rate or service item in the conference tariff, on not more than 10 days' notice to the conference. Section 572.801(e) of the rules implements the independent action requirement of the statute by mandating an independent action provision. The provision makes it clear that once proper notice is received, the conference must include the new rate or service item in its tariff within 10 days, or a lesser time if the conference so decides. Other conference members must then be provided the opportunity to adopt the independent rate or service item on or after its effective date. The provision also prohibits a conference member from taking independent action on a conference service contract or time/volume contract, unless the conference agreement specifically provides otherwise. Unless otherwise provided in its agreement, the conference may regulate or prohibit its members from unilaterally entering into such contracts and may also prevent any member from taking independent action on any service contract and any time/volume contract offered by the conference. Section 5(b)(8) requires a right of independent action only as to those rate or service items "required to be filed in a tariff under section 8(a) of [the] Act." Since service contracts are governed by section 8(c) of the Act and are not required to be filed in tariffs, conference members need not be provided the right to take action independent of them. Consequently, the Commission has accorded the same treatment to time/volume contracts because they are conceptually so similar to service contracts and to do otherwise might frustrate the compromise apparent in the statute concerning conference control over the use of service contracts. The Commission's interim rule on contract arrangements does not require time/volume contracts to be published in tariffs and this rule does not require independent action on a conference time/volume contract unless otherwise provided by the conference. Time/volume rates published in tariffs without any underlying contract are subject to the independent action requirements of the rule.

Section 572.802—Mandatory Provision in Existing Interconference Agreements.

This section recites the requirement of section 5(c) of the Act that all interconference agreements must provide for the right of independent action. However, given the fact that existing interconference agreements contain such a provision, such agreements are in conformance with the 1984 Act and do not require any modification in order to conform to section 20(d) of the Act.

Section 572.803—Expiration Dates in Existing Agreements.

Existing agreements with specified terms, either agreed to by the parties or previously required by the Commission, shall remain in effect after the effective date of the Act, June 18, 1984. Action to renew or eliminate the termination date is subject to the waiting period required in section 6(c) of the Act. Parties are advised to file modifications for renewal or elimination of a termination date sufficiently in advance to guarantee expiration of the waiting period during the term of the existing agreement, in order to avoid any lapse in authority.

Subpart I of the Rules—Penalties.

This subpart provides for the application of penalties for certain violations of the rules of this part pursuant to section 13(a) of the Act.

Section 572.901—Failure to File.

Failure to file an agreement is a violation of section 5(a) of the Act and the rules of Subpart C. Such failure is subject to the penalties of section 13(a) of the Act. Maximum penalties are $5,000 for each violation unless the violation was willfully and knowingly committed, in which case the maximum penalty is $25,000 for each violation.

Section 572.902—Falsification of Reports.

Falsification of any report required by the Act and these rules, including falsification of any item on the Information Form, will be subject to the civil penalties set forth in section 13(a) of the Act. Such violations may also be subject to criminal sanctions under 18 U.S.C. 1001.

Appendix A to the Rules—Information Form.

Parties to agreements, referenced in Section 572.201 (excluding assessment agreements, marine terminal agreements, and those agreements exempted from the filing of the Information Form pursuant to Subpart C of these rules), by or among ocean common carriers, shall be required to file with each agreement an Information Form (Form). The Information Form is attached as Appendix A to Part 572.

Section 6(g) of the Act states that the Commission may file suit to enjoin an agreement if it determines "that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation costs." The legislative history provides guidance on the kind of analysis which Congress expected the Commission to make under the general standard. H.R. Rep. No. 98–600, 98th Cong., 2d Sess. 33–37 (1984). Such an analysis may include a consideration of the relevant market, including all competitive transportation

alternatives, and the share of that market possessed by the parties. The Commission is required to consider the likely impact of the agreement on costs and services to shippers and to ports, and to weigh any negative impact on costs or services against other offsetting benefits, such as any efficiency-creating aspects of the agreement and the ability of a conference to address problems of overcapacity and rate instability. In general, Congressional intent is clear that before the Commission intercedes under the general standard, the likely reduction in competition resulting from the agreement should be substantial.

The Information Form is intended to furnish the Commission with the information necessary to make the initial substantive review of an agreement under the general standard. Given the statutory 45-day period before a filed agreement becomes effective and limited Commission resources, the Form was designed to capture information that would enable the Commission to perform its responsibilities expeditiously under section 6(g) of the Act. The Form is not intended to elicit all potentially relevant information concerning an agreement, but only that information which is necessary, limited to the issues at hand and not unduly burdensome. The nature of a particular agreement will determine the extent of information required. Relevant information not specifically requested by any part of the Form may be obtained, where necessary, by a request for additional information under section 6(d) of the Act. The Commission recognizes that the amount of information requested on the Information Form is significant. These information needs may be refined as the Commission gains experience under the general standard and determines what is relevant and essential to that review. In addition, the Commission plans to develop its own internal sources of trade information and as this information becomes available may be able to reduce the amount of information required on the Form. The Commission wishes to emphasize that the quantum of information required on the Form is not meant to shift the burden of proof to the parties to an agreement. The Commission fully recognizes that the statute places the burden of proof on the Commission in any injunctive proceeding under the general standard. At this point, the Form reflects the Commission's preliminary determination as to the information it will need to carry out the review functions under the Act. Finally, it should be noted that where the parties are unable to complete a particular item, the rules provide that completion of that item will not be required provided that an adequate explanation is given.

A completed Form must accompany all agreements, referenced in § 572.201 (excluding assessment agreements, marine terminal agreements, and those agreements exempted from the filing of the Information Form pursuant to Subpart C of these rules), by or among ocean common carriers that are required to be filed with the Commission. Agreements that do not provide for rate fixing (i.e., concerted actions fixing or agreeing on rates), pooling, or joint-services/consortia, are not required to complete Parts III and IV, which seek information on market shares and market competition. These three types of agreements, of all agreements historically filed with the Commission, are the most likely to trigger the 6(g) standard because of their potential to create excessive market power. Market power is the ability to set and maintain prices that yield above-normal profits over a sustained period of time. Where new and evolving forms of cooperative conduct cause substantial anticompetitive effects that exceed their benefits, it is believed that either rate fixing, pooling or a joint-service/consortium, or some combination thereof, will be involved. This does not, however, preclude the Commission from assessing the anticompetitive consequences of other types of agreements and taking the appropriate action under the general standard.

While there may be occasions when rate fixing, pooling, joint-service/consortium, or other types of agreements may lead to excessive market power raising substantial issues of unreasonably anticompetitive effects, excessive market power is most likely to occur in trades where foreign governments restrict entry to the trade or access to cargoes. Given the contestability of markets in the liner shipping industry—where contestability in the liner industry is indicated by the industry's history of frequent entry and exit and the mobility of its resources from one trade to another—in all but the rarest cases, only government laws, decrees, rules, regulations or other governmental actions can effectively block entry to a trade. Accordingly, Part VI of the Form requests information that would permit the Commission to assess the extent of foreign government involvement in the liner market.

Part V requests information about U.S. ports proposed to be served under the agreement and any reduction in service frequency or the elimination of service to certain U.S. ports. Part V is intended to address that aspect of the section 6(g) general standard concerning certain agreements that might "produce an unreasonable reduction in transportation service."

Part VII of the Form requests information on any benefits resulting from the agreement that may accrue to the parties, the shipping public, or to U.S. commerce generally. This part is included in the Form in response to Congressional intent that the Commission, in its review of an agreement under the section 6(g) general standard, should consider that increases in efficiency may offset a reduction in competition.

III. Conclusion

The rules contained in Part 572, and the accompanying Information Form, are intended to establish a comprehensive regulatory framework which fulfills the purposes of the Shipping Act of 1984. The rules are intended to facilitate the filing of agreements by parties and the review of agreements by the Commission with a minimum of government intervention and regulatory cost.

The Chairman of the Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that these rules will not have a significant economic impact on a substantial number of small entities, within the meaning of that Act. The primary economic impact of these rules would be on ocean common carriers which generally are not small entities. A secondary impact may fall on shippers, some of whom may be small entities but that impact is not considered to be significant.

The collection of information requirements in these rules and the Information Form have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the information collection aspects of the rules should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for the Federal Maritime Commission.

List of Subjects in 46 CFR Part 572

Antitrust, Contracts, Maritime carriers, Administrative practice and procedure, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 2, 3, 4, 5, 6, 7, 8, 10, 11,

13, 15, 16, 17, and 18 of the Shipping Act of 1984 (46 U.S.C. app. 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1709, 1710, 1712, 1714, 1715, 1716 and 1717), the Federal Maritime Commission hereby amends Title 46, Code of Federal Regulations, by adding new Part 572 to Subchapter D to read as follows:

PART 572—AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

Subpart A—General Provisions

Subpart B—Scope

Subpart C—Exemptions and Exclusions

Subpart D—Filing and Form of Agreements

Subpart E—Content and Organization of Agreements

Subpart F—Action on Agreements

Subpart G—Reporting and Record Retention Requirements

Subpart H—Transitional Rules

Subpart I—Penalties

Authority: Sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16, 17 and 18 of the Shipping Act of 1984 (46 U.S.C. app. 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1709, 1710, 1712, 1714, 1715, 1716 and 1717).

Subpart A—General Provisions

§ 572.101 Authority.

The rules in this part are issued pursuant to the authority of section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16, 17 and 18 of the Shipping Act of 1984 ("the Act").

§ 572.102 Purpose.

These rules implement those provisions of the Act which govern agreements by or among ocean common carriers and other entities subject to the filing requirements of the Act and set forth more specifically certain procedures provided for in the Act.

§ 572.103 Policies.

(a) The Shipping Act of 1984 requires that agreements be processed and reviewed according to strict statutory deadlines. These rules are intended to establish procedures for the orderly and expeditious review of filed agreements in accordance with the statutory requirements.

(b) The Act requires that agreements be reviewed in accordance with a general standard as set forth in section 6(g) of the Act and empowers the Commission to obtain certain information to conduct that review. These rules set forth the kind of information for particular types of agreements which the commission believes relevant to that review. Only that information which is relevant to a 6(g) review is requested. It is the policy of the Commission to keep the costs of regulation to a minimum and at the same time obtain information needed to fulfill its statutory responsibility.

(c) In order to further the goal of expedited processing and review, agreements are required to meet certain minimum requirements as to form. These requirements are intended to ensure expedited review and should assist parties in preparing agreements. These requirements as to form do not affect the substance of an agreement and are intended to allow parties the freedom to develop innovative commercial relationships and provide efficient and economic transportation systems.

(d) The Act itself excludes certain agreements from filing requirements and authorizes the Commission to exempt other classes of agreements from any requirement of the Act or these rules. In order to minimize delay in implementation of routine agreements and to avoid the private and public cost of unnecessary regulation, the Commission is exempting certain classes of agreements from the filing or information requirements of these rules.

(e) Under the new regulatory framework established by the Act, the role of the Commission as a monitoring and surveillance agency has been enhanced. The Act favors greater freedom in allowing parties to form their commercial arrangements. This however, requires greater monitoring of agreements after they have become effective. The Act empowers the Commission to impose certain recordkeeping and reporting requirements. These rules identify those classes of agreements which require specific record retention and reporting to the Commission and prescribe the applicable period of record retention, the form and content of such reporting, and the applicable time periods for filing with the Commission. These rules assure that Commission monitoring responsibilities will be fulfilled.

(f) The Act requires that conference agreements must contain certain mandatory provisions. These rules provide a means for immediate compliance and grandfathering of existing agreements on the effective date of the new statute by a simple acceptance of model provisions by letter

or telex on or before June 18, 1984. These rules also provide that conferences may file their "own" modifications to meet these statutorily mandated provisions on or after June 18, 1984. As the conference "sponsored" modifications of agreements become effective after the statutory review period, the model provisions would be superseded.

§ 572.104 Definitions.

When used in this part:

(a) *Agreement.* The term "agreement" means an understanding, arrangement or association, written or oral (including any modification or appendix) entered into by or among ocean common carriers and/or marine terminal operators, but does not include a maritime labor agreement.

(b) *Antitrust laws.* The term "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto.

(c) *Appendix.* The term "appendix" means a document containing additional material of limited application and appended to an agreement, distinctly differentiated from the main body of the basic agreement.

(d) *Assessment agreement.* The term "assessment agreement" means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent that it provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel of equipment utilized.

(e) *Common carrier.* The term "common carrier" means a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that: (1) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and (2) utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

(f) *Conference agreement.* The term "conference agreement" means an agreement between or among two or more ocean common carriers or between or among two or more marine terminal operators for the conduct or facilitation of ocean common carriage and which provides for: (1) The fixing and adherence to uniform rates, charges, practices and conditions of service relating to the receipt, carriage, handling and/or delivery of passengers or cargo for all members; (2) the establishment of a central organization to conduct the collective administrative affairs of the group: and may include (3) the filing of a common tariff in the name of the group and in which all the members participate, or, in the event of multiple tariffs, each member must participate in at least one such tariff. The term does not include consortium, joint service, pooling, sailing or transshipment agreements.

(g) *Consultation.* The term "consultation" means a process whereby a conference and a shipper confer for the purposes of resolving commercial disputes or preventing and eliminating the occurrence of malpractices.

(h) *Cooperative working agreement.* The term "cooperative working agreement" means an agreement which establishes exclusive, preferential, or cooperative working relationships which are subject to the Shipping Act of 1984, but which do not fall precisely within the arrangements of any specifically defined agreement.

(i) *Effective agreement.* The term "effective agreement" means an agreement approved pursuant to section 15 of the Shipping Act, 1916 or filed and effective pursuant to sections 5 and 6 of the Act.

(j) *Equal access agreement.* The term "equal access agreement" means an agreement between ocean common carriers of different nationalities, as determined by the incorporation or domicile of the carriers' operating companies, whereby such common carriers associate for the purpose of gaining reciprocal access to cargo which is otherwise reserved by national decree, legislation, statute or regulation to carriage by the merchant marine of the carriers' respective nations.

(k) *Independent neutral body.* The term "independent neutral body" means a disinterested third party, authorized by a conference and its members to review, examine and investigate alleged breaches or violations by any agreement member of the conference agreement and/or the agreement's properly promulgated tariffs, rules or regulations.

(l) *Information form.* The term "Information Form" means the form containing economic information which must accompany the filing of certain kinds of agreements.

(m) *Interconference agreement.* The term "interconference agreement" means an agreement between conferences serving different trades.

(n) *Joint service/consortium agreement.* The term "joint service/consortium agreement" means an agreement between ocean common carriers operating as a joint venture whereby a separate service is established which: (1) Holds itself out in its own distinct operating name; (2) fixes its own rates, charges, practices and conditions of service; (3) publishes its own tariff(s) in its own operating name; (4) issues its own bills of lading; and (5) acts generally as a single carrier. The common use of facilities may occur and there is no competition between members for traffic in the agreement trade; but they otherwise maintain their separate identities.

(o) *Marine terminal facilities.* The term "marine terminal facilities" means one or more structures (and services connected therewith) comprising a terminal unit, including, but not limited to docks, berths, piers, aprons, wharves, warehouses, covered and/or open storage space, cold storage plants, grain elevators and/or bulk cargo loading and/or unloading structures, landings, and receiving stations, used for the transmission, care and convenience of cargo and/or passengers or the interchange of same between land and ocean common carriers or between two ocean common carriers. This term is not limited to waterfront or port facilities and includes so-called off-dock container freight stations at inland locations and any other facility from which inbound waterborne cargo may be tendered to the consignee or outbound cargo is received from shippers for vessel or container loading.

(p) *Marine terminal operator.* The term "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier.

(q) *Maritime labor agreement.* The term "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing or administration of a multiemployer

bargaining group; but the term does not include an assessment agreement.

(r) *Modification.* The term "modification" means any change, alteration, correction, addition, deletion, cancellation or revision of an existing effective agreement (including such changes to appendices to an agreement).

(s) *Non-vessel-operating common carrier.* The term "non-vessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation portion is provided, and is a "shipper" in its relationship with an "ocean common carrier."

(t) *Ocean common carrier.* The term "ocean common carrier" means a vessel-operating common carrier, but the term does not include one engaged in ocean transportation by ferry boat or an ocean tramp.

(u) *Ocean freight forwarder.* The term "ocean freight forwarder" means a person in the United States that (1) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers, and (2) processes the documentation or performs related activities incident to those shipments.

(v) *Person.* The term "person" means individuals, corporations, partnerships and associations existing under or authorized by the laws of the United States or of a foreign country.

(w) *Pooling agreement.* The term "pooling agreement" means an agreement between ocean common carriers which provides for the division of cargo carryings, earnings, or revenue and/or losses between the members in accordance with an established formula or scheme.

(x) *Port.* The term "port" means the place at which an ocean common carrier originates or terminates (and/or transships) its actual ocean carriage of cargo or passengers as to any particular transportation movement.

(y) *Sailing agreement.* The term "sailing agreement" means an agreement between ocean common carriers which provides for the rationalization of service by establishing a schedule of ports which each carrier will serve and/or the frequency of each carrier's calls at those ports.

(z) *Service contract.* The term "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

(aa) *Shipper.* The term "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(bb) *Shippers' association.* The term "shippers' association" means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

(cc) *Shippers' requests and complaints.* The term "shippers' requests and complaints" means a communication from a shipper to a conference requesting a change in tariff rates, rules, regulations, or service; protesting or objecting to existing rates, rules, regulations or service; objecting to rate increases or other tariff changes; and/or protests against allegedly erroneous tariff implementation. Routine information requests are not included in the term.

(dd) *Space charter agreement.* The term "space charter agreement" means an agreement between ocean common carriers whereby a carrier (or carriers) agrees to provide vessel capacity for the use of another carrier (or carriers) in exchange for compensation or services. The arrangement may include arrangements for equipment interchange and receipt/delivery of cargo.

(ee) *Through transportation.* The term "through transportation" means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is an ocean common carrier, between a United States point or port and a foreign point or port.

(ff) *Transshipment agreement.* The term "transshipment agreement" means an agreement between an ocean common carrier serving a port or point of origin and another such carrier serving a port or point of destination, whereby cargo is transferred from one carrier to another carrier at an intermediate port served by direct vessel call of both such carriers in the conduct of through transportation. Such an agreement does not provide for the concerted discussion, publication or otherwise fixing of rates for the account of the cargo interests, conditions of service or other tariff matters other than the tariff description of the transshipment service offered, the port of transshipment and the participation of the nonpublishing carrier.

Subpart B—Scope

§ 572.201 Agreements by or among ocean common carriers.

These rules apply to agreements by or among ocean common carriers to:

(a) Discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

(b) Pool or apprortion traffic, revenues, earnings, or losses;

(c) Allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(d) Limit or regulate the volume or character of cargo or passenger traffic to be carried;

(e) Engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carriers;

(f) Control, regulate, or prevent competition in international ocean transportation; and

(g) Regulate or prohibit their use of service contracts.

§ 572.202 Marine terminal operator agreements involving foreign commerce.

These rules apply to agreements (to the extent the agreements involve ocean transportation in the foreign commerce of the United States) among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers to:

(a) Discuss, fix, or regulate rates or other conditions of service; and

(b) Engage in exclusive, preferential, or cooperative working arrangements.

§ 572.203 Marine terminal operator agreements exclusively in interstate commerce.

These rules do not apply to agreements by or among marine terminal operators which exclusively and solely involve transportation in the interstate commerce of the United States.

§ 572.204 Common carrier terminal agreements.

These rules do not apply to agreements among common carriers to establish, operate, or maintain a terminal in the United States.

§ 572.205 Non-vessel-operating common carrier agreements.

These rules do not apply to agreements by or among non-vessel-operating common carriers.

§ 572.206 Ocean freight forwarder agreements.

These rules do not apply to agreements by or among ocean freight forwarders.

§ 572.207 Maritime labor agreements.

These rules do not apply to maritime labor agreements.

§ 572.208 Acquisitions.

These rules do not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

Subpart C—Exemptions and Exclusions

§ 572.301 Exemption procedures.

(a) *Authority.* The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act from any requirement of the Act if it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be deterimental to commerce. The antitrust laws do not apply to any agreement exempted from any requriement of the Act, including filing and Information Form requirements.

(b) *Optional filing.* Notwithstanding any exemption from filing, Information Form, or other requirements of the Act and these rules, any party to an exempt agreement may file such an agreement with the Commission.

(c) *Application for exemption.* Any person may apply for an exemption of revocation of any class of agreements or an individual agreement pursuant to section 16 of the Act and the rules of this subpart. An application for exemption shall state the particular requirement of the Act for which exemption is sought. The application shall also include a statement of the reasons why an exemption should be granted or revoked and shall provide information relevant to any finding required by the Act. Where an application for exemption of an individual agreement is made, the application shall include a copy of the agreement.

(d) *Participation by interested persons.* No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

(e) *Federal Register Notice.* Notice of any proposed exemption or revocation of exemption, whether upon application or upon the Commission's own motion, shall be published in the **Federal Register.** The notice shall include:

(1) A short title for the proposed exemption or the title of the existing exemption;

(2) The identify of the party proposing the exemption or seeking revocation;

(3) A concise summary of the agreement or class of agreements for which exemption is sought, or the exemption which is to be revoked;

(4) A statement that the application and any accompanying information are available for inspection in the Commission's offices in Washington, D.C.; and

(5) The final date for filing comments regarding the application.

(f) *Retention of agreement by parties.* Any agreement which has been exempted by the Commission pursuant to section 16 of the Act and any agreement excluded from filing by the Act shall be retained by the parties and shall be available upon request by the Bureau of Agreements and Trade Monitoring for inspection during the term of the agreement and for a period of three years after its termination.

§ 572.302 Foreign inland transportation agreements—exclusion.

(a) A foreign inland transportation agreement is any agreement concerning the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade.

(b) A foreign inland transportation agreement is excluded from the filing and Information Form requirements of the Act and these rules.

§ 572.303 Foreign marine terminal agreements—exclusion.

(a) A foreign marine terminal agreement is any agreement to provide or furnish wharfage, dock, warehouse, or other terminal facilities outside the United States.

(b) A foreign marine terminal agreement is excluded from the filing and Information Form requirements of the Act and these rules.

§ 572.304 Non-substantive modifications to existing agreements—exemption.

(a) A non-substantive modification to an existing agreement is an agreement between ocean common carriers and/or marine terminal operators, acting individually or through approved agreements, which concerns the procurement, maintenance, or sharing of office facilities, furnishings, equipment and supplies, the allocation and assessment of the costs thereof, or the provisions for the administration and management of such agreements by duly appointed individuals.

(b) A copy of the non-substantive modification shall be submitted for information purposes in the proper format but is otherwise exempt from the Information Form, notice, and waiting period requirements of these rules.

§ 572.305 Husbanding agreements—exemption.

(a) A husbanding agreement is an agreement between a principal and an agent both of which are subject to the Act, which provides for the agent's handling of routine vessel operating activities in port, such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, and linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operator; dealing with passenger and crew matters; and providing similar services related to the above activities. The term does *not* include an agreement which provides for the solicitation or booking of cargoes, signing contracts or bills of lading and other related matters, nor does it include an agreement that prohibits the agent from entering into similar agreements with other carriers.

(b) A husbanding agreement is exempt from the filing and Information Form requirements of the Act and these rules.

§ 572.306 Agency agreements—exemption.

(a) An agency agreement is an agreement between a principal and an agent, both of which are subject to the Act, which provides for the agent's solicitation and booking of cargoes and signing contracts of affreightment and bills of lading on behalf of an ocean common carrier. Such an agreement may or may not also include husbanding service functions and other functions incidental to the performance of duties by agents including processing of claims, maintenance of a container equipment inventory control system, collection and remittance of freight and reporting functions.

(b) An agency agreement between persons subject to the Act except those: (1) Where a common carrier is to be the agent for a competing carrier in the same trade; or (2) which permit an agent to enter into similar agreements with more than one carrier in a trade, is exempt from the filing and Information Form requirements of the Act and these rules.

§ 572.307 Equipment interchange agreements—exemption.

(a) An equipment interchange agreement is an agreement between two

or more ocean common carriers for the exchange of empty containers, chassis, empty LASH/SEABEE barges, and related equipment; and for the transportation of the equipment as required, payment therefor, management of the logistics of transferring, handling and positioning equipment, its use by the receiving carrier, its repair and maintenance, damages thereto, and liability incidental to the interchange of equipment.

(b) An equipment interchange agreement is exempt from the filing and Information Form requirements of the Act and these rules.

§ 572.308 Joint policing agreement—exemption.

(a) A joint policing agreement is an agreement:

(1) Between or among: (i) Two or more common carriers by water; (ii) two or more associations of common carriers by water each operating pursuant to an effective agreement subject to the Act; or (iii) one or more common carriers by water and one or more such associations; and

(2) Which provides that its parties may discuss and agree upon any of the following: (i) The employment of cargo inspection and/or self-policing services; (ii) the establishment of rules and procedures relating thereto (including the collection of delinquent freight and other tariff charges); (iii) the allocation of the costs of such services; and (iv) the administration and management of cargo inspection and/or self-policing.

(b) A joint policing agreement is exempt from the filing and Information Form requirements of the Act and these rules.

(c) This exemption shall expire 30 days from the issuance of the final rule which supersedes this interim rule.

§ 572.309 Credit information agreements—exemption.

(a) A credit information agreement is an agreement between ocean common carriers or their duly appointed representatives which provides for the collection, compilation and exchange of credit experience information.

(b) A credit information agreement is exempt from the filing and Information Form requirements of the Act and these rules, subject to the condition contained in § 572.309(c).

(c) Under such an agreement, the parties cannot discuss or agree on any matter which is required to be published in a tariff pursuant to the Shipping Act of 1984 or any rule published pursuant thereto.

(d) This exemption shall expire 30 days from the issuance of the final rule which supersedes this interim rule.

§ 572.310 Nonexclusive transshipment agreements—exemption.

(a) A nonexclusive transshipment agreement is an agreement by which one ocean common carrier serving a port of origin by direct vessel call and another such carrier serving a port of destination by direct vessel call provide transportation between such ports via an intermediate port served by direct vessel call of both such carriers and at which cargo will be transferred from one to the other and which agreement does not: (1) Prohibit either carrier from entering into similar agreements with other carriers; (2) guarantee any particular volume of traffic or available capacity; or (3) provide for the discussion or fixing of rates for the account of the cargo interests, conditions of service or other tariff matters other than the tariff description of the service offered as being by means of transshipment, the port of transshipment and the participation of the nonpublishing carrier.

(b) A nonexclusive transshipment agreement is exempt form the filing and Information Form requirements of the Act and these rules provided that the tariff provisions set forth in § 572.310(c), and the content requirements of § 572.310(d) are met.

(c) The applicable tariff or tariffs shall provide:

(1) The through rate;

(2) The routings (origin, transshipment and destination ports); additional charges, if any (*i.e.*, port arbitrary and/or additional transshipment charges); and participating carriers; and

(3) A tariff provision substantially as follows:

> The rules, regulations, and rates in this tariff apply to all transshipment arrangements between the publishing carrier or carriers and the participating connecting or feeder carrier. Every participating connecting or feeder carrier, which is a party to transshipment arrangements, has agreed to observe the rules, regulations, rates, and routings established herein as evidenced by a connecting carrier agreement between the parties.

(d) Nonexclusive transshipment agreements must contain the entire arrangement between the parties, must contain a declaration of the nonexclusive character of the arrangement and may provide for:

(1) The identification of the parties and the specification of their respective roles in the arrangement;

(2) A specification of the governed cargo;

(3) The specification of responsibility for the issuance of bills of lading (and the assumption of common carriage-associated liabilities) to the cargo interests;

(4) The specification of the origin, transshipment and destination ports;

(5) The specification of the governing tariff(s) and provision for their succession;

(6) The specification of the particulars of the nonpublishing carrier's concurrence/participation in the tariff of the publishing carrier;

(7) The division of revenues earned as a consequence of the described carriage;

(8) The division of expenses incurred as a consequence of the described carriage;

(9) Termination and/or duration of the agreement;

(10) Intercarrier indemnification or provision for intercarrier liabilities consequential to the contemplated carriage and such documentation as may be necessary to evidence the involved obligations;

(11) The care, handling and liabilities for the interchange of such carrier equipment as may be consequential to the involved carriage;

(12) Such rationalization of services as may be necessary to ensure the cost effective performance of the contemplated carriage; and

(13) Such agency relationships as may be necessary to provide for the pickup and/or delivery of the cargo.

(e) No subject other than as listed in paragraph (d) of this section may be included in exempted nonexclusive transshipment agreements.

Subpart D—Filing and Form of Agreements

§ 572.401 Filing of agreements.

(a) All agreements subject to these rules shall be submitted during regular business hours to the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Such filing shall consist of a true copy and 15 additional copies of the agreement and, where applicable, the accompanying completed Information Form. Agreements must be filed by a responsible official whose authority is expressly provided for in the agreement or by an agent appointed by the agreement. When an agent is employed, an appropriate delegation of authority must either be on file with the Commission or be submitted with the agreement matter being tendered for filing.

(b) A filing shall also include a letter of transmittal which summarizes the agreement's contents. In the case of a

modification to an existing basic agreement, the letter shall include the full name of the agreement and Commission assigned number of the basic agreement and the revision, page, or appendix number. The letter of transmittal shall be signed by the filing party, and shall show immediately below the signature the name, position, business address and telephone number of the filing party.

(c) Any agreement and accompanying Information Form which does not meet the requirements of filing shall be rejected in accordance with § 572.601.

(d) Assessment agreements shall be filed and shall become effective upon filing. Assessment agreements need not be accompanied by an Information Form.

§ 572.402 Form of agreements.

The requirements of this section apply to all agreements except for marine terminal agreements and assessment agreements.

(a) Agreements shall be clearly and legibly typewritten on one side only of 8½ inch by 11 inch durable white loose-leaf paper, providing a margin of not less than three-quarters of an inch on all edges.

(b) The first page of every agreement and/or appendix shall be the Title Page and all pages subsequent to the Title Page shall be consecutively numbered beginning with Page 1. The first edition of any one page shall be designated in the upper right-hand corner as: "Original Page No. ——." The Title Page shall contain:

(1) The full name of the agreement;

(2) Once assigned, the Commission-assigned agreement number;

(3) The generic classification of the agreement in conformity with the definitions in § 572.104;

(4) The date on which the entire agreement was last republished as required by § 572.403(g);

(5) If applicable, the currently effective expiration date of the agreement and/or any specific provision.

(c) Each agreement page (including appendices) shall be identified by printing the agreement's "doing business as" name and, once assigned, the applicable Commission-assigned agreement number at the top of the page.

(d) Each agreement, appendix and/or modification filed will be accompanied by a separate signature page, appended as the last page of the item, which is signed in the original by each of the parties personally or by an authorized representative, providing immediately below each such signature, the typewritten full name of the signing party and their position, including organizational affiliation.

(e) The body of the agreement shall contain:

(1) Immediately following the Title Page, a Table of Contents providing for the location of all agreement provisions.

(2) Following the Table of Contents, the body of the agreement setting forth the operative provisions of the agreement in the order prescribed by § 572.502. Any additional material/provisions shall be set forth as consecutively numbered articles.

(f) Any nonsubstantive provisions, as defined in § 572.304 of this part, may be separated from the main body of the agreement text by the inclusion of an Appendix to the agreement. Such appendices must comply with the format requirements of paragraphs (a) and (c) of this section. Such appendices are to be serialized alphabetically with the first such Appendix being designated on its first page as "Appendix A."

§ 572.403 Modification of agreements.

The requirements of this section apply to all agreements except for marine terminal agreements and assessment agreements.

(a) Agreement modifications shall be: filed in accordance with the provisions of § 572.401; in the format specified in § 572.402 and this section; and accompanied by an Information Form. The Information Form shall be completed as it pertains to significant modifications of the agreement. Significant modifications, for the purposes of this section, are those that may result in a reduction in competition. Such modifications include, but are not limited to, changes in geographic scope, additions to the number of parties, reductions in service levels, changes in the allocation of pooled revenues or cargoes, or changes in pool penalty provisions or carrying charges.

(b) Agreement modifications shall be made by reprinting the entire page on which the matter being changed is published. Such modified pages shall be designated as "revised pages" and shall publish in the upper right-hand corner of the new page the consecutive denomination of the revision, *e.g.*, "1st Revised Page 5."

(c) If a modification exceeds the page being modified and the parties do not wish to modify the entire agreement, the additional material may be published on an original page, designated with the same number as the page being modified and an alphabetical suffix, i.e. "Original Page 5a."

(d) The language being modified shall be indicated as follows:

(1) Language being deleted or replaced shall be indicated by being struck through; and,

(2) New and initial or replacement language shall immediately follow the language being superseded and be underlined.

(e) When a revised or new page is revised, or the entire agreement is reissued, the change indications in paragraphs (d) (1) and (2) of this section are to be deleted from the republished pages.

(f) If a modification requires the relocation of the provisions of the agreement, such modification shall be accompanied by a revised Table of Contents page which shall report the new location of the agreement's provisions.

(g) Not later than two years after the last modification to the agreement, the entire agreement shall be republished, incorporating such modifications as have been made and superseding the previous edition of the agreement. Such republished agreement will be filed with the Commission in accordance with the filing (except as hereinafter noted), format and content requirements of this part and shall contain nothing other than the previously effective language and such nonsubstantive modifications as are necessary to accomplish the republication. It is not required that the filing of such republished agreements be accompanied by the Information Form or that they be filed in more than an executed original true copy.

§ 572.404 Application for waiver.

(a) Upon a showing of good cause, the Commission may waive the form requirements of §§ 572.401, 572.402 and 572.403.

(b) Requests for permission to depart from the form requirements of this subpart must be submitted in advance of the filing or submission of the materials to which the requested waiver would apply and must state: the specific regulations from which relief is sought; the special circumstances requiring the requested relief; and, the beneficial results anticipated to be obtained from the requested waiver.

§ 572.405 Information form.

(a) Except for marine terminal agreements and assessment agreements, the information required by the Commission for review of an agreement shall be provided in the Information Form set forth in the Appendix to this part. The filing party to an agreement subject to the Act shall complete and submit the Information Form, or a photostatic or equivalent reproduction

thereof, at the time that an agreement is filed. The Information Form shall be completed in accordance with the instructions therein and these rules. Copies of the Form may be obtained in person at the Office of the Secretary or by writing to the Secretary of the Commission.

(b) A complete response shall be supplied to each item on the Information Form. Whenever the party completing the Information Form is unable to supply a complete response, that party shall provide, for each item for which less than a complete response has been supplied, either estimated data (with an explanation of why precise data are not available) or a detailed statement of reasons for noncompliance and the efforts made to obtain the required information.

(c) Any party filing the Information Form may supplement that Form with any other information or documentary material.

(d) The Information Form and any additional information submitted by a filing party under this section shall not be disclosed except as provided in § 572.608.

Subpart E—Content and Organization of Agreements

§ 572.501 Agreement provisions—organization.

(a) All agreements, except for marine terminal agreements and assessment agreements, shall be organized and shall include the content as provided by this section. Article numbers are reserved for the particular provision or authority as indicated in this section.

(b) All agreements shall organize and number the following articles in the following order and shall observe the guidelines as to content as provided in this section.

(1) *Article 1—Full Name of the Agreement.*

(2) *Article 2—Purpose of the Agreement.* State the objectives or ends to be attained through the conduct of the agreement.

(3) *Article 3—Parties to the Agreement* List the current parties to the agreement to include for each participant: (i) the full legal name of the party; (ii) the address of its principal office (to the exclusion of the address of any agent or representative not an employee of the participating carrier or association); and (iii) nationality as determined by the incorporation or domicile of the carrier's operating companies.

(4) *Article 4—Geographic Scope of the Agreement:* State all U.S. and foreign port ranges served by the membership pursuant to the authority of the agreement. In the event of an inland scope, state the points or geographic areas of origin and destination together with the ports or ranges or ports at which the ocean transportation begins and ends.

(5) *Article 5—Agreement Authority:* State the authority of the parties pursuant to the agreement to engage in the joint activities set forth in §§ 572.201 and 572.202 of this part (*E.g.*, Article 5 of a conference agreement shall include a statement of authority of the conference to establish rates, service contracts, practices, terms and conditions of service, credit terms, freight forwarder compensation, etc.).

(6) *Article 6—Officials of the Agreement and Delegations of Authority:* Indicate the administrative and executive officials and those persons with authority to file or to delegate such authority to file agreements or modifications to agreements. This article shall also specify any designated U.S. representative(s) of the agreement required by this chapter.

(7) *Article 7—Membership, Withdrawal, Readmission and Expulsion:* Specify the terms and conditions for admission, withdrawal, readmission and expulsion to or from membership in the agreement, including membership fees, refundable deposits and other fees or charges associated with membership.

(8) *Article 8—Voting:* Specify the procedures, including quorum requirements, by which the agreement membership exercises its collective authority to choose, endorse, decide the disposition of, defeat, or authorize any particular matter, issue or activity.

(9) *Article 9—Duration and Termination of the Agreement:* Specify, where applicable, the date on which the agreement terminates and describe the procedures to be followed to terminate the agreement.

§ 572.502 Organization of conference and interconference agreements.

(a) Each conference, freight conference or passenger conference agreement filed on or after June 18, 1984, in addition to Articles 1 through 9 contained in § 572.501, shall include the following articles:

(1) *Article 10—Neutral Body Policing:* State that at the request of any member the conference shall engage the services of an independent neutral body to fully police the obligations of the conference and its members. Include a description of any such neutral body authority and procedures related thereto.

(2) *Article 11—Prohibited Acts:* State affirmatively that the conference shall not engage in conduct prohibited by section 10(c)(1) or 10(c)(3) of the Act.

(3) *Article 12—Consultation, Shippers' Requests and Complaints:* Specify the procedures for consultation with shippers and for handling shippers' requests and complaints.

(4) *Article 13—Independent Action:* Specify the independent action procedures of the conference. Such procedures shall provide that any conference member may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of the Act upon not more than 10 calendar days' notice to the conference and shall otherwise be in conformance with section 5(b)(8) of the Act.

(b) Each interconference agreement filed on or after June 18, 1984, in addition to Articles 1 through 9 contained in § 572.501, and Articles 10, 11, and 12 contained in § 572.502(a) shall include the following article: "Article 13—Independent Action" which specifies the independent action procedures of the agreement.

Subpart F—Action on Agreements

§ 572.601 Preliminary review—rejection of agreements.

(a) The Commission shall make a preliminary review of each filed agreement to determine whether the agreement is in compliance with the filing requirements of the Act and these rules and whether the Information Form is complete, or where not complete, the deficiency is adequately explained.

(b) The Commission shall reject any agreement that fails to comply with the filing and information requirements under the Act and these rules. The Commission shall notify in writing the person filing the agreement of the reason for rejection of the agreement. The entire filing, including the agreement, the Information Form and any other information or documents submitted, shall be returned to the filing party. Should the agreement be refiled, the full waiting period must be observed.

§ 572.602 Federal Register notice.

(a) Any filed agreement which is not rejected pursuant to § 572.601 will be transmitted to the **Federal Register** within seven days of the date of filing.

(b) The notice will include: (1) A short title for the agreement;

(2) The identity of the parties;

(3) The Federal Maritime Commission agreement number;

(4) A concise summary of the agreement's contents;

(5) A statement that the agreement is available for inspection at the Commission's offices; and

(6) The final date for filing comments regarding the agreement.

§ 572.603 Comment.

(a) Persons may file with the Secretary a written statement regarding a filed agreement. Such comments are not subject to any limitations except the time limits provided in the **Federal Register** notice. If requested, comments and any accompanying material shall be accorded confidential treatment to the fullest extent permitted by law.

(b) The filing of a comment does not entitle a person to: (1) Reply to the comment by the Commission; (2) institution of any Commission or court proceeding; (3) discussion of the comment in any Commission or court proceeding concerning the filed agreement; or (4) participation in any proceeding which may be instituted.

§ 572.604 Waiting period.

(a) The waiting period before an agreement becomes effective shall commence on the date that an agreement is filed with the Commission.

(b) Unless tolled by a request for additional information or extended by court order, the waiting period terminates and an agreement becomes effective on the later of the 45th day after the filing of the agreement with the Commission or on the 30th day after publication of notice of the filing in the **Federal Register.**

(c) The waiting period is tolled on the date when the Commission, either orally or in writing, requests additional information or documentary materials pursuant to section 6(d) of the Act. The waiting period resumes on the date of receipt of the additional material or an adequate statement of the reasons for noncompliance, and the agreement becomes effective in 45 days unless the waiting period is further extended by court order.

§ 572.605 Requests for expedited approval.

Upon written request of the filing party, the Commission may shorten the review period. Accompanying the request, the filing party should provide a full explanation, with reference to specific facts and circumstances, of the necessity for a shortened waiting period. If the Commission decides to approve an abbreviated waiting period, the term will be decided after consideration of the parties' needs and the Commission's ability to perform its review functions under a reduced time schedule. In no event, however, may the period be shortened to less than fourteen days after the publication of the notice of the filing of the agreement in the **Federal Register.** When a request for expedited approval is denied by the Commission, the normal waiting period specified in § 572.604 will apply. Such expedition will not be granted routinely and will be granted only in exceptional circumstances which include but are not limited to: the impending expiration of the agreement; operational urgency; Federal or State imposed time limitations; or other reasons which, in the Commission's discretion, constitute grounds for granting the request.

§ 572.606 Requests for additional information.

(a) The Commission may request from the filing party any additional information and documentary material necessary to complete the statutory review required by section 6 of the Act. The request shall be made prior to the expiration of the waiting period. All additional information and documentary material shall be submitted to the Director, Bureau of Agreements and Trade Monitoring, Federal Maritime Commission, Washington, D.C. 20573. If the request is not fully complied with, a statement of reasons for noncompliance shall be provided for each item or portion of such request which is not fully answered.

(b) Where the Commission has made a request for additional information material, the effective date is 45 days after receipt of the additional material. In the event all material is not submitted, the effective date will be 45 days after receipt of both the documents and information which are submitted, if any, and the statement indicating the reasons for noncompliance. The Commission may, upon notice to the Attorney General, and pursuant to sections 6(i) and 6(k) of the Act, request the United States District Court for the District of Columbia to further extend the effective date until there has been substantial compliance.

(c) A request for additional information may be made orally or in writing. In the case of an oral request, a written confirmation of the request shall be mailed to the filing party within seven days of the communication.

(d) The party upon whom a request for additional information is made will have a reasonable time to respond, as specified by the Commission. The test of reasonableness shall be based on the particular circumstances of the request and shall be determined on a case-by-case basis.

§ 572.607 Failure to comply with requests for additional information.

(a) A failure to comply with a request for additional information results when the party responsible for filing the request fails to substantially respond to the request or does not file a satisfactory statement of reasons for noncompliance. An adequate response is one which directly addresses the Commission's request. When a response is not received by the Commission within a specified time, failure to comply will have occurred.

(b) The Commission may, pursuant to section 6(i) of the Act, request relief from the United States District Court for the District of Columbia where there has been a failure to substantially comply with a request for additional information. The Commission may request that the court:

(1) Order compliance with the request; and

(2) At its discretion grant other equitable relief which under the circumstances seems necessay or appropriate.

(c) Where there has been a failure to substantially comply, section 6(i)(2) of the Act provides that the court shall extend the review period until there has been substantial compliance.

§ 572.608 Confidentiality of submitted material.

(a) Except for an agreement filed under section 5 of the Act, all information submitted to the Commission by the filing party will be exempt from disclosure under 5 U.S.C. 552. Included in this disclosure exemption is information provided in the Information Form, voluntary submissions of additional information, reasons for noncompliance, and replies to requests for additional information.

(b) Information which is confidential pursuant to paragraph (a) of this section may be disclosed, however, to the extent:

(1) It is relevant to an administrative or judicial action or proceeding; or

(2) It is in response to a request from either body of Congress or to a duly authorized committee or subcommittee of Congress.

§ 572.609 Negotiations.

At any time after the filing of an agreement and prior to the conclusion of judicial injunctive proceedings, the filing party or an authorized representative may submit additional factual or legal support for an agreement or may propose modifications of an agreement. Such regotiations between Commission personnel and filing parties may

continue during the pendency of injunctive proceedings. Shippers, other government departments or agencies, and other third parties may not participate in negotiations.

Subpart G—Reporting and Record Retention Requirements

§ 572.701 General requirements.

(a) *Address.* All reports required by this subpart should be addressed to the Commission as follows:

Director, Bureau of Agreements and Trade Monitoring, Federal Maritime Commission, Washington, D.C. 20573.

The lower, left-hand corner of the envelope in which each report is forwarded should indicate the subject of the report and the related agreement number. For example: "Minutes, Agreement 5000."

(b) *Serial numbers of reports.* Each report filed with the Commission should be assigned a number for each subject. For example, a conference filing minutes of its first meeting upon the effective date of this rule should assign "Meeting No. 1" to its Minutes, the next meeting will be assigned "Meeting No. 2," and so on. The first Shipper's Request and Complaint report should be designated "Shippers' Request and Complaint Report No. 1," the next report would be "Shippers" Request and Complaint Report No. 2," and so on.

(c) *Retention of records.* Each agreement required to file an index of documents pursuant to this subpart shall retain a copy of each document listed for a minimum period of 3 years after the date the document is distributed to the members and shall make it available to the Commission upon written request.

(d) *Request for documents.* Documents may be requested by the Director, Bureau of Agreements and Trade Monitoring , in writing by reference to a specific minute or index, and shall indicate that the documents will be received in confidence. Requested documents shall be furnished by the parties within the time specified.

(e) *Time for filing.* Documents filed on an annual (calendar) year basis shall be filed by February 15 of the following year. Other documents shall be filed within 30 days of the end of a quarter-year, a meeting, or the receipt of a request for documents.

(f) *Confidentiality.* All information submitted to the Commission under this subpart shall be accorded confidential treatment to the fullest extent permitted by law.

§ 572.702 Filing of reports related to shippers' requests and complaints and consultations.

(a) *Shippers' requests and complaints.* Each conference shall file with the Commission an annual report setting forth a statistical summary showing the total number of shippers' requests and complaints received, the total number which were fully granted, the total number which were partially granted and the total number which were denied, during each calendar year, under the established shippers' requests and complaints procedures. Each report shall also show the total number of requests or complaints which were pending disposition at the start and at the end of the report period. Each of the totals which are reported to the Commission shall be divided into three categories: those involving rates or charges, those involving transportation services, and those involving other matters.

(b) *Consultations.* Each conference shall file with the Commission an annual report setting forth a statistical summary showing the total number of requests for consultations and the total number of consultations during each calendar year under the established consultation procedures. Each of the totals which are reported to the Commission shall be divided into two categories: consultations involving commercial disputes and consultations involving cooperation with shippers in preventing and eliminating malpractices.

§572.703 Filing of minutes.

(a) *Meetings.* For purposes of this subpart, the term "meeting" shall include any meeting of the parties to the agreement, including meetings of their agents, principals, owners, committees, or subcommittees of the parties authorized to act in any capacity under the agreement and, if the agreement authorizes, other action such as telephonic or polls of the membership, etc.

(b) *Content of minutes.* Conferences, interconference agreements, agreements between a conference and one or more ocean common carriers, pooling agreements, equal access agreements, discussion agreements, marine terminal conferences, and marine terminal rate fixing agreements shall, through a designated official, file with the Commission a report of each meeting describing all matters within the scope of the agreement which are discussed or considered at any such meeting, shall specify any documents distributed by the conference or other agreement to inform or assist the members on such matters, and shall indicate the action taken. These reports need not disclose the identity of parties that participated in discussions, or the votes taken.

(c) *Exemption.* No minutes need be filed under paragraph (b) of this section with respect to any discussion of or action taken with regard to: (1) Rates that, if adopted, would be required to be published in the Commodity Rate Section, Class Rate Section, or Open Rate Section of the pertinent tariff on file with the Commission (this exemption does not apply to discussions involving general rate policy, general rate changes, the opening or closing of rates, or service or time/volume contracts); or (2) purely administrative matters.

§572.704 Index of documents.

(a) Each agreement required to file minutes pursuant to § 572.703 shall maintain an index of all reports, circulars, notices, statistics, analytical studies, or other documents, not otherwise filed with the Commission pursuant to this subpart, which are distributed to the member lines.

(b) Each index required by paragraph (a) of this section shall be filed with the Commission on a quarterly basis, the first to be filed for the period ending September 30, 1984, and for each succeeding quarterly period thereafter. Each index must be certified by an official of the agreement as true and correct.

§ 572.705 Waiver of reporting and record retention.

Upon a showing of good cause, the Commission may waive any of the provisions of this subpart.

Subpart H—Transitional Rules

§ 572.801 Mandatory provisions in existing conference agreements.

As of June 18, 1984, all existing conference agreements must be in compliance with the requirements set forth in section 5(b) of the Act. Conferences shall achieve compliance with the Act by submitting to the Commission on or before June 18, 1984, either a telex to be followed by a letter, or a letter, evidencing the adoption by the conference of the mandatory provisions contained in this section. To the extent that any provision in an existing agreement is inconsistent with a particular mandatory provision, the mandatory provision shall govern.

(a) *Neutral Body Policing.* Upon written request of one conference member submitted to the [chief executive officer] of the conference, the conference shall engage the services of an independent neutral body to

police fully the obligations of the conference and its members.

(b) *Prohibited Acts.* The conference shall not engage in any boycott or take any other concerted action resulting in an unreasonable refusal to deal; or engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade, of a common carrier not a member of the conference, a group of common carriers, an ocean tramp or a bulk carrier.

(c) *Consultation.* In the event of a controversy, claim, or dispute of a commercial nature arising out of or relating to this agreement or efforts to reduce or eliminate malpractices, the conference, its [chief executive officer or other designee] shall attempt to resolve the dispute in an amicable manner through direct discussions with the disputant. The services of third parties may be drawn from members of the conference or impartial outsiders, including use of the Commission's conciliation service provided for at 46 CFR 502.401–502.406. The means of invoking consultation shall be set forth in the conference tariff.

(d) *Shippers' requests and complaints.*

[1] Shippers' requests and complaints may be made by filing a statement thereof with the [chief executive officer or in the case of an executive domiciled outside the United States, the designated U.S. representative]. Such statement shall be accompanied by a completed information sheet prescribed by the conference [chief executive officer]. The statement and information sheet shall be submitted promptly to each member of the conference.

[2] The shipper's request or complaint shall be considered by the conference at its next meeting following its submission to the conference members. Written notice of the scheduling of consideration of the request or complaint shall be served on the shipper at the time of scheduling. The shipper shall be granted the opportunity to be heard at such Conference meeting upon written request.

[3] Conference discussion and action on the shippers' request or complaint need not be restricted to the exact scope of the request or complaint and may include other matters varying from but related thereto. However, all such discussion and action must be authorized by the conference agreement.

[4] The conference shall render a decision on the request or complaint promptly after its initial submission to the conference membership. Such decision shall be in writing, signed by the conference [chief executive officer] and served upon the shipper. Such decision shall include a notice to the shipper that it may file a complaint with the Federal Maritime Commission if the matter is not resolved to the shipper's satisfaction and if the matter is one which may be subject to the Shipping Act of 1984.

[5] The procedures for filing shippers' requests and complaints shall be set forth in the conference tariff.

(e) *Independent action.* Any party to this agreement may take independent action on any rate or service item required to be filed in a tariff pursuant to section 8(a) of the Shipping Act of 1984 (46 U.S.C. app. 1707(a)) upon not more than 10 calendar days' notice to the conference. The time period shall commence upon receipt by the conference, during normal business hours, of a written notice of a member's intention to exercise independent action. Within 10 calendar days of the receipt of such notice, the conference shall file the rate or service item in its tariff for use by the member. The conference or any other conference member may elect to adopt the independent rate or service item, on or after its effective date, by providing written notice of such intention. If another member decides to adopt the independent rate, then the conference shall file the rate immediately on behalf of that member. Unless otherwise provided in this agreement, conference members may regulate or prohibit its member lines from unilaterally entering into service or time/volume contracts and may also regulate or prohibit any conference member from taking independent action on any service contract or time/volume contract offered by the conference.

§ 572.802 Mandatory provision in existing interconference agreements.

Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

§ 572.803 Expiration dates in existing agreements.

(a) Expiration dates to existing agreements or specific provisions thereof, shall remain in effect on and after June 18, 1984.

(b) Parties to agreements with expiration dates have the obligation to file any modification seeking renewal for a specific term or elimination of the termination date in sufficient time to accommodate the waiting period required under the Act.

Subpart I—Penalties

§ 572.901 Failure to file.

Any person operating under an agreement involving activities subject to the Act which has not been filed is in violation of the Act and the rules of this part and is subject to the civil penalties set forth in section 13(a) of the Act.

§ 572.902 Falsification of reports.

Falsification of any report required by the Act or these rules, including falsification of any item on the Information Form, is a violation of the rules of this part and is subject to the civil penalties set forth in section 13(a) of the Act and may be subject to the criminal penalties provided for in 18 U.S.C. 1001.

Appendix A to Part 572—Information Form and Instructions

Explanation and Instructions for Information Form

The following explanation and instructions accompany the Information Form (Form) and are intended to facilitate the completion of the Form. The explanations and instructions should be read in conjunction with the Shipping Act of 1984 (Act) and with 46 CFR Part 572.

All agreements by or among ocean common carriers referenced in § 572.201 (excluding assessment agreements, marine terminal agreements and those agreements exempted from the filing of the Information Form pursuant to Subpart C of the rules) filed with the Commission must be accompanied by a completed Information Form, which in all cases necessitates the completion of Parts I, II, V, VI, VII, VIII and IX.

Because of their potential substantial anticompetitive implications, parties filing certain types of agreements, namely rate-fixing (including, for example, agreements authorizing conferences, interconference agreements, and agreements between a conference and one or more ocean common carriers), pooling, and joint-service and consortium agreements, are required to complete Parts III and IV of the Form in addition to the above specified parts required to be completed by all filing parties.

Certain parts of the Form request information that may not be readily available to the filing party. Where precise information is not available, best estimates may be supplied. Where estimates are made, they should be identified by the use of the notation "est." Furnishing an estimate requires a clear explanation of why the precise information is not available. Where such an explanation is provided, the use of estimates will not ordinarily be regarded as a failure to supply a complete response as specified in § 572.607, and does not require a separate statement of reasons for noncompliance.

In all parts of the Form where data are requested, the filing party is required to indicate all sources used to obtain such data. Sources should also be specified where estimates have been made by the filing party.

Part by Part Explanation

Part I

Part I requires the filing party to state the full name of the agreement as also provided under § 572.501.

Part II(A)

Part II(A) requires the filing party to indicate whether or not the agreement authorizes the parties to collectively fix rates. Rate fixing may be authorized by a conference agreement [§ 572.104(f)], an interconference agreement [§ 572.104(m)], or an agreement between a conference and one or more ocean common carriers.

Part II(B)

Part II(B) requires the filing party to indicate whether or not the agreement

authorizes the parties to pool cargoes or revenues [§ 572.104(w)].

Part II(C) requires the filing party to indicate whether or not the agreement authorizes the parties to establish a joint-service or consortium [§ 572.104(n)].

Background Information to Parts III and IV

If any question in Part II was answered "YES", the filing party is required to complete Parts III and IV (in addition to completing Parts I, II, V, VI, VII, VIII and IX, which are required to be completed by all filing parties).

The *amount of cargo* is to be given on *both* a weight ton (specify long, metric or short ton, whichever is used), and a dollar value basis.

The *dollar value of cargo* is measured according to Bureau of Census practices. The value of *export cargo* is taken to be equivalent to the f.a.s. (free alongside ship) value at the U.S. port of export, based on the transaction price, including inland freight, insurance and other charges incurred in placing the merchandise alongside the carrier at the U.S. port of exportation.The value of *import cargo* is defined as the price actually paid or payable for merchandise when sold for exportation to the United States, excluding U.S. import duties, freight, insurance, and other charges incurred in bringing the merchandise to the United States.

Sub-trade is defined as the scope of all liner movements between *each* foreign country and *each* U.S. port range within the scope of the agreement. Each foreign country/U.S. port range pair should be shown separately. Where the agreement covers both U.S. inbound and outbound liner movements, inbound and outbound liner movements should be shown separately.

U.S. port ranges are defined by using the Bureau of Census classification of U.S. Coastal Districts. Thus, the U.S. port ranges are defined as follows:

North Atlantic—Includes ports along the eastern seaboard from the northern boundary of Maine to the southern boundary of Virginia.

South Atlantic—Includes ports along the eastern seaboard from the northern boundary of North Carolina to, but not including Key West, Florida. Also included are all ports in Puerto Rico and the U.S. Virgin Islands.

Gulf—Includes all ports along the Gulf of Mexico from Key West, Florida to Brownsville, Texas, inclusive.

South Pacific—Includes all ports in the States of California and Hawaii.

North Pacific—Includes all ports in the States of Oregon, Washington, and Alaska.

Great Lakes—Includes all ports bordering upon the Great Lakes and their connecting waterways as well as all ports in the State of New York on the St. Lawrence River.

Liner service refers to a definite, advertised schedule, giving relatively frequent sailings at regular intervals between specific U.S. ports or port ranges and designated foreign ports or port ranges. *Liner vessels* are defined as those vessels used in a liner service. *Liner cargoes* are cargoes carried on liner vessels in a liner service. A *liner operation is a vessel operating ocean common carrier engaged in liner service.*

Liner movement is the carriage of liner cargo by liner operators.

Market share information should be provided using data for the most recent twelve (12) month period for which data are available. State the period used. Identify all sources of the data.

Alternative liner routing is defined as liner service between the foreign country specified in the sub-trade and any North American port(s) other than those located within the port range covered by the sub-trade. The alternative liner routing may serve the sub-trade's port(s) and interior point(s) by way of feeder service, transshipment, surface carriage (such as mini-landbridge), or some other form of substituted transport. Alternative liner routing includes only those liner services which compete for cargoes carried in the sub-trade.

Part III(A)

Part III(A) requires the filing party to provide the total amount of cargo carried on *all parties'* liner vesels in each sub-trade with the scope of the agreement over the most recent twelve (12) month period for which data are available.

Part III(B)

Part III(B) requires the filing party to provide the total amount of cargo carried on *all* liner vessels (i.e., both party and non-party carriers) operating in each sub-trade within the scope of the agreement for the most recent twelve (12) month period for which data are available.

Part III(C)

Part III(C) requires the filing party to provide the combined market share of all parties operating in each sub-trade within the scope of the agreement. The market share provided in Part III(C) is the quotient (multiplied by 100) of the total derived in Part III(A) divided by the total derived in Part III(B). The *formula for calculating market share* is as follows:

The total amount of cargo carried on all parties' liner vessels in each sub-trade within the scope of the agreement over the most recent twelve-month period for which data are available divided by the total amount of cargo carried on all liner vessels in each sub-trade within the scope of the agreement over the same twelve-month period; which quotient is multiplied by 100.

The most recent twelve-month period for which data are available is to be the same period of time used both in the calculation of the parties' total sub-trade liner cargo movements [Part IV(A)] and in the calculation of the total sub-trade liner cargo movements for all liner operators [Part IV (B)]

Part IV(A)

Part IV(A) (1) requires the filing party to provide, for each sub-trade within the scope of the agreement, the names of all liner operators who are not parties to the agreement, and who were offering liner service in that sub-trade at the time the agreement was filed with the Commission.

Part IV(A)(2) requires the filing party to provide, for each sub-trade, the names of all liner operators serving alternative liner routings who compete for the cargoes carried by the parties.

Part IV(A)(3) requires the filing party to describe the extent of the competition offered by all non-party liner operators, including liner operators directly serving the sub-trade *and* liner operators serving alternative liner routings. A description of the extent of competition should include estimates (or precise information where available) of non-party liner operator market share (shown either for each individual operator or for all operators collectively, and calculated on the basis either of weight tons, value of cargo, or capacity), and any evidence of underutilized capacity in the alternative liner routings. Explain how the non-party market share was derived. Specify the units of measurement used in the calculations. Indicate the source(s) used to provide data or estimates.

Part IV(B)

Part IV(B)(1) requires the filing party to identify all non-liner competitive substitutes that are available to shippers of commodities historically transported by liner service within the scope of the agreement. Non-liner competitive substitutes may include carriage on a charter or contract basis or on an infrequent, irregular basis by bulk, mix container/bulk, breakbulk or other vessel-type operators. Such substitutes may also include carriage by air freight operators or air passenger operators with available "belly space" for air freight. Such substitutes may provide service to a sub-trade through some form of substituted service (e.g., mini-landbridge, transshipment or feeder service) by way of ports within an alternative North American port range(s).

Part IV(B)(2) requires the filing party to estimate the percentage of the total amount of cargo, historically carried in the trade on liner vessels, that has been carried by non-liner competitive substitutes over the most recent twelve (12) month period for which data are available. The intent of Part IV(B)(2) is to determine the amount of liner cargo historically carried in the trade that has been "lost" to non-liner operators. Identify all units of measurement and describe how the percentage was derived. Identify the sources used.

Part V(A)

Part V(A) requires the filing party to identify all U.S. ports expected to be served under this agreement. Include all U.S. ports expected to receive direct liner service (port calls by a party) and indirect liner service (port calls by way of some form of substituted service such as transshipment, feeder, or surface carriage).

Part V(B)

Part V(B)(1) requires the filing party to specify any party's reduction in frequency of service to any U.S. port within the scope of the agreement. Reductions in frequency are determined as follows: (1) For each party and for each U.S. port within the scope of the agreement served by that party, determine total number of port calls over the most recent twelve (12) month period for which data are available (historical port call

calculation); (2) for each party and for each U.S. port within the scope of the agreement served by that party, estimate the total number of port calls for the twelve (12) month period immediately following implementation of the agreement (expected port call calculation); (3) calculate the difference between the "historical port call calculation" and the "expected port call calculation." Provide, for each party and for each U.S. port, the following calculations: the "historical port call calculation"; the "expected port call calculation"; and the difference between those calculations.

Part V(B)(2) requires the filing party to specify any elimination of service to any U.S. port within the scope of the agreement that is currently (at the time the agreement is filed) receiving liner service from any party to the agreement, where the elimination of that port occurs as a result of the implementation of the agreement. The term "service to any U.S. port" includes direct service by the parties and indirect service by way of, for example, transshipment, feeder service, or alternate or substitute port service.

Part VI(A)

Part VI(A) requires the filing party to indicate whether or not the agreement was entered into as a direct of indirect response to any law, decree, rule, regulation or any other governmental action promulgated or otherwise implemented by a foreign government. The agreement may, for example, operate in a context where a foreign government has promulgated or implemented certain cargo reservation, cargo preference or other cargo sharing schemes that favor national flag lines and that require these national lines to be members of a conference. A *direct* response to such governmental action would be the creation of a conference agreement. An *indirect* response to such governmental action would be the creation of a pool that facilitates cargo sharing within a conference even though the pool was not *per se* required by such governmental action.

Part VI(B)

Part VI(B) requires the filing party to identify all such laws, decrees, rules, regulations or any other foreign governmental actions that have led to the agreement. All such governmental actions should be identified by the type of governmental action (e.g., a law, decree, memorandum order, etc.), the full legal title of the governmental action, the date that the governmental action became (or will become) effective, and the date (if specified) the governmental action will terminate. Part VI(B) also requires a detailed description of the purpose and the nature of the governmental action, including all requirements imposed on the parties by the governmental action, and the specification of each provision in the agreement that is a direct or indirect response to each such governmental action.

Part VI(C)

Part VI(C) requires the filing party to indicate whether or not any law, decree, rule, regulation or any other foreign governmental action identified in Part II(B) limits access to the carriage of liner cargoes within the scope of the agreement. Limited access to the carriage of liner cargoes may be effected by excluding certain liner operators or classes of liner operators (e.g., by national flag or carrier nationality) from the trade entirely, or by reserving certain cargoes for carriage by certain liner operators or classes of liner operators (e.g., by national flag or carrier nationality), or by limiting the ports at which liner operators may call, or by restricting the frequency of scheduled port calls, or by other such measures that restrict the open competition for liner cargoes within the scope of the agreement by liner operators.

Part VI(D)

Part VI(D) requires the filing party to explain how access to cargoes carried by liner operators is limited by the actions of a foreign government as identified in Part VI(B). See Part VI(C) for examples of how access to cargoes can be limited by the actions of a government.

Part VI(E)

Part VI(E) requires the filing party to provide the percentage of the total amount of cargo carried on all liner vessels in the trade to which access is limited by a foreign government. The percentage is derived by dividing the amount of cargo in the trade to which access is limited by a foreign government, by the total amount of cargo carried on all liner vessels in the trade and multiplying the quotient by 100. The *trade* is defined as the scope of the agreement, that is, all foreign and domestic ports or port ranges served under the agreement. The amount of cargo can be measured in weight tons or dollar value of cargo. Specify which unit of measurement is used. The amount of cargo should be provided on the basis of the most recent twelve (12) month period for which data are available. Where precise information is not available, best estimates may be supplied. Identify estimates by the use of the notation "est.". Indicate the sources of such estimates.

Part VII(A)

Part VII(A) requires the filing party to indicate all benefits resulting from the agreement that will accrue principally to the parties as a result of the operation of the agreement. Such benefits may include increased operational efficiencies or other reductions in costs that result from the implementation of the agreement. Data that are necessary to substantiate the specified benefits should be submitted.

Part VII(B)

Part VII(B) requires the filing party to indicate all benefits resulting from the agreement that will accrue to shippers and to U.S. commerce generally. Such benefits may include reduced rate levels or improved quality or frequency of service that result from the operation of the agreement. Data that are necessary to substantiate the specified benefits should be submitted.

Part VIII

Part VIII requires the filing party to identify any reports, studies or other research that were prepared by or for the parties severally or collectively for the purpose of analyzing, formulating or assessing the need for the proposed agreement or the activities contemplated therein.

Part IX(A)

Part IX(A) requires the filing party to provide the name, title, address, telephone number and cable address of a person the Commission may contact regarding the Information Form and any information provided therein.

Part IX(B)

Part IX(B) requires the filing party to provide the name, title, address, telephone number and cable address of a person the Commission may contact regarding a request for additional information or documents.

Part IX(C)

Part IX(C) requires generally that the filing party sign and certify before a Notary Public that the information in the form and all attachments and appendices were, in fact, prepared under the supervision of the filing party, and that all information so provided is to the best of the filing party's knowledge, true, correct and complete. The filing party is also required to indicate his or her relationship with the parties to the agreement.

FEDERAL MARITIME COMMISSION

Information Form

For Certain Agreements By or Among Ocean Common Carriers

Agreement Number ———
(Assigned by FMC)

Part I *Agreement Name:* ———————

Part II *Agreement Type*

(A)	*Rate-Fixing Agreements*		
	Does the agreement authorize the parties to collectively fix rates?	[ ]	[ ]
(B)	*Pooling Agreements*		
	Does the agreement authorize the parties to pool cargoes or revenues?	[ ]	[ ]
(C)	*Joint Service Agreements*		
	Does the agreement authorize a joint service/consortium arrangement?	[ ]	[ ]

[If any question in PART II is answered "YES", complete PARTS III and IV, (in addition to PARTS I, II, V, VI, VII, VIII and IX that are required to be completed by all filing parties.)]

Part III *Market Share Information*

(A) Provide the total amount of cargo (measured in both weight tons and dollar value) carried on all parties' liner vessels in each sub-trade within the scope of the agreement over the most recent twelve (12) month period for which data are available.

(B) Provide the total amount of cargo (measured in both weight tons and dollar value) carried on all liner vessels in each sub-trade within the scope of the agreement over the most recent twelve (12) month period for which data are available.

(C) Provide the market share of all parties in each sub-trade within the scope of the agreement over the most recent twelve (12) month period for which data are available.

Part IV *Market Competition*

(A) *Liner Competition*

(1) For each sub-trade, provide the names of all liner operators *not* parties to the agreement, currently offering service in that sub-trade.

(2) Provide the names of all liner operators serving alternative liner routings where those operators compete for cargoes carried by the parties in the sub-trade.

(3) Describe the nature and extent of the competition from the liner operators listed in (A)(1) and (A)(2) above.

(B) *Non-Liner Competition*

(1) Identify all competitive substitute forms of transport, other than liner service, that are available to shippers of commodities historically transported by liner service in each sub-trade (including, for example, bulk carriers, charter operators, or air freight carriers).

(2) Estimate the percentage of the total amount of liner cargoes in each sub-trade (measured in weight tons and in dollar value), traditionally carried on liner vessels, that has been carried by non-liner substitute forms of transport over the most recent twelve (12) month period for which data are available.

Part V *Service to the Shipping Public Under the Agreement*

(A) *Proposed Service.* Identify all U.S. ports to be served by the parties under this agreement.

(B) *Reduced Sailings*

(1) Estimate the parties' reductions in frequency of calls at each U.S. port within the scope of the agreement.

(2) Specify the parties' elimination of service to any U.S. port within the scope of the agreement currently served by any party.

Part VI *Foreign Government Involvement in the Liner Market*

		YES	NO
(A)	Was this agreement entered into as a direct or indirect response to any law, decree, rule, regulation, or other governmental action promulgated or implemented by a foreign government?	[ ]	[ ]
(B)	If the answer to (A) is "YES", identify all such laws, decrees, rules, regulations or other governmental actions and specify all provisions in the agreement that stem from these factors.	[ ]	[ ]
(C)	If the answer to (A) is "YES", do any of the above identified governmental actions limit access to the carriage of liner cargoes within the scope of the agreement?	[ ]	[ ]
(D)	If the answer to (C) is "YES", explain how access to liner cargoes is limited by the foreign government.	[ ]	[ ]
(E)	If the answer to (C) is "YES", provide the percentage of the total liner cargo in the trade to which access is limited by a foreign government. Explain the method by which the percentage was derived.	[ ]	[ ]

PART VII *Benefits of the Agreement*

(A) Indicate any benefits (such as improved efficiencies or other reductions in transportation costs) that will accrue principally to the parties as a result of the operation of the agreement. Provide the data necessary to substantiate the above specified benefits.

(B) Indicate any benefits (such as lower rate levels or improved service levels) that will accrue to shippers and to U.S. commerce generally as a result of the operation of the agreement. Provide the data necessary to substantiate the above specified benefits.

Part VIII *Reports, Studies or Other Research*

Identify any reports, studies or other research that were prepared by or for the parties severally or collectively for the purpose of analyzing, formulating or assessing the need for the proposed agreement or the activities contemplated therein.

Part IX *Identification of Person(s) to Contact Regarding the Information Form and Certification of Authenticity*

(A) Identification of Contact Person

(1) Name of Contact Person ———

(2) Title of Contact Person ———

(3) Firm Name and Business ———

(4) Business Telephone Number ———

(5) Cable Address ———

(B) Identification of an Individual Located in the United States Designated for the Limited Purpose of Receiving Notice of an Issuance of a Request for Additional Information or Documents (see § 572.407)

(1) Name ———

(2) Title ———

(3) Address ———

(4) Telephone ———

(5) Cable Address ———

(C) Certification

This Supplemental Agreement Filing Information Form together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Federal Maritime Commission. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

Name (please print or type) ———

Title ———

Relationship with parties to agreement ———

Signature ———

Date ———

Subscribed and sworn to me at the

City of ——— State of ———

This ——— day of ———, 19——

Signature ———

My Commission expires ———

By the Commission:

Francis C. Hurney,

Secretary.

[FR Doc. 84-14299 Filed 5-25-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[Gen. Docket No. 80-183; RM-2365; RM-2750; RM-3047; RM-3068]

Amendment of the Commission's Rules To Allocate Spectrum in the 928-941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted an open access policy for carriers desiring

to originate network pages. By this policy, any qualified local carrier will be given the opportunity to affiliate with one or more network organizers on equal terms so that each local carrier will be able to offer the benefits of nationwide paging to its local subscribers. The Commission also decided to preempt state regulation over rate regulation of the network operators and forbear from regulating rates of both network organizers and operators. It found that there will be many alternative sources for network paging; thus, it is unlikely that providers of network paging service will have sufficient market power to charge unjust, unreasonable or discriminatory rates. Finally, the Commission decided to utilize a lottery to choose the three network organizers because any differences among the applicants are not decisionally significant.

EFFECTIVE DATE: June 28, 1984.

FOR FURTHER INFORMATION CONTACT: Steven A. Weiss, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Communications Common Carriers, Mobile Radio Service.

Third Report and Order (Proceeding Terminated)

In the matter of amendments of Parts 2 and 22 of the Commission's rules to allocate spectrum in the 928-941 MHz band and to establish other rules, policies, and procedures for one-way paging stations in the Domestic Public Land Mobile Radio Service Gen. Docket No. 80-183, RM-2365, RM-2750, RM-3047, RM-3068.

Adopted: April 11, 1984.
Released: May 24, 1984.

By the Commission: Commissioner Quello dissenting in part and issuing a statement.

I. Preliminary Statement

1. In the *Memorandum Opinion and Order (Part 2)* in this proceeding, *Nationwide Paging Service (DPLMRS)*, 93 FCC 2d 908 (1983), the Commission adopted rules and policies governing the licensing and use of three frequencies that were allocated for common carriers to provide nationwide network paging.[1] We adopted a two-step regulatory process in which one carrier ("network organizer") will be licensed on each network frequency with the responsibility for organizing the network,[2] and local common carriers ("network operators") will affiliate with one or more network organizers to provide page initiation and/or local distribution of network pages. We required network organizers to serve at least 15 markets initially and expand nationwide within two years. We also tentatively required open and nondiscriminatory access to the network channels for the network operators. However, recognizing that operational and economic realities might make the open access requirement impractical, we requested further comment on this issue. *Second Further Notice of Proposed Rulemaking*, 48 FR 21354, released May 4, 1983, *corrected*, 48 FR 24945 (1983) (*Further Notice*). In addition, because paging networks will be nationwide in scope and predominantly will transmit interstate messages, we preempted state regulation over technical standards, entry, and rate regulation for the network organizers. Since the record was not sufficient to determine the extent and method of rate regulation for the network operators, we solicited public comment on this issue in the *Further Notice*.[3]

2. Six parties filed comments in response to the *Further Notice* and seven parties filed reply comments.[4] All commenters favor open access for local carriers to initiate network pages. The commenting parties disagree, however, on whether it is necessary to require open access for traffic termination. With respect to the tariff issue, the commenters agree that end-user charges should not be tariffed, but disagree on the issue of whether or not the rates charged by the network organizer to originating carriers should be tariffed.[5]

3. We have carefully reviewed the comments filed in this proceeding and conclude that the public interest will best be served by modifying our tentative conclusion on open access requirements. Open access will be required for carriers desiring to originate network pages; however, we will eliminate the open access requirement for carriers providing local distribution of network pages. With respect to the tariff issue, we have decided to preempt state regulation over rate regulation of the network operators and forbear from regulating rates of both network organizers and operators. Finally, we have decided to award the network organizers' licenses by random selection.

II. Discussion

A. Network Access Requirements

4. American Telephone and Telegraph Company (AT&T), MCI Airsignal, Inc. (MCI), and American Paging, Inc. (American Paging) support the view that open access should apply only to the originating arm of a network paging system, and not to the local distribution portion. They argue that allowing open access to originate network pages will promote competition. These commenters, however, oppose open access for traffic termination because it could result in uneconomic or inefficient duplicative facilities. They further argue that no beneficial purpose would be served by open access at the terminating end of network pages.

5. Page America Group, Inc. (Page America) and Mobile Communications Corporation of America (MCCA) support the option of requiring open access for both the originating and terminating portions of a network paging system.[6] They argue that "true open access" will ensure that more parties participate in nationwide paging, thereby reducing the potential dominance of the network organizers.

6. After carefully reviewing the record, we agree with the unanimous view of the commenters that the open and nondiscriminatory access requirement for traffic origination will best serve the public interest. By open and nondiscriminatory access, we mean that any qualified local carrier should be given the opportunity to affiliate with one or more network organizers on equal terms with other local carriers so that each local carrier will be able to offer the benefits of access to nationwide paging to its local subscribers. This open access requirement is similar in many ways to policies we have adopted in other contexts prohibiting any restrictions on resale of services, thereby making it possible for many entities to offer the underlying carrier's service to their own customers in competition with other

[1] A network paging system would enable a subscriber to receive pages when traveling outside the local service area. A network paging system can be divided into three different technical components—page initiation, network services, and local distribution. The network services would be furnished by the network organizers, with the remaining functions performed by the network operators.

[2] Network organizers would be the licensee of the frequency and would control the use of the frequency with all rights and responsibilities associated with such control.

[3] A more detailed history of this proceeding can be found in Nationwide Paging Service (DPLMRS), *supra*, et paras. 1-6.

[4] A list of the parties is contained in Appendix A.

[5] On August 11, 1983, the Commission received 16 applications from carriers desiring to be one of the three network organizers. Nine applicants propose using satellites to provide network paging, five carriers propose using terrestrial systems and two propose utilizing combined approaches. The pleading cycle for petitions filed in connection with these applications ended December 13, 1983. Consequently, these applications are now eligible for Commission action.

[6] Millicom Information Services, Inc. (Millicom) advocates a modified open access approach to traffic termination. *See* para. 8, *infra*.

entities.[7] Requiring open access to originate network pages will promote the public interest by ensuring that no local paging company is put at a competitive disadvantage because it cannot offer its customers network paging. As with the Commission's policies regarding resale of common carrier services, this policy will promote competition among originating carriers, thereby encouraging lower cost and more diverse services for consumers. Failure to require open access could have an adverse effect not only on competition in local paging, but also on a consumer's ability to obtain nationwide paging service from the carrier of its choice. By the same token, since there are little or no facilities involved in traffic origination, it is unlikely that open access for originating traffic will decrease the efficiency or add to the costs of operating a nationwide network or require duplicative facilities. Consequently, we will afford local carriers open and nondiscriminatory access to each nationwide network paging system to the extent that it is technically feasible.[8] Network organizers may require reasonable terms and conditions for originating pages over their systems within the framework of Sections 201 and 202 of the Communications Act.

7. The comments diverge on the issue of whether an "open access" policy should be applied to the local distribution of network pages.[9] After evaluating the alternatives, we conclude that network organizers should be free to design their systems for local distribution without the requirement that they provide for the distribution of paging signals at the terminating end by multiple entities. An open access policy for traffic termination would necessitate a network organizer's granting all local operators the opportunity to distribute pages over the network frequency. Such a policy could deprive the network organizer of control over the number and placement of transmitters to be used in a market. Since traffic termination of network paging entails the construction and operation of 900 MHz transmitting facilities, which is a capital-intensive undertaking, it is likely that such an open access requirement would significantly add to the costs of operating a nationwide network, with no increase in transmitting capacity, and would increase the cost of this service to the user. *See* American Paging at p. 3; MCI at p. 13. This requirement could frustrate the establishment of efficiently configured sytems of local base stations and may result in the uneconomic construction of duplicative facilities if many local carriers wish to provide network distribution facilities in the same area.[10] Open access may also introduce technical complications in distributing the network traffic.[11] Most important, it is not clear what public interest benefit will accrue from such a policy. Since the network organizers, rather than network operators, will design the system, route the traffic and charge for the call at the originating end, there will be no "competition" among network operators for traffic termination. If anything, there are likely to be endless disputes about "fair" distribution of terminating traffic and division of revenues. Overall, it appears that open access for traffic termination may increase the costs in producing network services without providing a commensurate public interest benefit. As a result, we will allow network organizers the discretion to perform the distribution function themselves or to contract with one or more local carriers for the local distribution of network pages. To implement this policy, we will accept "Stage II" license applications only from network operators who have specific, completed contractual arrangements with one or more of the successful network organizers. *See* para. 20, *infra.*[12]

8. We have considered Millicom's suggested approach to traffic termination and we decline to adopt its suggestion. In effect, Millicom proposes a variation on open access. All carriers who wish to build terminating facilities would be allowed to do so; however, if a paging subscriber requests that its pages be routed to a particular network operator that request would be granted. We reject this approach because it does not avoid the duplicative facilities or technical problems of open access. In addition, it has not been demonstrated that consumers will know or want a particular carrier to distribute the local page in a remote city, especially in view of the fact that the types of service offerings will be dictated by the network organizers, not the carriers providing local distribution of network pages.

B. Tariff Options

9. The *Further Notice* presents the following five options for tariffing network paging:

Option 1: Network organizers file FCC tariffs for end-to-end user charges. Revenues would be divided between the network organizers and local network operators pursuant to contractual arrangements.

Option 2: Network organizers file FCC tariffs for end-to-end user charges. Charges for long haul traffic would be filed with the FCC. Charges assessed by the network operator to the end-user for local distribution of network pages could be filed at the FCC by the network organizer on behalf of the network operator, or at the state level by the local operator (and referenced in the FCC tariffs).

Option 3: Network organizers file FCC tariffs for the interstate portion of long haul communications between its operating centers. States would regulate local access to the network as well as intrastate charges by network organizers.

Option 4: Network organizers file FCC tariffs for carrier-to-carrier rates. Federal preemption of state tariff regulation and FCC forbearance from

[7] *See, e.g.*, Cellular Communications Systems, 86 FCC 2d 469, 510–11 (1981); Resale and Shared Use (MTS–WATS), 83 FCC 2d 167 (1980); Resale and Shared Use (Private Line), 60 FCC 2d 261 (1976), *recon.*, 62 FCC 2d 588 (1977), *aff'd sub nom.* AT&T v. FCC, 572 F. 2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978).

[8] This does not mean that network organizers are not permitted to discontinue service to a local carrier for adequate cause. For example, a network organizer could discontinue service to an originating carrier who does not abide by the network organizer's technical specifications or who fails to pay for services. For local carriers aggrieved by any action by the network organizer, our complaint procedures under Section 208 of the Act remain available.

[9] The term "open access" is somewhat of a misnomer in this context, as what is involved is not access to the network for transmission of information, but rather the right to be incorporated into the network organizer's local distribution scheme.

[10] Open access for call termination would have an adverse effect on spectral efficiency of systems and their capacity. If several distribution carriers shared the single frequency licensed for a network, a greater amount of transmission time would be devoted to "overhead signalling" transmissions than if there were only a single local carrier; this would lessen the amount of transmission time available for messages. It is also possible that spectrum inefficiencies may result due to the potential need for sequential paging transmission to avoid interference, thereby further lowering capacity and increasing congestion. When a licensing scheme for two-way land mobile radio entailing "perpetual open entry" for common carriers on a shared frequency block was before the court of appeals, the court questioned whether the open entry policy would serve the public interest when no additional capacity would be made available as a result of additional carriers' entry. Telocator Network of America v. FCC, 691 F. 2d 525, 549–50 (D.C. Cir. 1982). The circumstances here are analogous.

[11] Many commenters argue that open access would force network organizers to develop complex traffic allocation methods and expensive transmission coordination procedures, such as simulcasting or sequential transmission. *See* AT&T at p. 5; American Paging at p. 3; MCI at p. 11. *Cf.* United States v. American Tel. & Tel. Co., Civ. No. 82–0192 (D.D.C. December 7, 1983) (refusing to specify allocation method for undesignated traffic).

[12] Network organizers are free to adopt an open access termination policy as a business decision; however, open access for local distribution carriers will not be *required*.

regulating end-user charges by the network operators.

Option 5: Federal preemption of state tariff regulation and forbearance from regulating rates of both organizers and operators.

10. Page America, MCI, Telocator and Millicom support Option 4—federal regulation for carrier-to-carrier rates.[13] They argue that tariff regulation is necessary because it is premature to rely upon the emergence of effective competition to assure nondiscriminatory access, but they advocate imposing only minimal tariff requirements.[14]

11. AT&T, American Paging & MCCA support Option 5—complete preemption of state tariff regulation and FCC forbearance from the regulation of network paging rates. They argue that nationwide paging should be a highly competitive industry, predicting that each network organizer will face competition from the other two network paging systems, as well as from various other sources.[15] Consequently, they argue, marketplace forces, rather than regulation, can be relied upon to set reasonable, affordable rates. National Association of Regulatory Utility Commissioners (NARUC), on the other hand, opposes Options 4 and 5. NARUC argues that the Commission lacks authority to preempt state authority over intrastate ratemaking.

12. Our authority to regulate the charges and services of interstate common carriers is contained in Title II of the Communications Act of 1934, as amended.[16] The courts have recognized a broad discretion in the Commission with respect to the manner in which it exercises its Title II powers to achieve statutory objectives.[17] This broad power to fashion rules appropriate to the problems confronted applies equally in the area of agency regulation of rates.[18] The *Competitive Carrier Rulemaking* was instituted to update our common carrier tariff requirements in light of the marketplace developments in telecommunications services.[19] In that proceeding, we explained that full regulatory scrutiny under Title II of firms lacking market power can impose costs on firms and consumers without offsetting benefits, and decided that we have the authority to forbear from full tariff and facilities regulation, where market forces help achieve regulatory objectives; as a result, we applied forbearance from tariff and facilities-authorization filings to several categories of firms lacking market power.[20]

13. Based on our review of the comments, we conclude that the public interest will best be served by our forbearing from regulating end-user charges.[21] We agree with the commenters that there are numerous alternatives to the network paging service under consideration. Many of these alternatives are virtually identical to network paging from the perspective of customers. For example, there are two frequencies allocated for multi-area private carrier paging systems. *Second Report and Order*, General Docket No. 80-183, 91 FCC 2d 1214 (1982), *modified*, 48 Fed. Reg. 56228, released November 23, 1983. Our records indicate that there are presently six licensees on these frequencies, which can be used to provide nationwide service. *See, e.g., Millicom Corporate Digital Communications, Inc.*, FCC 83-512, released November 23, 1983. In addition, regional and national *de facto* paging networks will be organized on the new 35 MHz, 900 MHz and FM subcarrier frequencies,[22] as well as on existing local paging frequencies.[23] *See Metromedia Telecommunications, Inc.*, FCC 84-24, released February 2, 1984. Thus, a network organizer will face competition for customers from not only the other two network organizers, but also from many other alternative network paging sources. In view of the existence of these sources of directly competing services, it is our judgment that network organizers will not be able to exercise market power with respect to the offering of intercity paging services to customers.[24] Other intercity telecommunications services may also provide close substitutes for network paging. Accordingly, we conclude that tariff regulation is not necessary to achieve our Title II objectives.

14. We have also examined the relationship between originating carriers and a network organizer to determine whether a carrier-to-carrier tariff is in the public interest. We find that the presence of alternative network services from the two other network organizers, as well as other long haul communication providers, will serve to limit the market power of network organizers. Essentially, network organizers are providers or resellers of intercity interexchange services which are very similar to the services subject to forbearance in the *Competitive Carrier Rulemaking, supra* note 19. Network organizers differ from other long haul providers to the extent that network organizers provide intercity communications service coupled with the right to use a common paging frequency. However, this difference is not significant because of the multitude of paging frequencies available for *de facto* network paging systems.[25] Thus, carriers can request common frequency assignments in different geographic area and easily connect these facilities by long haul communications services, as an alternative to services from network organizers. We believe, therefore, that

[13] None of the commenters advocates Options 1, 2, or 3. In fact, MCI objects to these options because they propose to tariff separately the long haul and traffic termination functions. It argues that bifurcated regulation would be awkward and may result in significant practical problems.

[14] Tariffs would be effective on short notice (14 days); validity of tariffs would be presumed; and extensive cost-supporting data would not be filed.

[15] For example, they predict competition from, *inter alia*, private paging systems and *de facto* paging networks on non-network common carrier paging frequencies.

[16] Sections 201-205 of the Act provide the basic statutory standards by which we judge the lawfulness of carriers' rates and service regulations. *See* Competitive Carrier Rulemaking, 77 FCC 2d 308, 312 (1979).

[17] *See, e.g.*, AT&T v. FCC, 572 F. 2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978); Computer and Communication Industry Association v. FCC, 693 F. 2d 198, 212 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983); Western Union Telegraph Co. v. FCC, 674 F. 2d 160, 165-66 (2d Cir. 1982).

[18] *See* FPC v. Texaco, Inc., 417 U.S. 380, 387-89 (1974); Aeronautical Radio, Inc. (ARINC) v. FCC, 642 F. 2d 1221, 1228 (D.C. Cir. 1980), *cert. denied*, 451 U.S. 920 (1981); Permian Basin Area Rate Cases, 390 U.S. 747, 776 (1968) and the cases cited therein.

[19] First Report and Order, 85 FCC 2d 1 (1980); Second Report and Order, 91 FCC 2d 59 (1982); Third Report and Order, FCC 83-69, released March 21, 1983; Fourth Report and Order, FCC 83-481, released November 2, 1983.

[20] Market power can be defined as "the ability to raise prices by restricting output." One indication of a firm's market power that is often used is the level of its share of the relevant market. In addition, an analysis of the relevant market requires the consideration of close substitutes for the firm's product. *See generally* Fourth Report and Order, *id.*, at paras. 6-13.

[21] The Competitive Carrier Rulemaking did not directly consider the Public Mobile Radio Services. As explained in the text, however, many of the principles underlying that rulemaking are relevant to our consideration of the best regulatory approach in this area.

[22] First Report and Order, BC Docket No. 82-536, FCC 83-154, released May 19, 1983, *modified*, FCC 84-187, released May 2, 1984.

[23] In addition, local paging services can serve the needs of some potential network paging customers. For example, executives frequently visiting another city on business may obtain local paging service in both cities, instead of network paging. While this may not be as convenient as network paging, there is clearly some substitutability of services.

[24] Our judgment in this case is grounded on our experience with the paging industry and the existence of many potential substitutes for network paging services.

[25] In addition to the new FM subcarrier paging frequencies, there are 37 frequencies in the 900 MHz frequency band and 28 lowband paging channels (in addition to the eight original common carrier paging frequencies).

the existence of these many alternatives, coupled with an open access policy for traffic origination, will be sufficient to serve as a check against abuse of any market power that network organizers may possess. Further, the other provisions of Title II, including the obligation to charge just, reasonable and nondiscriminatory rates under Sections 201–202 of the Act and the Section 208 complaint process, apply to all network carriers. Finally, we reserve the right to require tariff filings at a later date, if our forbearance approach proves inadequate to foster competition and protect the public. *See Second Report and Order, supra* note 19, at paras. 21–24.

15. We are not persuaded by NARUC's arguments that the Commission cannot legally preempt state tariff regulation of the services provided by network operators.[26] Federal preemption may occur whenever the state action creates an obstacle to the implementation of the purpose of federal regulation. *Fidelity Federal Savings and Loan Association* v. *de la Cuesta*, 458 U.S. 141 (1982); *New York State Commission on Cable Television* v. *FCC*, 669 F. 2d 58, 62 (2d Cir. 1982) (*Orth-O-Vision*); *Digital Termination Systems*, 86 FCC 2d 360, 389–390 (1981). Our preemption of state rate regulation over the provision of network paging by network operators is based on several factors.[27] First, it is well established that the Commission has end-to-end jurisdiction over interstate communications services. *See Ambassador, Inc.* v. *FCC*, 325 U.S. 317 (1945). Nationwide network paging is an interstate service which, although divisible into three different technical components,[28] functions as an integrated communications system and, therefore, must be viewed as a whole for regulatory purposes. *See New York Telephone Co.* v. *FCC*, 631 F. 2d 1059 (2d Cir. 1980). Second, while NARUC correctly points out that network paging may involve intrastate communications in a few instances,[29] the Commission may exercise jurisdiction over such communications when, as here, it proves to be technically and practically difficult to separate the intrastate from the interstate services.[30] *See California* v. *FCC*, 567 F. 2d 84, 86 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1010 (1978). Overall, state regulation of end-user charges would impede the rapid development of this new, nationwide communications service as well as increase the carrier's expense in providing this service. *See North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 787 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976); *North Carolina Utilities Commission* v. *FCC*, 552 F. 2d 1036 (4th Cir. 1977), *cert. denied*, 434 U.S. 874 (1977).

16. Finally, we conclude the preemption of state regulation is valid, notwithstanding our decision to forbear from tariff regulation of this service. Even though we have declined to require tariff filings, it is clear that preemption can be accomplished by the affirmative, non-tariff regulatory provisions of Title II of the Act. *See Computer and Communications Industry Association* v. *FCC*, 693 F. 2d 198, 217 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983) (*Computer II*); *Orth-O-Vision*, 669 F.2d at 66. *Cf. Hughes Air Corp.* v. *Public Utilities Commission of California*, 644 F. 2d 1334 (9th Cir. 1981) (Civil Aeronautics Board preemption of state regulation upheld, even for carriers that are exempted from CAB regulation). As we explained above, tariff regulation of the service disserves the public interest; we find, therefore, that allowing the states to regulate would militate against the public benefits of not requiring tariffs in this situation. *See Competitive Carrier Rulemaking, supra* note 19. Consequently, preemption of state regulation over the entire nationwide paging system is necessary to fulfill the national policy promoting the development and implementation of this new service.[31] *See Computer II*, 693 F. 2d at 214–15.[32]

C. Application and Authorization Procedures

1. *Network Organizers.* 17. In *Nationwide Paging Service (DPLMRS), supra* at paras. 24–27, we outlined the application procedures for network paging. We indicated that there would be two phases in the licensing. First, applicants seeking to organize a network were required to submit a modified Form 401 application which included financial information, a description of the network design, and a description of the network service proposal. We also provided that if more then three applications were received and the applicants did not align themselves into three groups under the procedures in Section 22.29 of the rules, the three network organizers would be selected by whatever comparative selection process is in effect at the time. *Id.*, at para. 25. While we did not rule out using a lottery for choosing the organizers, we did not expect to use a lottery because we predicted that we would receive "disparate proposals." *Id.*, at n. 11.

18. At the time we adopted our nationwide paging policies, the Commission had not yet decided whether to use lotteries instead of comparative hearings to select licensees. Since that time, the Commission has adopted a lottery procedure to select among mutually exclusive applicants in Public Mobile Radio Services (PMRS), as well as in certain other services. *Second Lottery Report and Order*, 48 FR 27182, released May 27, 1983, *recon. pending*. However, we deferred consideration of whether to use lotteries for nationwide paging until this proceeding. *Id.*, at n. 57.[33]

19. After carefully reviewing the informal comments and the 16 network paging applications currently on file, we conclude that utilizing a lottery to

[26] In Nationwide Paging Service (DPLMRS), *supra*, at paras. 28–37, we preempted state authority over technical standards and entry regulation of both network organizers and operators and rate regulation of network organizers. This decision has been recently affirmed by the Court in National Association of Regulatory Utility Commissioners v. FCC, Case No. 83–1485 (D.C. Cir. filed January 17, 1984).

[27] We are not at this time addressing the question of state authority over local paging provided by network operators. The operators may not provide purely local services without special authorization. Nationwide Paging Service (DPLMRS), *supra*, at n. 8. The question of state jurisdiction is therefore premature.

[28] *See* note 1, *supra*.

[29] For example, a nationwide system can be used to communicate intrastate from San Francisco to Los Angeles.

[30] For example, many network organizers propose to transmit network pages simultaneously nationwide or to multi-state regions of the country, charging one flat fee. It would be technically difficult and inefficient to require the organizer to separate the interstate pages from the intrastate one so that the operator could impose different charges accordingly.

[31] Reach, Inc. has filed a Petition for Clarification which questions whether preemption applies to the three 900 MHz frequencies reserved for network paging or to all network paging systems regardless of the frequencies used. We decline at this time to preempt state regulation of *de facto* network service on non-network frequencies. Such issues are beyond the scope of the instant proceeding. To the extent that nationwide service is established in the future by *de facto* network paging systems, we will entertain petitions for declaratory ruling on the preemption question.

[32] In view of the many public interest benefits of the preemption and forbearance option, we reject the other tariff options presented.

[33] We have received several informal comments from the applicants seeking to be network organizers, which addressed the lottery issue. These comments have been placed in the docket for this proceeding.

choose the three network organizers will significantly benefit the public interest. Contrary to our initial belief, the proposals submitted were no more disparate than other DPLMRS applications. While the technical means to provide network paging may differ from application to application,[34] we observe that each is proposing to provide the same basic service to the consumer and any differences among the applicants are not decisionally signficant.[35] Further, each applicant is proposing to serve at least the minimum number of cities initially and expand nationwide within two years. In short, these applications are no different than other DPLMRS applications. Accordingly, for the same reasons we decided to use lotteries for mutually exclusive DPLRMS applications, we also find that a lottery will serve the public interest in this instance. The minimal benefits to the public that might result from a comparative hearing are far outweighted by the costs and delay of service connected with the hearing process. As a result, the staff will conduct a lottery for network paging applications, pursuant to Section 22.33 and 1.821 of the rules, in order to determine the three network organizers. A Public Notice announcing the date of this lottery will be issued in the near future. We will, of course, carefully review the qualifications of the three selectees and the merits of any petitions to deny filed against them before issuing operating authorizations.

2. *Network Operators.* 20. The second stage in licensing network paging systems involves the local distribution carriers. In *Nationwide Paging Service (DPLMRS), supra,* at para. 27, we briefly described our *pro forma* licensing process for these "network operators," but we declined to accept any applications from prospective operators because our decision on access requirements would affect our licensing polices. *Id.* at n. 17. In addition, we indicated that the licensing requirement was necessary only to ensure compliance with our technical rules for transmitter and antenna structures. In view of our elimination of the open access requirement for traffic termination, we have decided to modify our licensing procedures for network operators. Under our new access policy, network organizers have the discretion to select one or more carriers for the local distribution of network pages. *See* para. 7, *supra.* As a result, we will accept applications only from operators who have specific, completed contractual arrangements with one or more successful network organizers.[36] We contemplate issuing a Public Notice establishing the opening application date immediately after the grant of the network organizers' applications. There will be no cut-off date for these applications because there is no mutual exclusivity. Because under our new access policy the network organizers will now have complete control over the distribution of network pages over the local operator's facilities, we will consider applications for local distribution facilities to be minor applications not subject to public notice or petitions to deny, *see* Section 22.27(c)(1) of the rules,[37] and both the network organizers and the local distribution carrier will be held responsible for the technical operation of such facilities.[38] We have decided to license network paging in this manner because the new access policy provides network organizers with greater control in the selection of local distribution carriers and the technical operation of the network paging facilities.[39] Consequently, we are modifying Section 22.527 of the rules to reflect this change of licensing procedures.

D. Privacy and National Security Concerns

21. As a final matter, we would like to express our concern about privacy of subscribers using alphanumeric paging equipment. Early paging systems conveyed no information other than the existence of a paging request. Current technology allows for much more sophisticated systems capable of sending alphanumeric messages up to 80 characters long, and similar systems are expected shortly to have the capacity to transmit considerably longer messages. This is clearly useful to many users of such systems. However, these systems are also vulnerable to interception by undesired third parties and the messages conveyed are easy to store and sort with computers. This can pose a threat to the privacy of subscribers. Large scale interception of commercial information can also pose a national security concern with respect to interception by foreign entities. While we do not have a record at this point on which to propose a specific action, we would like to point out to the operators of all sophisticated paging systems our concern in this area and encourage the operators to develop and offer optional encryption of message text for those users who wish to pay for this service.

III. Conclusion

22. This new nationwide paging service is being authorized pursuant to both Titles II and III of the Communications Act of 1934, as amended. We are adopting an open access requirement for traffic origination in order to promote competition among carriers, thereby encouraging lower cost and more diverse services for consumers. We are preempting state tariff regulation over the network operators and forbearing from regulating rates of both organizers and operators because we believe that marketplace forces, in conjunction with our residual regulatory responsibilities, are sufficient to protect against discriminatory pricing. Finally, we have developed streamlined application processes in order to speed services to the public with a minimum amount of paperwork for the Commission and the applicants. In summary, we are confident that the policies adopted here will facilitate the implementation of this new, innovative interstate service in the most efficient and expeditious manner possible.

IV. Regulatory Flexibility Act—Final Analysis

23. *Need for and Purposes of Rules.* This action adopts an open access approach for traffic origination. It also adopts a forbearance approach for tariffing network paging services. The objectives are to provide competitive nationwide paging service to the public as expeditiously as possible.

24. *Issues Raised by the Public in Response to the Initial Analysis.* None.

[34] A majority of the applicants propose utilizing a satellite network to provide network paging; the remaining applicants propose using terrestrial links or a combination of satellite and terrestrial links. We can find no reason to favor one type of network over another.

[35] For example, in addition to different networking proposals, the applicants propose different paging formats, service practices and maintenance plans. These differences have only a minimal effect on the public interest and, in any event, will likely to be set in practice by marketplace conditions. Additionally, we believe that the marketplace will ultimately dictate the coverage and charges for network paging.

[36] Applications of local distribution carriers may contain a letter indicating that the applicant has specific completed contracts with the network organizer, in lieu of submitting the contract itself. *See* Nationwide Paging Service (DPLMRS), *supra,* at para. 27, for other application requirements.

[37] We are adding a note to § 22.27(c)(1) of the rules to embody our interpretation that applications for local distribution facilities are minor applications.

[38] In the event the local distribution carrier subsequently requests authorization to provide local paging service over its facilities, its application will be subject to the public notice requirement.

[39] In Nationwide Paging Service (DPLMRS), *supra,* at paras. 18 and 24, we provided that the network organizer is the licensee of the frequency who controls the use of the frequencies with all rights and responsibilities associated with such control.

25. *Alternatives That Would Lessen Impact.* We have considered alternative approaches to limited open access and to forbearance and conclude that the alternatives would be burdensome.

V. Ordering Clauses

26. Authority for this rulemaking is contained in Sections 4(i), 201–209, 303(r) and 309(i) of the Communications Act of 1934, as amended [47 U.S.C. 154(i), 201–209, 303(r) and 309(i)], and Section 553 of the Administrative Procedure Act [5 U.S.C. 553].

27. Accordingly, it is ordered, That Part 22 of the rules is amended as specified in Appendix B. These amendments and the other policies adopted in this order will become effective 30 days after publication of this document in the **Federal Register.**

28. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parties Filing Comments in Further Notice of Proposed Rulemaking (900 MHz Network Paging)

American Paging Inc.
American Telephone and Telegraph Company
MCI Airsignal, Inc.
Mobile Communications Corporation of America
National Association of Regulatory Utility Commissioners
Page America Group Inc.

Reply Commenters

American Paging, Inc.
American Telephone and Telegraph Company
MCI Airsignal, Inc.
Millicom Information Services, Inc.
Mobile Communications Corporation of America
Page America Group, Inc.
Telocator Network of America

Appendix B

PART 22—[AMENDED]

47 CFR Part 22 is amended as follows:

1. 47 CFR 22.27 is amended by adding a note after paragraph (c)(1) to read as follows:

§ 22.27 Public notice period.

* * * * *

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

Note.—Applications to provide local distribution facilities for network paging systems filed pursuant to § 22.527 are considered minor applications.

* * * * *

2. 47 CFR 22.527 is amended by adding paragraphs (c) and (d) to read as follows:

§ 22.527 Channel assignment policies for 900 MHz one-way signaling channels reserved for stations engaged in providing network signaling service.

* * * * *

(c) An applicant wishing to serve as a local distribution carrier must have specific, completed contracts with the network organizer(s) for which it is proposing to provide local distribution services. Applications may contain a letter indicating that the applicant has a completed contract with the organizer, in lieu of submitting the contract itself.

(d) Network organizers and local distribution carriers are jointly and severably liable for the technical operation of the local network distribution facilities.

Statement of FCC Commissioner James H. Quello Dissenting in Part

In re: *Third Report and Order* resolving certain issues with respect to *Nationwide Network Paging,* CC Docket No. 80–183.

Use of the lottery to resolve mutually exclusive applications in this new service is simply another manifestation of the Commission's propensity to over-emphasize its new lottery authority.[1] A single hearing could resolve these cases in a reasonable time with the likelihood that the public would be better served.

The majority elects to use the lottery process because "[w]hile the technical means to provide network paging may differ from application to application, we observe that each is proposing to provide the same basic service to the consumer."[2] Of course, it's hard to imagine that any applicant would propose anything other than "the same basic service" since that is the service established by the Commission and for which spectrum was set aside. Thus presumably, anyone capable of reading the sailient parts of our order is fully capable of implementing the service as efficiently and as effectively as anyone else. That kind of irrationality only heightens my concern that we may be doing serious harm to the comparative process.[3] Thus, I dissent to that portion of the Order which requires use of the lottery to decide among applicants.

I believe the majority was correct when it removed the open access requirement from the terminating end of these paging systems. Such a requirement could only serve to unnecessarily complicate system design without providing any significant public benefit.

[FR Doc. 84-14103 Filed 5-25-84; 8:45 am]

BILLING CODE 6712-01-M

[1] *See* Report and Order Cellular Lottery Rulemaking, CC Docket No. 83–1096, — FCC 2d — (adopted April 11, 1984) (Quello, Commr., dissenting in part).

[2] *See* Third Report and Order Network Nationwide Paging, Gen. Docket No. 80–183, — FCC 2d —, — (para. 18) (adopted April 11, 1984).

[3] *See* MCI Cellular Telephone Co., CC Docket Nos. 82–796 and 82–721, — FCC 2d — (released March 6, 1984) (Quello, Commr., concurrring).

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47 CFR Part 69

[CC Docket No. 78–72; Phase I; FCC 84–204]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: One year waiver of Commission rules.

SUMMARY: This action waives until June 1, 1985, the Commission rules which govern computation of payments to or from pool participants to allow the National Exchange Carrier Association to distribute pooled revenues more in accordance with the settlements model. In addition, this order requires NECA to provide within six months a report and recommendations for long-term resolution of the concerns raised by their waiver request. This action is necessary to avoid disruptions in payments to exchange carriers for their interstate services, with consequential financial hardships and threats to service quality.

DATE: May 29, 1984.

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

FOR FURTHER INFORMATION CONTACT: Steve Goodman, Common Carrier Bureau, (202) 632–6917.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Exchange Carrier Association, Revenue pooling.

Order Granting Waiver

In the matter of MTS and WATS Market Structure, CC Docket 78–72, Phase I.

Adopted: May 14, 1984.
Released: May 16, 1984.

By the Commission.

1. Before the Commission is a waiver petition filed by the National Exchange Carrier Association, Inc. (NECA). There were no oppositions filed in response to NECA's petition. NECA seeks a waiver until June 1985 of the Commission's access charge rules as they relate to the distribution of pooled revenues. 47 CFR

69.605(d), 69.607, 69.608, 69.609, and 69.610. NECA suggests an alternative distribution scheme that would more closely track the settlements model.

2. Under the settlements model, all pool participants earn a uniform rate of return. NECA claims that the distribution rules adopted by the Commission depart from the settlements model in two respects: (1) Since the net balance of an exchange carrier is calculated by combining the hypothetical net balances for all access elements (except billing and collection) and multiplying that sum by a residue factor based only on the carrier common line residue, exchange carriers in the traffic sensitive pool may not earn a uniform rate of return; and (2) since the Commission's rules do not segregate expense and return on investment components for the common line elements, exchange carriers in the carrier common line pool may not earn a uniform rate of return.

3. NECA proposes to address the first problem by developing net balances for each of the pools separately. It seeks a waiver of Section 69.607 to permit it to do this. With respect to the second problem, NECA seeks a waiver of sections 69.608 and 69.609 to permit identification of separate expense and return components for the common line pool participants, rather than a single revenue requirement that includes both expenses and return on investment. This approach tracks the rules' computation of hypothetical net balances for the traffic sensitive elements, and assures that all exchange carriers participating in the common line pools receive a uniform rate of return with respect to the common line elements. In addition, NECA requests that the end user revenues received by each exchange carrier be deemed equal to that carrier's end user revenue requirement for purposes of determining monthly carrier common line distributions, since the Commission's rules do not provide a mechanism for allocating expenses and related investments between the end user and carrier common line categories.

4. In the *Third Report and Order* in this docket, we adopted the settlements model for the distribution rules.[1] In doing so, we recognized the pool participants' desire for a uniform rate of return. We also expressed concern, however, that such a method of compensation provides little or no incentive for an exchange carrier to improve efficiency. But, given the press of time, we left the possible development of a superior alternative to a later date and adopted rules to track the settlements model. As NECA points out, however, those rules do not precisely follow the settlements model since differing rates of return may obtain for the pool participants, depending on whether the "residue factor" equals 1.0., and whether the ratio of common line investment to expense varies among participants. It does not appear that the proposals submitted by NECA create any greater incentives for inefficiency than do the rules adopted by the Commission, and they do more closely approximate the settlements model's uniform return. Therefore, we will grant NECA's request for a temporary waiver of the part 69 distribution rules.

5. In its petition, NECA expresses a willingness to provide the Commission with a report and recommendations for long-term resolution of the concerns raised by its waiver request. We will require such a report to be filed by November 15, 1984. At that time we may begin a rulemaking proceeding to modify the distribution formulae in Part 69 of the rules as either an interim or long-term solution to the problems presented by NECA of a lack of uniform returns. We may also take that opportunity to develop an entirely different distribution scheme that would increase the incentives of exchange carriers to improve efficiency.

6. Accordingly, it is ordered that the request of the National Exchange Carriers Association for waiver of the Part 69 distribution rules, as set forth above, is granted through June 1, 1985.

7. It is further ordered, that this Order Granting Waiver is effective upon adoption.

8. It is further ordered that this Order shall be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-14161 Filed 5-25-84; 8:45 am]

BILLING CODE 6712-01-M

[1] 93 FCC 2d 241, 48 FR 10319 at para. 332 (March 11, 1983).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[BMCS Docket No. MC-107; Amdt. No. 83-7]

Minimum Levels of Financial Responsibility for Motor Carriers of Passengers; Technical Corrections

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: The final rule establishing minimum levels of financial responsibility for for-hire motor carriers of passengers involved in interstate or foreign transportation (48 FR 52769, November 21, 1983) is being amended to indicate the Office of Management and Budget (OMB) approval numbers for the endorsement forms for policies of insurance and surety bonds. All motor carriers of passengers subject to this requirement must have the endorsement(s) on file and available upon reasonable request by July 2, 1984, which is 90 days from the date OMB approved the forms.

EFFECTIVE DATE: The rule became effective on November 19, 1983. The endorsement requirement of § 387.39 will not be enforced until July 2, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The final rule establishing minimum levels of financial responsibility for for-hire motor carriers of passengers involved in interstate or foreign transportation was published in the **Federal Register** November 21, 1983 (48 FR 52679). The minimum levels of financial responsibility became effective on November 19, 1983 except that the endorsement requirements of § 397.39 would not be enforced until 90 days after OMB approved the forms.

On April 2, 1984 the OMB approved both forms as they appear in § 387.39. Endorsements for policies of insurance (Illustration I) and surety bonds (Illustration II) of the final rule are being amended to show the OMB number in the upper right hand corner. The OMB number is 2125-0158.

Effective July 2, 1984, all motor carriers of passengers for-hire operating in interstate or foreign commerce will be required to have on file a copy of Form MCS-90B (insurance), or Form MCS-82B (surety bonds) as prescribed in § 387.39, Forms.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Notice and opportunity for comment are not required because these amendments are technical in nature and make no

substantive changes in the regulation. The requirement for the endorsement for insurance and surety bonds was previously subject to notice and comment and was adopted on November 21, 1983 (48 FR 52683). As the November 21, 1983 final rule indicated, enforcement of the endorsement requirement was delayed until OMB approval was obtained. It is not anticipated that a request for comments would result in the receipt of useful information. No economic impacts are anticipated as a result of this action. Accordingly, a full regulatory evaluation is not required. For the above reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant impact on a substantial number of small entities.

Since the rule was effective on November 19, 1983, this amendment only advises that the recordkeeping requirement will be enforced beginning 90 days from April 2 or July 2, 1984. The minimum levels of financial responsibility are currently in effect.

List of Subjects in 49 CFR Part 387

Highways and roads, Motor carriers, Motor vehicles, Financial responsibility, Insurance, Penalties, Reporting and recordkeeping requirements.

(Sec. 30 Pub. L. 96-296, 94 Stat. 793; Sec. 108(6)(5), Pub. L. 96-510, 94 Stat. 3767; U.S.C. 315; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued: May 21, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Subpart B—Motor Carriers of Passengers

The FHWA hereby amends 49 CFR Part 387, Subpart B, as follows:

§ 387.39 [Amended]

1. In § 387.39, amend the first sentence by adding the words "and approved by the OMB" after the words "by the FHWA."

2. In § 387.39, amend Illustrations I and II by adding the number "2125-0518" to the upper right hand corner after the words "Form Approved OMB No."

3. At the end of § 387.39, add the following words, "[OMB Control No. 2125-0518]."

[FR Doc. 84-14172 Filed 5-25-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Cowania Subintegra (Arizona Cliffrose) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service determines a plant, *Cowania subintegra* Kearney (Arizona Cliffrose) to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. Critical habitat is not designated. This plant is endemic to Arizona with only two widely separated populations known to exist, one in Mohave County and one in Graham County. Both areas are subject to browsing and road maintenance; one population could be additionally impacted by mining. This action implements protection provided by the Endangered Species Act of 1973, as amended.

DATE: The effective date of this rule is May 29, 1984.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Region 2, 421 Gold Avenue, SW, Albuquerque, New Mexico 87103 (505/766-3972).

FOR FURTHER INFORMATION CONTACT: Dr. Russell Kologiski, U.S. Fish and Wildlife Service, Office of Endangered Species, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972).

SUPPLEMENTARY INFORMATION:

Background

Cowania subintegra was first collected by Darrow and Crooks on April 20, 1938, and was later described by Kearney (Kearney, 1943). The first population discovered was in southeastern Mohave County, Arizona and covers approximately 600 acres. The second known population is in Graham County, Arizona, and is scattered over about 100 acres. *Cowania subintegra* is an evergreen shrub reaching 75 centimeters in height. The bark is pale gray and shreddy. The leaves, twigs and flowers are covered with dense, short, white hairs. The leaves are entire to lobed with one prominent vein. The flowers are white or yellow, with petals about 10 millimeters long (Phillips *et al.*, 1980).

Cowania subintegra is most closely related to *Cowania ericaefolia* which grows in the Chihuahuan Desert of Trans-Pecos Texas and Coahuila, Mexico. The widely separated ranges of the species suggest a more continuous range in the past that was long ago fragmented into relict populations (Van Devender, 1980). *Cowania subintegra* and other limestone endemics are valuable in the study of the biogeography and evolution of Southwestern floras.

Cowania subintegra grows in gravelly clay loam soils over limestone on low rolling hills in the Arizona upland subdivision of the Desert Formation (Brown and Lowe, 1977). The vegetation of the area is dominated by *Larrea tridentata* (creosote bush), *Chrysothamnus nauseosus* (rabbit brush), *Canotia holocantha* (false palo verde), and *Acacia greggii* (catclaw acacia).

All known populations of *Cowania subintegra* occur on either Federal lands or Arizona State lands. The Federal lands are administered by the Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) and the Arizona lands are administered by the Arizona Department of Transportation (DOT). The species is threatened by overgrazing, mining activities, and maintenance of road and pipeline right-of-ways (Van Devender, 1980). The lack of seedlings and the low percent of fruit indicate that the overall reproductive rate is poor for both the Mohave County population and the Graham County population (Phillips *et al.*, 1980).

Federal governmental action involving this species began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the meaning of Section 4(c)(2) of the Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant

species to be endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Cowania subintegra* was included in the 1975 Smithsonian Report, the 1975 notice, and the 1976 proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn, although a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal, along with four other proposals which had expired. A revised notice for plants was published in the December 15, 1980, **Federal Register** (45 FR 82480) and included *Cowania subintegra* as a category 1 species. Category 1 comprises taxa for which the Service has substantial information on biological vulnerability and threats to support the appropriateness of proposing to list the taxa as endangered or threatened species. This notice has subsequently been accepted as a petition under section 4(b)(3)(A) of the Act, as amended in 1982. The Service published a proposed rule to list *Cowania subintegra* as an endangered species in the July 15, 1983, **Federal Register** (48 FR 32520).

Summary of Comments and Recommendations

In the July 15, 1983, proposed rule (48 FR 32520) and associated notifications, all interested praties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Arizona Republic*, Phoenix, Arizona, on August 11, 1983, which invited general public comment. Eleven comments were received and are discussed below. No public hearing was requested or held.

Comments were received supporting the listing of *Cowania subintegra* from the Arizona Game and Fish Department, the District Botanist and State Director of the Bureau of Land Management (BLM), the Arizona Office of Economic Planning and Development, and the International Union for the Conservation of Nature and Natural Resources. The University of Arizona Office of Arid Lands Studies stated that the species should be watched to avoid the possibility of extinction.

El Paso Natural Gas Company informed the Service that the pipeline that passes through the Burro Creek area is owned and maintained by Southern Union Gas. This correction has been made in the final rule.

No comment letters were received from the District IV Council of Governments and Southeastern Arizona Governments Association. The Arizona Commission of Agriculture and Horticulture said that the plant was not of any medicinal value. They also recommended strategic fencing by BLM without posting to provide protection from browsing and off-road vehicles.

The BLM, in addition to supporting the proposal, described the parent material at the Burro Creek area as slightly metamorphosed volcanic ash deposits and dolomitic limestone and the soil as shallow to moderately deep cherty clay loam; gypsum was not detected. They also commented that a total of 114 mineral claims are found within a mile radius of the Burro Creek population and 12 of these are located within the same quarter section. This is an additional 105 claims since preparation of the proposal. The BLM is conducting a browse utilization study and has addressed *Cowania subintegra* in the planning documents for this area. Both BLM and the grazing allottee are interested in water development projects in the Burro Creek area which could result in increased utilization of the area for forage. The final rule has been corrected to reflect these comments.

A grazing allottee in the Burro Creek area, commented that extinction is to be expected and he disagrees with spending money on any species that has no commercial or "scenic" value. He believes that it is abundant where found, is threatened by burro overgrazing, and by poor reproduction. However, Congress, in enacting the Endangered Species Act, allowed neither commercial nors"scenic value" to be used as criteria in the Act to determine whether or not to list a species. Only 700 plants are known to exist and populations are vulnerable due to poor reproduction and overgrazing threats, among others. Senator Goldwater and Senator DeConcini also inquired about the proposal in response to the receipt of a copy of the letter from the grazing allottee.

In addition to these comments, the Arizona Plant Recovery Team supports the proposed listing of *Cowania subintegra*.

Summary of Factors Affecting the Species

After a through review and consideration of all information available, the Service has determined that *Cowania subintegra* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cowania subintegra* Kearney (Arizona cliffrose) and as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* There are two known populations of *Cowania subintegra* covering approximately 600 acres in Mohave County and 100 acres in Graham County. Habitat destruction through mining is one of the threats to the Burro Creek population in Mohave County. At present there are 114 BLM mining claims within a mile radius of this population, but it is not known to what extent the mineral resources of the area will be developed. Twelve of these claims are located within the same quarter sections that *Cowania subintegra* inhabits (Butterwick, pers. comm.). Areas within the population have been bladed thus destroying habitat, apparently to expose subsurface formations for mineral exploration.

A graded road and a portion of the Southern Union Gas pipeline pass through the Burro Creek area. Maintenance work for both involves occasional blading which prevents any plant establishment in these areas. A high voltage power line also passes through the Burro Creek area and some habitat destruction occurred during construction. A highline pole storage area is also in the vicinity of the Burro Creek population and effectively removes that area from habitation by this plant.

A portion of the Graham County population occurs on U.S. Highway 70 right-of-way on top of a hill through which the highway cuts. Protection of this species would involve not destroying the plants on the hill or the hill itself. Widening of the highway would be the greatest threat to *Cowania subintegra*. Herbicides, if sprayed on top of the hill (8–20 feet above the road),

could also harm the plants. Fortunately, current maintenance procedures do not threaten the *Cowania* or its habitat and there are no plans to widen the highway. The State of Arizona Department of Transportation has been contacted concerning protection of this species and has agreed to notify the Service if future construction or maintenance activities could adversely impact the *Cowania* population. To ensure continuation of these conditions, management and protection plans for this site are needed.

B. *Overutilization for commercial, recreational, scientific or educational purposes. Cowania subintegra* is not widely sought for horticultural or scientific purposes (Van Devender, 1980). The low numbers of plants, however, makes this species very vulnerable and any future taking for these two purposes would be detrimental. The populations of this species are easily accessible to collectors and vandals.

C. *Disease or predation.* The Burro Creek population of *Cowania subintegra* is heavily browsed, probably by cattle, mule deer, and feral burros. The site has been given a range rating of fair condition with a static trend, indicating overutilization of the range (BLM, 1982). Individual plants are in fair to poor condition, and are usually hedged. There is no evidence of reproduction except in Graham County on the U.S. Highway 70 right-of-way, where there are immature plants (Butterwick 1979; Phillips *et al.*, 1980). Further studies are being conducted to determine the impact of browsing on the plants, and to determine which herbivores are responsible and to what extent. *Cowania subintegra* is addressed in BLM planning documents; however, both BLM and the grazing allottee are interested in water development projects in this area. These projects could result in increased utilization of the plant for forage. Possible results of browsing are poor plant vigor, poor reproduction, and a lack of seedling establishment.

D. *The inadequacy of existing regulatory mechanisms.* Presently, there is no Federal or Arizona State law protecting *Cowania subintegra*, nor is there a management plan in effect for either population. Restrictions concerning the removal of plants from Federal lands are extremely hard to enforce, especially when the habitat is as easily accessible as with *Cowania*.

E. *Other natural or manmade factors affecting its continued existence.* Seeds collected from the Burro Creek population appeared to be non-viable. The lack of fertile seeds and the low number of seedlings at either locality suggest that reproduction in this species is inadequate to maintain population size (Phillips *et al.*, 1980). Further studies are needed to determine the cause of the poor reproduction.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cowania subintegra* as endangered without critical habitat. Endangered status seems appropriate because of the two small populations, restricted distribution, and the current threats to the species. A decision to take no action would exclude *Cowania subintegra* from needed protection available under the Endangered Species Act. A decision to list as threatened would not adequately reflect the threats to the species or possibility of its extinction. Therefore, no action or listing as threatened would be contrary to the Act's intent.

Critical Habitat

The Endangered Species Act in section 4(a)(3), as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The Act does not protect endangered plants from taking or vandalism on lands under non-Federal jurisdiction and regulations on Federal lands are difficult to enforce effectively. This would be especially true for *Cowania subintegra*, whose habitat is located along a highway and is easily accessible. Listing of a species, with attendant publicity, highlights its rarity and attractiveness to collectors. Determining critical habitat for this species would make it more vulnerable to taking by collectors and vandalism, and increase enforcement problems. Designation would not appreciably increase the protection given the plant, since it occurs primarily on Federal land, where the controlling agencies know or can be informed of its location and may not undertake actions likely to jeopardize it. Therefore, it would not be prudent to determine critical habitat for *Cowania subintegra* at this time.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7 requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

The Federal lands on which *Cowania subintegra* occurs are administered by the BLM and the San Carlos Indian Reservation, Bureau of Indian Affairs (BIA). The BLM is aware of the Arizona cliffrose and is planning for the species in its management documents, the Burro Creek Riparian Management Plan and Big Sandy Herd Management Area Plan.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Cowania subintegra*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR Sections 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International and interstate commercial trade in *Cowania subintegra* is not known to exist. It is anticipated that few trade permits would ever be sought or issued since the

species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. The new prohibition now applies to *Cowania subintegra*. Permits for exceptions to this prohibition are available through Section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417) and these will be made final following public comment. *Cowania subintegra* occurs only on BLM, BIA, and Arizona DOT lands. It is anticipated that few taking permits for the species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

The Service will now review this species to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through Section 8(A)(e) of the Act, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

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

Effective Date

At the time of preparation of the proposed rule, some 9 mining claims were reported located within a mile of the Burro Creek population. Information received since publication of the proposed rule indicates that a total of 114 claims are now located within a mile. Mineral exploration, with consequent bulldozing or grading of ground and plant cover, has already been undertaken, and operational mining permits may be issued as early as May, 1984. The imminence of active development that, if uncontrolled, has the potential for seriously harming the main population of this plant constitutes good cause for giving immediate effect to this rule. Accordingly, this rule shall take effect upon publication.

Literature Cited

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U.S. Bureau of Land Management. 1982. Big Sandy Herd Management Area Plan. Phoenix District Office.

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Authors

The authors of this final rule are Margaret Olwell and John Pulliam, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of Interior, P.O. Box 1306, Albuquerque, New Mexico, 87103 (505/766–3972). The editor is LaVerne Smith, Office of Endangered Species, Washington, D.C. 20240 (703/235–1975). Status information and a preliminary listing package were provided by Dr. Authur M. Phillips III, Dr. Barbara G. Phillips, Mr. L. T. Green, Ms. Jill Mazzoni, and Ms. Elaine M. Peterson, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona, 86001.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1351 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order, under Rosaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Rosaceae—Rose Family						
*	*	*	*	*	*	*
Cowania subintegra	Arizona cliffrose	U.S.A. (AZ)	E	147	NA	NA
*	*	*	*	*	*	*

Dated: May 16, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-14201 Filed 5-25-84; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Reclassify the Utah Prairie Dog as Threatened, With Special Rule To Allow Regulated Taking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service reclassifies the Utah prairie dog (*Cynomys parvidens*) from endangered to threatened status under the Endangered Species Act of 1973, and issues a special regulation that allows a maximum of 5,000 animals of this species to be taken annually between June 1 and December 31 in parts of the Cedar and Parowan Valleys in Utah under a permit system developed by the Utah Division of Wildlife Resources. Such taking is in the best interest of the conservation of the Utah prairie dog, and will not be allowed to be inconsistent with the conservation of the populations in question. These populations have increased substantially in recent years, and are now straining the carrying capacity of available habitat in the Cedar and Parowan Valleys. They are thus vulnerable to outbreaks of disease (sylvatic plague) such as have occurred among overcrowded rodents elsewhere. There is also a serious conflict developing between these populations and human agricultural interests, which will result in antagonism from local ranchers, and possibly mass illegal killing of prairie dogs as unwanted nuisances. A program of transplanting prairie dogs onto public lands has not been able to keep up with the population expansion or relieve the population pressures. Regulated taking is now seen as the only way to relieve the situation in the Cedar and Parowan Valleys.

EFFECTIVE DATE: This rule is effective May 29, 1984 because it is necessary for the State of Utah to begin control of excess populations by June 1, 1984.

ADDRESSES: The complete file for this rule is available for inspection by appointment during normal business hours at the Service's Regional Office, 134 Union Boulevard, 4th floor, Lakewood, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Galen Buterbaugh, Regional Director, U.S. Fish and Wildlife Service, Region 6, Denver, Colorado (303/234–2209), or John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Utah prairie dog (*Cynomys parvidens*) was listed as an endangered species on June 4, 1974 (38 FR 14678), pursuant to the Endangered Species Conservation Act of 1969. On November 5, 1979, the Utah Division of Wildlife Resources petitioned the U.S. Fish and Wildlife Service to remove the Utah prairie dog from the U.S. List of Endangered and Threatened Wildlife. The Service found that this petition contained substantial data and a proposal to reclassify the species from endangered to threatened status was published May 13, 1983 (48 FR 21604).

The Utah prairie dog is a burrowing rodent in the squirrel family (Sciuridae) that occurs only in southern Utah. Its total numbers were estimated to be about 95,000 in the 1920's (Turner, 1979), compared to an estimated 10,000 adult animals in the spring of 1982 (note: this figure is derived from the Utah Division of Wildlife Resources 1982 spring census total of 5,731 animals; according to Crocker-Bedford (1975), this census total needs to be doubled to obtain a valid population estimate since only 40 to 60 percent of the animals are above ground and counted during any census survey). This decline was caused by human-related habitat alteration and poisoning which resulted from the belief that prairie dogs compete with domestic livestock for forage. At present, the Utah prairie dog is still threatened over much of its range by loss of habitat to human residential and agricultural development.

The Utah prairie dog, however, is not in danger of extinction. Despite the above problems, overall numbers have increased since 1972. The total area occupied by the Utah prairie dog at present encompasses some 456,000 acres. This acreage is a rough estimate created by drawing a polygon around groups of prairie dog colonies, since no exact acreage figures are available. Thus, the actual area occupied by colonies would be somewhat less. The spring estimate of the number of adult animals in the Cedar and Parowan Valleys (encompassing about 113,000 acres in eastern Iron County), actually increased from 1,200 in 1976 to 7,300 in the spring of 1982. It should be clearly noted at this point that these population estimates are deceptive. They are based on early spring censuses and constitute only the adult animals that have successfully survived the winter. In the summer, after the young are born and become active, the numbers of Utah prairie dogs are much higher. This is the time at which it is necessary to reduce population pressures in the Cedar and Parowan Valleys. Female Utah prairie dogs give birth to an average of 4.8 young in April (Pizzimenti and Collier, 1975).

Assuming that ½ the adult population is female and each produces an average annual litter of only 4 young, the total adult and juvenile population of the species throughout its whole range in the summer would be at least 30,000 animals (5,000 adult females × 4 pups + 10,000 adults). In the Cedar and Parowan Valleys alone, the summer population would be well in excess of 20,000 animals (3,650 females × 4 pups +7,300 adults). The adult prairie dogs cease surface activity in late August and September, but the young animals continue surface activity and feeding for several months thereafter. These young prairie dogs suffer a high mortality rate in the fall and winter, but those that do survive over the winter contribute to the steady increase in the numbers of adult Utah prairie dogs noted since 1976. The problem that has developed is that the large number of juvenile animals added annually each summer to the expanding population is straining the carrying capacity of available habitat in the Cedar and Parowan Valleys. With such high population densities there may also be a greater danger of the outbreak of disease, sylvatic plague (Collier and Spillett, 1972).

In addition, there is serious conflict in the Cedar and Parowan Valleys between the Utah prairie dog and human agricultural interests. About 62 percent of all Utah prairie dog colonies occurred on private land in 1982; about 88 percent of the total number of animals occurred on private land. In the Cedar and Parowan Valleys, 98 percent of all prairie dogs occur on private land. The major crop on this private land is alfalfa, which is also a preferred food of the prairie dog. Crop losses are extensive where large prairie dog towns have developed; the prairie dog mounds damage haying equipment and the burrows drain irrigated fields. It is estimated that the large summer populations of these prairie dogs cost local ranchers 1.5 million dollars annually in crop losses and damage to equipment (Ivan Matheson, Utah State Senator, Pers. Comm.). The Utah Division of Wildlife Resources (Pers. Comm., 1984) feels that ranchers in the area will not continue to tolerate such large losses annually. Sooner or later they will take matters into their own hands and begin to illegally kill prairie dogs using methods which will have a far more catastrophic effect on the population. Farmers in the area

traditionally poisoned, shot, or trapped nuisance prairie dogs. Since the Utah prairie dog has been protected by the Endangered Species Act of 1973, however, these methods of control have no longer been legal. The populations continue to expand into previously unoccupied areas which include agricultural fields. In an increasing number of cases fields have become so densely populated that they have been completely ruined for agricultural use. Damage in the Cedar and Parowan Valleys has now reached the point at which there is genuine concern that local ranchers might take these illegal means of securing relief, and this could prove severely damaging to the remaining Utah prairie dog populations, perhaps even bringing about the extinction of the species in these valleys.

Outside of the Cedar and Parowan Valleys, Utah prairie dog numbers have remained relatively stable since 1976. In 1976, the number of prairie dogs outside of the Cedar and Parowan Valleys was estimated in the spring census to be about 3,000 animals in 30 towns. In 1982, the spring estimate was about 4,000 animals (including 730 animals transplanted to public lands in 1981) in 48 towns. During this period, however, numbers increased dramatically in the Cedar and Parowan Valleys, where the spring estimate showed an increase from 1,254 animals in 21 towns in 1976, to 7,378 animals in 33 towns in 1982.

In an effort to relieve the overpopulation problems in the Cedar and Parowan Valleys, the Utah Division of Wildlife Resources removed 2,437 animals between 1976 and 1980 for transplanting onto public lands. Although many of these animals apparently did not survive, the transplantation program, along with discovery of previously unrecorded colonies, has increased the number of known active prairie dog towns on public lands from 11 in 1976 to 32 in 1982. Meanwhile, the number of active towns on private land increased from 40 in 1976 to 57 in 1982. The transplantation program obviously has not been able to keep pace with the growing prairie dog population in the Cedar and Parowan Valleys, and new sites for reintroduction are limited. It therefore appears that population pressures in this area are now such that regulated taking is necessary for the management and proper conservation of the species. The draft Utah prairie dog recovery plan (1983) recognizes that such control might be necessary for the conservation of this species. It specifically states that towns should not be allowed to expand uncontrolled, causing significant conflict with other land uses (p. 25), and that trapping and shooting (among other control measures) should be used where necessary to control such populations (p. 26). The present rule recognizes the biological fact that the Utah prairie dog is a threatened rather than an endangered species, and would permit the State of Utah to authorize certain individuals to legally take up to 5,000 animals annually between June 1 and December 31 in delineated portions of the Cedar and Parowan Valleys when such take is necessary for the conservation and management of the Utah prairie dog. Also, the State will continue to live-trap prairie dogs on private lands and reestablish them on Federal lands as has been its practice since the mid-1970's. By taking this action, the Service is in complete accord with the stipulations of the draft recovery plan for the Utah prairie dog.

Summary of Comments and Recommendations

In the May 24, 1983, proposed rule (48 FR 21604) and associated notifications, all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A notice was published in the Daily Spectrum newspaper, Cedar City, Utah, on July 4, 1983, which invited general comments. The comments received are discussed below.

The Service received nine comments on the proposal to reclassify the Utah prairie dog. The Utah Farm Bureau Federation commented on behalf of more than 18,000 Utah Farm Bureau families whose agricultural properties lie within the habitat of the Utah prairie dog. The Federation strongly supported the reclassification together with adoption of alternative means whereby depredation to crops and agricultural lands can be minimized, because a large part of the extensive damage done by the prairie dog occurs on cultivated alfalfa and grain fields. These animals destroy irrigation systems, reducing crop yields and damaging farm machinery.

The Wildlife Legislative Fund of America (WLFA) expressed support for reclassifying the Utah prairie dog. The WLFA indicated that culling of the Utah prairie dog populations is a sound wildlife management practice that would lessen the threat of epidemic disease and reduce the competition between prairie dogs and local residents.

The Governor of Utah also supported the reclassification of the prairie dog from endangered to threatened. He indicated that since the species was listed in 1973, the Utah Division of Wildlife Resources has carried out an active program to trap and relocate the species on public land to increase the number of active prairie dog towns. The program resulted in an increase of active prairie dog towns on public lands; however, at the same time, the number of active towns on private lands also increased. The population of the Utah prairie dog has been increasing in the Cedar and Parowan Valleys causing significant crop damage on private lands. The Governor further stated that the trapping and transplanting programs have not been successful in keeping pace with the increase in prairie dog populations and that more flexibility is needed to manage the Utah prairie dog.

Joseph D. Armstrong, a farmer and rancher in Cedar City, Utah, indicated that the prairie dog problem should be placed back in its proper order with nature and man's meddling should be kept out of it. Mr. Armstrong was pleased that something was being done about the prairie dog problem.

William L. Murphy, of the Insect Identification and Beneficial Insect Introduction Institute supported the proposal to reclassify the Utah prairie dog, provided the species continues to receive protection as a threatened species and the habitat retains full conservation measures.

The U.S. Forest Service concurred with the reclassification of the prairie dog and indicated that the taking provision would be in the best interest of the conservation of the Utah prairie dog.

The National Park Service, Rocky Mountain Regional Office, concurred with the proposal to reclassify but mentioned that as an alternative to killing 5,000 prairie dogs annually in the Cedar and Parowan Valleys, agencies may wish to consider population control through the use of diethylsilbestrol (DES)—treated bait. This compound acts as a reproductive inhibitor in blacktailed prairie dogs. The Service and the State of Utah will study the possible use of this reproductive inhibitor as an alternative to killing.

Gilbert T. Yardley of Yardley Cattle Company in Beaver, Utah, indicated that the Utah prairie dog should never have been on the List of Endangered and Threatened Wildlife. Mr. Yardley believes that the prairie dog should be removed from classification under the Act as it has completely ruined a lot of farms and ranches in Utah.

The Wildlife Society was the only organization to make dissenting comments on the proposal to reclassify the prairie dog. The Society recommended that the species not be downlisted to threatened status unless downlisting was absolutely necessary to control colonies that would otherwise destroy their habitats.

The Society also questioned several statements in the proposed rule published in the May 13, 1983, **Federal Register** including that: (1) The total area occupied by the Utah prairie dog occupies some 456,000 acres, and (2) active towns on public lands have increased from 11 in 1976 to 35 in 1982. The Wildlife Society comments that these statements are misleading, as the actual area occupied must be closer to 5000 acres and according to work by G. D. Collier (Ph.D. Thesis, Utah State University, 1975) public lands now contain only 3 more viable colonies than they did when the species was listed.

The Society further states that the purpose of the rule change appears to be to legitimize current activities. They question whether private shooting can be controlled. The Wildlife Society does state that lethal control may be necessary to prevent habitat destruction especially when transplanting has proven ineffective, but it believes only government employees should do the actual controlling.

Another point raised by the Society is that several agencies have refused to allow transplants onto their lands. It believes that agency personnel would give even less support to recovery if the species were downlisted to "merely" threatened.

The Wildlife Society further commented that any downlisting of the prairie dog to threatened status should be limited to populations in the Cedar and Parowan Valleys of Iron County, Utah, since throughout most of its range, the Utah prairie dog is faring little better than in 1971. It states that prairie dogs in the Cedar and Parowan Valleys could even be considered racially distinct from most colonies elsewhere, because the breeding date in the two valleys is apparently genetically set to occur much earlier in the spring. Retaining the endangered status throughout most of the geographical range would encourage land management agencies to maintain at least their current level of participation in the recovery program.

In response to the Wildlife Society's comments, Utah prairie dog populations in the Cedar and Parowan Valleys are now destroying their habitats and expanding into agricultural areas, in many cases completely ruining fields for agricultural purposes. Lethal control is seen as the only alternative left to adequately control the prairie dogs.

The figure of 456,000 acres given for occupied habitat, as explained earlier in this rule, is a rough estimate created by drawing a polygon around groups of prairie dog colonies. No exact acreage figures are available for occupied habitat. Thus, the actual number of acres occupied would be less than the 456,000 acres.

The Society questions the increase of prairie dog towns from 11 in 1976 to 32 in 1982 on public lands, citing work by Collier (1975). Contrary to the Society's statement, the figure of 11 towns in 1976 did include all known sites, only 2 of which contained over 30 animals, while over 32 sites were discovered in 1982. In reality, the 54 sites listed by Collier in his 1975 work were in many cases obtained from responses to questionnaires sent out to individuals and landowners and were often never verified by actual field visits. In fact, the Utah Division of Wildlife Resources did attempt to field check all of Collier's sites in 1976 and could only locate six of his prairie dog towns.

The subject rule change is in no way an attempt to legitimize current activities. In reality, it is seen as the only way to prevent landowners from taking matters into their own hands, which could easily eradicate complete towns. In fact, illegal poisoning is already suspected in one area and two individuals have been prosecuted for illegal taking. It is true that taking by private individuals could be difficult to control. The permit system, however, will contain provisions for evaluation and followup by State personnel. Control by government agents would be impossible because of time and financial constraints.

It is also true that one of the major factors inhibiting the prairie dog recovery effort has been the reluctance of land managers to participate in the transplant program. However, past experience has shown that a threatened classification provides for greater management flexibility, and may reduce the present hesitancy on the part of land managers to cooperate in transplanting efforts since threatened species are not as stringently protected as endangered species.

Regarding the Society's recommendation to reclassify only in the Cedar and Parowan Valleys, a committee of experts on the species was requested by the Utah Division of Wildlife Resources to review the status of the Utah prairie dog in 1980. It was their decision that there was sufficient biological sound justification to warrant reclassification of the species throughout its entire range. In view of the observed increase in towns on public lands as well as the increased management flexibility which would be added by reclassification, the Service concurs with this finding.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Utah prairie dog should be reclassified as a threatened species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments) were followed. A species may be determined by the Secretary of the Interior to be an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Utah prairie dog (*Cynomys parvidens*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Utah prairie dog once ranged from Pine Valley in Iron and Beaver Counties, to the foothills of the Aquarius Plateau in the east, and from northern Washington and Kane Counties on the south to as far north as Nephi, Utah. Today, the species is confined to disjunct areas in southwestern Utah. In the 1920's, it was estimated that there were 95,000 Utah prairie dogs (Turner, 1979), whereas, the spring estimate in 1982 was around 10,000 adult animals (Utah Divison of Wildlife Resources, 1983). Among other factors, habitat destruction and modification for agricultural and residential uses were important in reducing the range and population of the species. Nevertheless, the population now appears to have been increasing since 1972, and transplants of individuals by State authorities has increased the range since then. At present (1982–83), the species occurs in an area encompassing some 456,000 acres of land, and about 38 percent of the colonies are located on public land. Although the total number of animals is still small, and the range reduced, the Utah prairie dog is not now in danger of extinction, but it should be closely monitored and managed to assure that it does not become endangered. Such monitoring and management can be carried on under a threatened classification.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Rodent populations are subject to sylvatic plague where conditions of overpopulation exist. In Utah's Cedar and Parowan Valleys, the Utah prairie dog population is now crowded, and there may be a possibility of this disease erupting among the animals. Although an outbreak of sylvatic plague would probably not result in the species' extinction, it could lead to its becoming endangered.

D. *The inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* In the Cedar and Parowan Valleys, localized high population levels of the Utah prairie dog reportedly result in crop losses and damage to equipment amounting to some 1.5 million dollars annually (Ivan Matheson, Utah State Senator, per. comm.). State authorities have not been able to relieve the situation by live-trapping and transplanting individual animals, and there is increasing concern that local ranchers will resort to illegal measures of control; local people have traditionally poisoned these prairie dogs in the past. This could pose a serious threat to the populations in the Cedar and Parowan Valleys and, since overall numbers and range are restricted, to the species as a whole.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to make this final rule. Based on this evaluation, the preferred action is to reclassify the Utah prairie dog to threatened status, and to permit an annual lethal take of the species of up to 5,000 animals in the Cedar and Parowan Valleys, Iron County, Utah. The reasons why alternatives to this action are not acceptable are discussed in detail in the background section of this rule.

Available Conservation Measures

Section 4(d) of the Act states that whenever any species is listed as a Threatened species, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. A special regulation is finalized herewith for the Utah prairie dog, at 50 CFR 17.40 (g), that will apply only to the populations in certain delineated portions of the Cedar and Parowan Valleys in Iron County, Utah. Taking in these delineated areas would be carried out in accordance with Utah State law, through a permit system established by the Utah Division of Wildlife Resources. The number of animals taken annually between June 1 and December 31 cannot exceed 5,000. Permits will be evaluated and issued on a case by case basis, based on whether taking is necessary for the conservation and management of the species and the effect on overall population status. Permits would allow controlled shooting, trapping, and drowning in specified areas monitored by the Division. Taking cannot include the use of chemical toxicants, since no such materials are registered for control of the species. This taking would be permitted as a conservation measure since the prairie dogs are overcrowding their habitat in these valleys, and population pressures cannot be relieved in any other way. Given the fact that the total population (juveniles and adults) in these valleys exceeds 20,000 animals during the summer, the maximum allowed take of 5,000 animals will not, in the Service's opinion, jeopardize the survival of the prairie dog population in the Cedar and Parowan Valleys. The 5,000 figure is based on estimates by the Utah Division of Wildlife Resources that roughly 33 towns totalling 7,200 adult dogs reside in the affected area. This amount of take from the annual increment of 14,000 young produced by this adult population annually will allow a sufficient number of young to remain in the population each year so that the population level will continue to be stable, and probably even supply surplus animals for livetrapping and transplanting elsewhere. Certainly far more than 5,000 animals die from natural causes in the fall and early winter. The take of 5,000 animals annually (primarily in the spring) should act to reduce natural die off levels in the fall and winter. To guard against any negative impacts on the population, the Service reserves the right to immediately halt take, or to reduce the level of take, of Utah prairie dogs if at any time it receives substantive information that such taking is proving deterimental to the conservation or survival of the species. The number of animals taken, their location, and the methods of take employed would then have to be reported at 90-day intervals to the U.S. Fish and Wildlife Service by the State.

The special rule provides that except for the limited take authorized by the special rule, the prohibitions and exemptions of 50 CFR 17.31 and 17.32 shall apply to the Utah prairie dog. The prohibitions of 50 CFR 17.31 for threatened species are essentially the same as those for endangered species (illegal to take, import, ship in interstate commerce or in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce; and illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken). Under 50 CFR 17.31(b), however, "any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conversation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with Section 6(c) of the Act, who is assigned by his agency for such purposes, may, when acting in the course of his official duties, take those threatened species of wildlife which are covered by an approved Cooperative Agreement to carry out conservation programs." The State of Utah has such a cooperative agreement that covers the Utah prairie dog. In accordance with 50 CFR 17.32, permits will be available for scientific purposes, enhancement of propagation or survivl, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

The State of Utah will continue its annual census count of Utah prairie dogs and submit data it obtains through these counts to the Service each year. The provisions of Section 7(a) of the Endangered Species Act would continue to apply to the Utah prairie dog throughout its range. All Federal agencies are required to insure that actions authorized, funded, or carried out by them are not likely to jeopardize the continued existence of the species. Other provisions of the Act, including those for land acquisition (Section 5) and financial assistance to States (Section 6) would also continue to apply to all populations of the Utah prairie dog.

National Environmental Policy Act

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

References

Collier, G.D., and J.J. Spillett. 1972. Status of the Utah prairie dog (*Cynomys parvidens*). Utah Academy of Science, Arts, Letters 49:27–39.

Crocker-Bedford, D. 1975. Utah prairie dog habitat evaluation. Proceedings of Utah Wildlife Technical Meeting. 7pp.
Heggen, A.W., and R.H. Hasenyager. 1979. Annual Utah prairie dog progress report to U.S. Fish and Wildlife Service by Utah Division of Wildlife Resources. Unpublished Report Salt Lake City, Utah: Division of Wildlife Resources.
Pizzimenti, J.J., and C.D. Collier. 1975. *Cynomys parvidens*. *Mammalian Species* 56:1–2.
Turner, B. 1979. An evaluation of the Utah prairie dog (*Cynomys parvidens*). Unpublished Report prepared for the Utah Division of Wildlife Resources, 53 pp.
Utah Division of Wildlife Resources. 1983. Draft Utah prairie dog recovery plan. Unpublished Report submitted to U.S. Fish and Wildlife Service.

Additional information pertinent to this proposed rule was received from the following agencies: Utah Division of Wildlife Resources, U.S. Bureau of Land Management, U.S. Forest Service, National Park Service, Mr. Ivan Matheson, Utah State Senator.

Authors

The primary authors of this rule are Jane P. Roybal and James L. Miller, U.S. Fish and Wildlife Service, 134 Union Boulevard, 4th Floor, Lakewood, Colorado 80225 (303/234–2496). John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975), served as editor.

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B and D of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

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

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

2. Amend § 17.11(h) by reclassifying the Utah prairie dog from endangered to threatened status under Mammals on the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Sciuridae							
*	*	*	*	*	*	*	*
Prairie dog, Utah	*Cynomys parvidens*	U.S.A. (UT)	Entire	T	6,148	NA	17.40(g)
*	*	*	*	*	*	*	*

3. Add the following special rule to § 17.40.

§ 17.40 Mammals.

* * * * * *

(g) Utah prairie dog (*Cynomys parvidens*)

(1) Except as noted in paragraph (g)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the Utah prairie dog.

(2) A Utah prairie dog may be taken under a permit issued by the Utah Division of Wildlife Resources, in accordance with the laws of the State of Utah, in the following areas of Cedar Valley and Parowan Valley, Iron County, Utah (Salt Lake Meridian): T33S R8W, T33S R9W, T34S R8W, T34S R9W, T34S R10W, T34S R11W, T35S R10W, T35S R11W, T36S R11W, T36S R12W, T37S R12W, T38S R12W: Provided, that such taking does not exceed 5,000 animals annually, and that such taking is confined to the period of from June 1 to December 31. The following information must be reported by the State every 90 days to the U.S. Fish and Wildlife Service's Regional Office, Region 6, Denver Federal Center, Denver, Colorado 80225, or to any other address designated by the Service: Name and address of each person holding an active permit; reason for issuance of each permit; number, location, and method of take for all Utah prairie dogs taken during the reporting period; and any other information requested by the Service.

(3) If the Service receives substantive evidence that takings pursuant to paragraph (g)(2) of this Section are having an effect that is inconsistent with the conservation of the Utah prairie dog population in the area designated by paragraph (g)(2), the Service may immediately prohibit or restrict such taking as is appropriate for the conservation of the population.

(4) The information collection requirement contained in Section (g)(2) above does not require Office of Management and Budget approval under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

* * * * *

Dated: May 16, 1984.

G. Roy Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–14213 Filed 5–25–84; 8:45 am]
BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 49, No. 104
Tuesday, May 29, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

[Notice 1984-8]

11 CFR Parts 4 and 5

Public Records and the Freedom of Information Act; Access to Public Disclosure Division Documents; Amendment of Fee Provisions

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission requests comments on the proposed revision of current fee schedules under 11 CFR Parts 4 and 5. The proposed regulations would revise the current fee schedules to update the actual costs of items listed and would set the fees in a more general fashion by describing the costs of reproduction instead of listing each item for which a charge is made. The Commission will also accept comments on two other amendments to the fee provisions under Parts 4 and 5. The first proposed amendment modifies the procedure for handling microfilm and computer tape requests, so that the requester would pay the outside producer of the requested material directly. This amendment would eliminate the requirement of debiting the Commission appropriation for reproduction costs that are not reimbursable.

Second, the proposed rule amends Part 4, Public Records and Freedom of Information Act, to clarify the Commission procedure for charging staff time. The Commission does not charge for staff time expended in duplicating materials requested under the Freedom of Information Act. Further information on these proposed amendments and revisions is provided in the supplemental information which follows.

DATE: Comments must be received on or before June 28, 1984.

ADDRESS: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 523-4143 or Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The primary purpose of this proposed rule is to update the fee schedules for materials requested under the Public Records and Freedom of Information Act, 11 CFR Part 4, and Access to Public Disclosure Division Documents, 11 CFR Part 5, which have not been modified since the Commission first promulgated the schedules in 1979-80. The revisions in the fee schedules reflect changes in the "direct" cost to the Commission, or only those costs directly attributable to the actual reproduction of documents. The format of the proposed fee schedules has also been altered. In the present regulations, the publications for which charges are made are listed. This approach restricts the Commission's ability to add new publications or to revise the charges made for documents when they become more voluminous. The fee schedules are revised describe instead the Commission's actual costs for different types of reproduction, eliminating the need to set forth the price of each document. An up-to-date fee schedule for particular publications will continue to be made available in the Commission's Public Records Office.

A second purpose is to modify the billing procedure for microfilm and computer tape requests. In fulfilling its duties under the Freedom of Information Act, and in exercising its Public Disclosure functions, the Commission receives numerous requests for copies of records which appear on microfilm and on computer tape. Since the Commission does not have the facilities to duplicate microfilm or computer tape, private companies perform that service. Currently, the public requester pays the Commission a copying fee equal to the price billed to the Commission by the private duplicating firm. *See* schedules set out in 11 CFR 4.9(a) and 5.6(a). These monies are deposited directly into the U.S. Treasury, and the Commission pays the outside duplicating firm from its appropriation. The Commission therefore requested an opinion from the Comptroller General regarding a proposed change in procedures governing payment of fees for duplication of records. The Comptroller General approved the change in Commission billing arrangements. *See* Comp. Gen. Decision B-205151 (March 1, 1982).

Under the proposed regulation, each time a member of the public requests information in the form of microfilm or computer tape copies, the Commission will arrange for a private firm to produce that information and forward it to the Commission. The Commission will collect from the requester the appropriate fee for the duplication; however, the requester will make that fee payable not to the Commission but to the private firm which performed the duplicating. The Commission, upon receipt of payment, will forward the records to the requester.

The cost to the requester will continue to be regulated by the contract between the Commission and the private company and will not exceed the fees which the Commission would have been authorized to charge if it had processed the request in-house.

All non-exempt Commission documents which are on microfilm will continue to be available for inspection and copying at the Commission's Public Disclosure Division located on the street level, 1325 K Street, NW., Washington, D.C.

Lastly, this proposed rule modifies 11 CFR 4.9(a) for grammatical purposes and to delete language which purported to authorize the Commission to assess a fee for staff time spent in duplicating Freedom of Information Act materials. The Commission does not assess a fee for such time.

The Commission will review any comments received on the foregoing amendments to Parts 4 and 5 of the regulations. The changes in the fee schedules are subject to notice and comment before they can become final. 5 U.S.C. 552(a)(4)(A). The other amendments are not technically subject to notice and comment requirements because they pertain to the agency's procedures for collecting fees and do not alter the rights or interests of the public. 5 U.S.C. 553(b)(A). Nevertheless, the Commission will accept comments on these matters as well.

Statutory Authority

11 CFR Part 4. 5 U.S.C. 552.

11 CFR Part 5. 2 U.S.C. 437f(d), 437g(a)(4)(B)(ii), 438(a) and 31 U.S.C. 483(a).

List of Subjects

11 CFR Part 4

Freedom of information.

11 CFR Part 5

Archives and records.

PART 4—[AMENDED]

It is proposed to amend 11 CFR Part 4 by revising § 4.9 as follows:

§ 4.9 Fees.

(a)(1) Fees will be charged for the staff time utilized in searching for records, and for the expenses involved in the duplication of such records. These fees shall not exceed the Commission's actual costs in processing requests for records, in accordance with the following schedule:

Photocopying from microfilm reader-printer, $.15 per page
Photocopying from photocopying machines, $.05 per page
Paper copies from microfilm—Paper Print Machine, $.05 per frame/page
Reels of Microfilm:
Number of feet x $.061 per foot=(total cost per reel)
Publications: (New or not from stocks available.)
Cost of photocopying (reproducing) document, $.05 per page
Cost of binding document, $.30 per inch. Plus cost of staff research time after first ½ hour (see Research Time)
Publications: (Available stock.)
If available from stock on hand, cost is based on previously calculated cost as stated in the publication (based on actual cost per copy, including reproduction and binding).
Computer Tapes:
Cost ($.0006 per Computer Resource Unit Utilized—CRU) to process the request plus the cost of the computer tape ($25) and professional staff time (see Research Time). The cost varies based upon request.
Computer Indexes:
No charge for 20 or fewer requests for computer indexes, except for a name search as described below.
C Index—Committee Index of Disclosure Documents. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $.05 for each ID number requested.
E Index (Parts 1–4)—Candidate Index of Supporting Documents. No charge for requests of 20 or fewer candidate ID numbers. Requests for more than 20 ID numbers will cost $.10 for each ID number requested.
D Index—Committee Index of Candidates Supported/Opposed. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $.30 for each committee ID number requested.
E Index (Complete)—Candidate Index of Supporting Documents. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $2.00 for each candidate ID number requested.
G Index—Selected List of Receipts and Expenditures. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $2.00 for each ID number requested.
Other computer index requests for more than 20 ID numbers will cost $.0006 per CRU (Computer Resource Unit) utilized.
Name Search—A computer search of an entire individual contributor file for contributions made by a particular individual or individuals will cost $.0006 per CRU (Computer Resource Unit) utilized.
Research Time:
Clerical: first ½ hour is free; remaining time costs $3.50 for each half hour (equivalent of a GS–5) for each request.
Professional: first ½ hour is free; remaining time costs $8.00 per each half hour (equivalent of a GS–12) for each request.
Other Charges:
Certification of a Document. $7.35 per quarter hour Transcripts of Commission Meetings not previously transcribed, $6.70 per half hour (equivalent of a GS–11 executive secretary)

(2) Upon receipt of any request for the production of computer tape or microfilm, the Commission will advise the requester of the identity of the private contractor who will perform the duplication services. The fee for the production of computer tape or microfilm shall be made payable to that private contractor and shall be forwarded to the Commission.

(b) Commission publications for which fees will be charged under 11 CFR 4.9(a) include, but are not limited to, the following:

Advisory Opinion Index
Report on Financial Activity
Financial Control and Compliance Manual
MUR Index
Guideline for Presentation in Good Order
Office Account Index

(c) In the event the anticipated fees for all pending requests from the same requester exceed $25,00, records will not be searched, nor copies furnished, until the requester pays, or makes acceptable arrangements to pay, the total amount due. Similarly, if the records requested require the production of microfilm, or of computer tapes, the Commission will not instruct its contractor to duplicate the records until the requester has submitted payment as directed or has made acceptable arrangements to pay the total amount due. If any fee is not precisely ascertainable, an estimate will be made by the Commission and the requester will be required to forward the fee so estimated. In the event any advance payment differs from the actual fee, an appropriate adjustment will be made at the time the copies are made available by the Commission.

(d) The Commission may reduce or waive payment of any fees hereunder if it determines that such waiver or reduction is in the public interest because the proposed use of the information involved can be considered as primarily benefiting the general public as opposed to primarily benefiting the individual or organization requesting the information.

PART 5—[AMENDED]

2. It is proposed to amend 11 CFR Part 5 by revising § 5.6 as follows:

§ 5.6 Fees.

(a)(1) Fees will be charged for copies of records which are furnished to a requester under this part and for the staff time spent in locating and reproducing such records. The fees to be levied for services rendered under this part shall not exceed the Commission's direct cost of processing requests for those records computed on the basis of the actual number of copies produced and the staff time expended in fulfilling the particular request, in accordance with the following schedule of standard fees:

Photocopying from microfilm reader-printer, $.15 per page
Photocopying from photocopying machines, $.05 per page
Paper copies from microfilm—Paper Print Machine, $.05 per frame/page
Reels of Microfilm:
Number of feet × $.061 per foot = (total cost per reel)
Publications: (New or not from stocks available.)
Cost of photocopying (reproducing) document, $.05 per page
Cost of binding document, $.30 per inch
Plus cost of staff research time after first ½ hour (see Research Time)
Publications: (Available stock.)
If available from stock on hand, cost is based on previously calculated cost as stated in the publication (based on actual cost per copy, including reproduction and binding).
Computer Tapes:
Cost ($.0006 per Computer Resource Unit Utilized—CRU) to process the request plus the cost of the computer tape ($25) and professional staff time (see Research Time). The cost varies based upon request.
Computer Indexes:
No charge for 20 or fewer requests for computer indexes, except for a name search as described below.
C Index—Committee Index of Disclosure Documents. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $.05 for each ID number requested.
E Index (Parts 1–4)—Candidate Index of Supporting Documents. No charge for

requests of 20 or fewer candidate ID numbers. Requests for more than 20 ID numbers will cost $.10 for each ID number requested.

D Index—Committee Index of Candidates Supported/Opposed. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $.30 for each committee ID number requested.

E Index (Complete)—Candidate Index of Supporting Documents. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $2.00 for each candidate ID number requested.

G Index—Selected List of Receipts and Expenditures. No charge for requests of 20 or fewer committee ID numbers. Requests for more than 20 ID numbers will cost $2.00 for each ID number requested.

Other computer index requests for more than 20 ID numbers will cost $.0006 per CRU (Computer Resource Unit) utilized.

Name Search—A computer search of an entire individual contributor file for contributions made by a particular individual or individuals will cost $.0006 per CRU (Computer Resource Unit) utilized.

Research Time/Photocopying Time:

Clerical: first ½ hour is free; remaining time costs $3.50 for each half hour (equivalent of a GS–5) for each request.

Professional: first ½ hour is free; remaining time costs $8.00 per each half hour (equivalent of a GS–12) for each request.

Other Charges:

Certification of a Document—$7–35 per quarter hour

Transcripts of Commission Meetings not previously transribed.—$6.70 per half hour (equivalent of a GS–11 executive secretary)

(2) Upon receipt of any request for the production of computer tape or microfilm, the Commission will advise the requester of the identity of the private contractor who will perform the duplication services. The fee for the production of computer tape or microfilm shall be made payable to that private contractor and shall be forwarded to the Commission.

(b) Commission publications for which fees will be charged under 11 CFR 5.6(a) include, but are not limited to, the following:

Advisory Opinion Index
Report on Financial Activity
Financial Control and Compliance Manual
MUR Index
Guideline for Presentation in Good Order
Office Account Index

(c) In the event the anticipated fees for all pending requests from the same requester exceed $25.00, records will not be searched, nor copies furnished, until the requester pays, or makes acceptable arrangements to pay, the total amount due.

Similarly, if the records requested require the production of microfilm or of computer tapes, the Commission will not instruct its contractor to duplicate the records until the requester has submitted payment as directed or has made acceptable arrangements to pay the total amount due. If any fee is not precisely ascertainable, an estimate will be made by the Commission and the requester will be required to forward the fee so estimated. In the event any advance payment differs from the actual fee, an appropriate adjustment will be made at the time the copies are made available by the Commission.

(d) The Commission may reduce or waive payments of fees hereunder if it determines that such waiver or reduction is in the public interest because the furnishing of the requested information to the particular requester involved can be considered as primarily benefiting the general public as opposed to primarily benefiting the person or organization requesting the information.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

I certify that the attached proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that the fees assessed do not exceed the Commission's direct costs in duplicating records and provide for waiver in appropriate situations.

Dated: May 23, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–14214 Filed 5–25–84; 8:45 am]

BILLING CODE 6715–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Notice of extension of comment period on advance; Proposed rulemaking.

SUMMARY: On February 10, 1984, SBA published in the **Federal Register** an Advance Notice of proposed rulemaking regarding Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies (see 49 FR 5230).

That publication provided that comments on the advance notice would be received for a period of 60 days from date of publication. Subsequently, the comment period was extended for 30 days. This notice extends the comment period pertaining to the advance notice for an additional 30 days in order to provide more time for public comment on the above-referenced proposed rule.

DATE: Comments on the above-referenced proposed rule must be received by June 10, 1984.

ADDRESS: Written comments should be directed to Mr. Thomas C. Bresnan, Staff Accountant, Small Business Administration, Office of Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above, telephone (202) 653–6782.

SUPPLEMENTARY INFORMATION: In order to provide more time for public comment on the above-referenced proposed rule, SBA is hereby extending the comment period relative to the proposal for an additional 30 days. The public is encouraged to supply comments in writing to the address indicated above so that a complete record on this important advance notice can be established.

Dated: May 18, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–14190 Filed 5–25–84; 8:45 am]

BILLING CODE 8025–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9172]

Smitty's Supermarkets, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Springfield, Missouri operator of retail grocery stores, among other things, to cease engaging in any concerted action to impede the collection or dissemination of comparitive price information. For a period of 5 years, the company would be prohibited from requiring price checkers to purchase items to be priced as a condition of allowing them to price check; denying price checkers the same access to its stores as is provided to customers; or

coercing any price checker, publisher or broadcaster to refrain from collecting or reporting comparitive price information. Additionally, the order would require the company to offer to reimburse TeleCable up to $1,000 for the broadcast of a comparative grocery price information program. Should the station elect to broadcast such a program, the company would be further required to post signs and place newspaper ads notifying the public that such a program is being broadcast.

DATE: Comments must be received on or before July 30, 1984.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 136, 6th St. & Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bremer, Federal Trade Commission, P–752, 6th St. & Pa. Ave., NW., Washington, D.C. 20580. (202) 724–1256.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Grocery stores, Trade practices.

Before Federal Trade Commission

[Docket No. 9172]

Agreement Containing Consent Order To Cease and Desist

In the Matter of SMITTY'S SUPER MARKETS, INC., a corporation.

The agreement herein, by and between Smitty's Super Markets, Inc., a corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Smitty's Super Markets, Inc., hereinafter sometimes referred to as "Smitty's," is a Missouri corporation, with its principal office at 218 South Glenstone, Springfield, Missouri.

2. Smitty's has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act, and has filed an answer to said complaint denying said charges.

3. Smitty's admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Smitty's waives:

a. Any further procedural steps;

b. The requirement that the Federal Trade Commission decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

5. This agreement is for settlement purposes only and does not constitute an admission by Smitty's that the law has been violated as alleged in the said copy of the complaint issued by the Comission.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Federal Trade Commission. If this agreement is accepted by the Federal Trade Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Smitty's, in which event it will take such action as it may consider appropriate, or without further notice to Smitty's issue and serve its decision containing the following Order in disposition of the proceeding and make information public in respect thereto. When so issued, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time as provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the ageed-to Order to Smitty's address as stated in this agreement shall constitute service. Smitty's waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or this agreement may be used to vary or contradict the terms of the Order.

7. A responsible official of Smitty's has read the complaint and the Order contemplated hereby on behalf of Smitty's. Smitty's understands that once the Order has been issued, Smitty's will be required to file one or more compliance reports showing that it has fully complied with the Order. Smitty's further understands that it will be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

ORDER

I

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

A. "Smitty's" means Smitty's Super Markets, Inc., its divisions and subsidiaries, officers, directors, representatives, agents, employees, successors and assigns.

B. "Price check" or "price checking" means the collecting, from information available to customers, of retail prices of items offered for sale by any retail grocery store (SIC 5411), which is done neither by nor on behalf of a person engaged in the sale of groceries, and which information is used in price reporting.

C. "Price checker" means any person engaged in price checking.

D. "Price reporting" or "price report" means the dissemination to the public of price checking information through any medium by any person not engaged in the sale of groceries.

E. "Springfield" means the counties of Christian and Greene, Missouri.

F. "Customer" means any individual who enters a retail grocery store for the purpose of grocery shopping, whether or not that individual actually makes a purchase.

G. "Person" means individuals, corporations, partnerships, unincorporated associations, and any other business entity.

H. "Geographic area" means: (1) A Standard Metropolitan Statistical Area as defined by the Bureau of the Census, U.S. Department of Commerce, as of October 1, 1982; or (2) a county.

I. "Supermarket" means any retail grocery store (SIC 5411) with annual sales of more than one million dollars ($1,000,000.00).

II

It is further ordered that:

A. Smitty's shall forthwith cease and desist from taking any action in concert with any other person engaged in the sale of grocery products which has the purpose or effect of restricting, impeding, interfering with or preventing price checking or price reporting.

B. Except as provided in paragraph II.C., for five (5) years following the date on which this Order becomes final,

Smitty's shall cease and desist from taking or threatening to take any unilateral action that would:

1. Require price checkers to purchase items to be price checked as a condition of allowing them to price check; or

2. Deny price checkers the same access to Smitty's supermarkets as is provided to customers; or

3. Coerce, or attempt to coerce, any price checker, publisher or broadcaster into refraining from or discontinuing price checking or price reporting.

C. 1. Nothing in paragraph II.B. shall prevent Smitty's from adopting reasonable, non-discriminatory rules governing the number of price checkers in its supermarkets at any one time for the purpose of preventing disruption of Smitty's normal business operations.

2. Nothing in subparagraph II.B.3. shall prevent Smitty's from publicly commenting upon or objecting to any price report in which its prices are compared to those of any other grocery retailer.

3. Whenever Smitty's believes that conditions exist that justify the exclusion of a price checker, it may submit to the Federal Trade Commission a sworn statement setting forth with particularity the facts that Smitty's believes meet such conditions. For purposes of this Order, the only conditions justifying the exclusion of a price checker are that another supermarket operator with whose prices Smitty's prices are compared in a price report has knowingly tampered with or manipulated the results of such price report for its own competitive gain either (a) by the use of information wrongfully obtained and not available to all supermarket operators whose prices are being compared, or (b) by inducing any price reporter or price checker to cause false information to be published or broadcast. Following the Federal Trade Commission's actual receipt of such statement, Smitty's may exclude the price checkers from its supermarkets in the geographic area(s) covered by the affected price report for so long as the conditions set forth in Smitty's statement shall exist. In any civil penalty action against Smitty's for a violation of subparagraph II.B.2. occurring after notice to the Federal Trade Commission was given by Smitty's as provided in this subparagraph, Smitty's shall have the burden of proving, by a preponderance of the evidence, that the conditions justifying the exclusion of a price checker as set forth in this subparagraph have been met. In meeting its burden, Smitty's may offer evidence only for the purpose of proving the facts set forth in its statement to the Federal Trade Commission. Nothing in this subparagraph shall be construed to be an exception to the prohibitions of paragraph II.A. of this Order.

III

It is further ordered that, upon the resumption of price reporting by TeleCable of Springfield that is similar in quality and coverage to that broadcast by it prior to October 14, 1981, and that includes any Smitty's supermarket, and upon receipt by Smitty's of written request for payment from TeleCable, Smitty's shall reimburse TeleCable for its actual cost of obtaining a price reporting program up to the amount of two hundred fifty dollars ($250.00) per week. Smitty's obligation under this Part (III) shall terminate either when it has reimbursed TeleCable in the total amount of one thousand dollars ($1,000.00) or three (3) years following the date on which this Order becomes final, whichever occurs first. Smitty's shall not reimburse TeleCable for costs incurred by TeleCable during any week for which TeleCable's costs are reimbursed by any other person.

IV

It is further ordered that, within seven (7) days following the date on which this Order becomes final, Smitty's shall send a letter, a copy of which is attached here as Exhibit A, together with a copy of this Order, to TeleCable of Springfield, informing TeleCable of Smitty's obligations under Parts II and V of this Order, TeleCable's rights under Part III, and the notices that Smitty's must receive from TeleCable before certain Order provisions become binding upon Smitty's.

V

It is further ordered that, if at any time during the two years following the date on which this Order becomes final, Smitty's is notified in writing by TeleCable of Springfield that price reporting that includes any of Smitty's supermarkets has resumed in Springfield:

A. For a period of sixty (60) days following the receipt of such notice, Smitty's shall post signs no smaller than 30 inches by 40 inches in a front window in each of Smitty's supermarkets in Springfield, stating:

Grocery Price Survey

A price survey comparing prices of selected grocery items at Smitty's and other Springfield grocery supermarkets is being broadcast over cable television. This comparative price survey can be seen on channel ——— and is broadcast from ——— to ———.

B. For a period of sixty (60) days following the receipt of such notice, whenever Smitty's places food advertisements of one-half page or larger in any printed advertising medium with circulation of 15,000 or more copies in Springfield, Smitty's shall publish an announcement as a part thereof in the same language provided in paragraph V.A. This announcement shall be no smaller than 3 inches high by 3 inches wide and shall be printed in conspicuous type. In each week in which Smitty's does not place a one-half page or larger food advertisement in such printed advertising medium, Smitty's shall place this announcement as a display advertisement in any printed advertising medium with circulation of 15,000 or more copies in Springfield.

VI

It is further ordered that Smitty's shall, within seven (7) days after the date on which this Order becomes final, and once a year thereafter for three years, provide a copy of this Order to each of its officers and supermarket managers, and secure from each such individual a signed statement acknowledging receipt of this Order.

VII

It is further ordered that Smitty's shall, within sixty (60) days after the date on which this Order becomes final, file with the Commission a verified written report, setting forth in detail the manner and form in which Smitty's has complied with this Order. Additional reports shall be filed at such other times as the Commission may by written notice require. Each compliance report shall include all information and documentation as may be required by the Commission to show compliance with this Order.

VIII

It is further ordered that Smitty's shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in it such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation or its retail grocery operations, which may affect compliance obligations arising out of this Order.

Exhibit A

TeleCable of Springfield,
1533 South Enterprise, Springfield, Missouri 65801

Dear Sir or Madam: This is to notify you that Smitty's Super Markets, Inc. ("Smitty's"), which operates Smitty's grocery stores in

Springfield, Missouri, has entered into a consent order with the Federal Trade Commission in which it has agreed that it will not interfere with efforts by independent parties such as TeleCable of Springfield to engage in price reporting or price checking in Smitty's grocery stores in Springfield. Smitty's has agreed that it will not require price checkers to purchase the items being price checked, will not deny price checkers the same access to its supermarkets as is provided to customers, and will not attempt to coerce any price checker, publisher or broadcaster into refraining from or discontinuing price checking or price reporting. The terms of and limitations on Smitty's agreement are set forth in a consent order issued by the Federal Trade Commission, a copy of which is enclosed herewith.

If TeleCable of Springfield institutes a price reporting program similar or superior in quality and coverage to the one broadcast by TeleCable in 1981, and if the program includes any of Smitty's grocery stores in Springfield, Missouri, Smitty's will reimburse TeleCable for its actual costs of obtaining price reports, up to the amount of $250 per week, and up to $1,000 in total. Smitty's will also place notices in its Springfield grocery stores and in its weekly advertisements, informing consumers of TeleCable's price surveys. The precise terms of Smitty's obligations to place such notices, and to reimburse TeleCable for certain of its costs, are set forth in the enclosed consent order.

In order to receive any funds to which you may be entitled and to effect the placement of the notices described above, please notify Smitty's in writing, c/o President, Smitty's Super Markets, Inc., 218 South Glenstone, Springfield, Missouri 65802, stating when the program began or is scheduled to begin, the time and channel on which the survey will be broadcast, and TeleCable's costs, if any, of obtaining the survey information.

Very truly yours,

President, Smitty's Super Markets, Inc.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Smitty's Super Markets, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

A complaint was issued against Smitty's Super Markets, Inc., ("Smitty's") and two other Springfield, Missouri, grocery retailers on December 16, 1983, charging them with a conspiracy to prevent an independent price checking firm from collecting comparative grocery price information from their stores for broadcast to the public over the local cable television station. A fourth retailer, Dillon Companies, Inc., had previously signed a consent agreement, which became final on October 13, 1983. The complaint against Smitty's charges that, by agreeing with others to prevent the collection and public dissemination of comparative grocery price information, Smitty's has engaged in conduct that constitutes a restraint on price competition and a group boycott, and that Smitty's conduct constituted an unfair method of competition or an unfair act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act. The complaint alleges that this conduct had the following anticompetitive effects: (1) price competition among Springfield grocery retailers has been suppressed; and (2) consumers in Springfield have been deprived of price information that can be used in the selection of a grocery store.

The proposed order provides that Smitty's must: (1) Refrain from engaging in concerted action to impede the collection or dissemination of comparative grocery price information; (2) refrain for five years from taking three specific types of actions to impede the collection or dissemination of comparative grocery price information; (3) reimburse the Springfield, Missouri, cable television station up to $1,000 for the broadcast of a comparative grocery price program, if the cable station elects to broadcast such a program; (4) if the cable station elects to broadcast such a program, to post signs and place advertisements for sixty (60) days notifying the public that such a program is being broadcast; (5) notify certain of its officers and employees of the terms of the order; (6) file periodic verified written compliance reports setting forth its compliance with the provisions of the order; and (7) provide the Federal Trade Commission at least 30 days notice prior to effecting changes in the corporation that may affect its compliance obligations arising from the order.

The proposed order, by requiring Smitty's to refrain from concerted and individual action to impede the collection or dissemination of comparative grocery price information, should ameliorate the anticompetitive effects resulting from the concerted action. The proposed order is intended to permit the marketplace to determine whether a comparative price survey is broadcast in Springfield, and to ensure that the development of new forms of consumer price information is not inhibited.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 84-14196 Filed 5-25-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance; Indexing for Widow(er)'s Benefits; Effect of Remarriage on Widow(er)'s Entitlement; Retroactivity of Widow(er)'s Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: In these proposed regulations, we explain the increased widow(er)'s benefits because of the special indexing of the deceased worker's primary insurance amount when he or she died before attaining age 62. We also explain that in many cases, a widow(er) or surviving divorced spouse who remarries can nevertheless be entitled to monthly benefits after 1983 on the earnings record of a deceased insured worker; this is a liberalization of our current rules. Finally, we explain that a widow(er) under age 65 may choose to have survivor's benefits begin with the month of the worker's death if the widow(er) filed in the month after death; this is an exception to the usual rule on retroactivity.

These proposed rules are based on sections 131, 133, and 334 of Pub. L. 98-21 (the Social Security Amendments of 1983).

DATE: Comments must be submitted on or before July 30, 1984.

ADDRESSES: Comments should be submitted in writing to the Acting Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 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:

Remarriage of Widow(er)

Before the Social Security Amendments of 1983, a person could not be entitled to benefits as a widow or a widower if he or she had remarried before age 60 and was still married. Also, the deceased worker's surviving divorced spouse who had remarried at any age and was still married could not be entitled to widow(er)'s benefits. Furthermore, if a surviving spouse under age 60 or a surviving divorced spouse of any age remarried after becoming entitled to widow's or widower's benefits, entitlement ended unless the remarriage was to a person entitled to certain kinds of Social Security benefits (see 20 CFR 404.337). Under the provisions of the 1983 Amendments, remarriage at any age does not affect a widow(er)'s or surviving divorced spouse's continuing entitlement to benefits, and prevents entitlement only if the widow(er) or surviving divorced spouse remarries before age 60 and before he or she meets the disability requirement for entitlement before age 60. This provision removes the distinction between surviving spouses and surviving divorced spouses who remarry after age 60. It also removes the requirement that a surviving spouse under age 60 and a surviving divorced spouse of any age who remarries cannot continue to receive benefits unless the marriage is to a certain category of Social Security beneficiary.

The 1983 Amendments also amend the section of the Act (section 202(f)) on widower's benefits by providing for the entitlement of a surviving divorced husband. This makes section 202(f) consistent with the existing provisions of the Act on benefits for surviving divorced wives and reflects the decision of the District Court for the District of Oregon in *Ambrose v. Califano* (July 17, 1980). Our regulations have included this provision in 20 CFR 404.336 since March 22, 1982 (47 FR 12162).

The 1983 Amendments further amend the section of the Act on widow(er)'s benefits by changing the entitlement requirement "has not married" to "is not married." This too is consistent with the provisions on benefits for widows and follows the decision of the District Court for the Southern District of Texas in *Mertz v. Harris* (September 10, 1980). Our regulations have included this provision in 20 CFR 404.335 and 404.336 since March 22, 1982 (47 FR 12162).

Indexing Deceased Worker's Earnings

Under the Act in effect before the 1983 Amendments, benefit amounts for a widow(er) of an insured worker who died before age 62 are based on the worker's earnings from 1951 through the year of death. Earnings from 1951 through the second year before death are indexed (i.e., updated) to reflect the level of the average wages of all workers for the second year before the worker's death. If the surviving spouse does not become entitled until some year after the worker's death, the spouse may be disadvantaged because his or her benefits do not reflect the economy-wide wage increases that would have increased the worker's indexed earnings had he or she lived longer. The 1983 Amendments remedy this disadvantage by providing that the indexing will be based on the average total wages of all workers near the time the widow(er) becomes eligible for survivor's benefits. We will only pay the benefit computed under this provision if the amount is greater than that computed under the pre-amendment provisions.

Retroactivity of Widow(er)'s Benefits

Before the 1983 Amendments, the Act provided that a person could not be entitled to benefits for any month before filing if the benefit amount beginning in a prior month would be reduced or further reduced because the person was under age 65. The 1983 Amendments provide an exception for a widow(er) who files in the month after the worker died. Such a widow(er) may be entitled beginning with the month of death, even if his or her benefit amount will be less because of the earlier entitlement. This provision offers protection if the worker dies late in a month and the widow(er) under age 65 does not file until the next month.

Effective Dates

The legislative provision on remarriage is effective for benefits for months after December 1983; a person who is not entitled for December 1983 must file an application. The legislative provision on indexing is effective for benefits for months after December 1984 for widows and widowers who are first eligible after December 1984. The legislative provision on retroactivity is effective for applications filed in July 1983 and later.

REGULATORY PROCEDURES

Executive Order 12291—These proposed regulations have been reviewed under E.O. 12291 for their estimated program costs or savings for FY 1984–88. The provisions on indexing are expected to increase program costs by $4 million, remarriage provisions by $109 million, and retroactivity of benefits provisions by a negligible amount. However, these provisions are required by Pub. L. 98–21 and we have no discretion in implementing them. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—The proposed regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

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

(Catalog of Federal Domestic Assistance Programs No. 13.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age Survivors, and Disability insurance.

Dated: February 6, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: May 1,1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Subparts C, D, E, and G of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. The authority citation for Subpart C reads as follows:

Authority: Secs. 202, 205, 215, and 1102, Social Security Act, 49 Stat. 623, as amended; 53 Stat. 1368, as amended; 64 Stat. 506, as amended, 49 Stat. 647, as amended, 42 U.S.C. 402, 405, 415, and 1302.

2. The authority citation for Subpart D reads as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 428, and 1302; and 5 U.S.C. Appendix.

3. The authority citation for Subpart E reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 427, 1302, unless otherwise noted.

4. The authority citation for Subpart G reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, 53 Stat. 1368, and 49 Stat. 647; sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 405 and 1302 and 5 U.S.C. Appendix.

5. Section 404.211 is amended by revising paragraph (d)(1) and by adding a new paragraph (d)(4) to read as follows:

§ 404.211 Computing your average indexed monthly earnings.

* * * * *

(d) *Indexing your earnings.* (1) The first step in indexing your social security earnings is to find the relationship (under paragraph (2)) between—

(i) The average wage of all workers in your computation base years; and

(ii) The average wage of all workers in your "indexing year." As a general rule, your indexing year is the second year before the earliest of the year you reach age 62, or become disabled or die before 62. However, your indexing year is determined under paragraph (d)(4) of this section if you die before age 62, your surviving spouse or surviving divorced spouse is first eligible for benefits after 1984, and the indexing year explained in paragraph (d)(4) results in a higher widow(er)'s benefit than results from determining the indexing year under the general rules.

* * * * *

(4) We calculate your indexing year under this paragraph if you, the insured worker, die before reaching age 62, your surviving spouse or surviving divorced spouse is first eligible after 1984, and the indexing year calculated under this paragraph results in a higher widow(er)'s benefit than results from the indexing year calculated under the general rule explained in paragraph (d)(1)(ii). For purposes of this paragraph, the indexing year is never earlier than the second year before the year of your death. Except for this limitation, the indexing year is the earlier of—

(i) The year in which you the insured worker, attained age 60, or would have attained age 60 if you had lived, and

(ii) The second year before the year in which the surviving spouse or the surviving divorced spouse becomes eligible for widow(er)'s benefits.

6. Section 404.212 is amended in paragraph (b)(1) by adding the following 3 sentences:

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

* * * * *

(b) *Benefit formula.*

(1) * * * If you die before age 62, and your surviving spouse or surviving divorced spouse is first eligible after 1984, we may compute the primary insurance amount, for the purpose of paying benefits to your widow(er), as if you reached age 62 in the second year after the indexing year that we computed under the provisions of § 404.211(d)(4). We will not use this primary insurance amount for computing benefit amounts for your other survivors or for computing the maximum family benefits payable on your earnings record. Further, we will only use this primary insurance amount if it results in a higher widow(er)'s benefit than would result if we did not use this special computation.

7. Section 404.335 is amended by revising paragraph (e) to read as follows:

§ 404.335 Who is entitled to widow's or widower's benefits.

* * * * *

(e) You are unmarried, unless—

(1) You remarried after you became 60 years old; or

(2) For benefits for months after 1983—

(i) You are now age 60 or older;

(ii) You remarried after attaining age 50 but before attaining age 60; and

(iii) At the time of the remarriage, you were entitled to widow(er)'s benefits as a disabled widow(er); or

(3) For benefits for months after 1983—

(i) You are now at least age 50 but not yet age 60;

(ii) You remarried after attaining age 50; and

(iii) You met the disability requirements in paragraph (c) of this section at the time of your remarriage (i.e., your disability began within the specified time and before your remarriage).

8. Section 404.336 is amended by revising paragraph (e) to read as follows:

§ 404.336 Who is entitled to widow's or widower's benefits as a surviving divorced spouse.

* * * * *

(e) You are unmarried, unless—

(1) You remarried after you became 60 years old; or

(2) For benefits for months after 1983—

(i) You are now age 60 or older;

(ii) You remarried after attaining age 50 but before attaining age 60; and

(iii) At the time of the remarriage, you were entitled to widow(er)'s benefits as a disabled widow(er); or

(3) For benefits for months after 1983—

(i) You are now at least age 50 but not yet age 60;

(ii) You remarried after attaining age 50; and

(iii) You met the disability requirements in paragraph (c) of this section at the time of your remarriage (i.e., your disability began within the specified time and before your remarriage).

9. Section 404.337 is amended by removing paragraph (b)(1) and by redesignating paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) as (b)(1), (b)(2), (b)(3), and (b)(4) respectively.

10. Section 404.338 is amended by inserting new material between the first and second sentences to read as follows:

* * * If the insured person died before reaching age 62 and you are first eligible after 1984, we may compute a special primary insurance amount for the purpose of determining the amount of your monthly benefit (see § 404.212(b)). We may increase your monthly benefit amount if the insured person earned delayed retirement credit for work after age 65 (see § 404.313). * * *

* * * * *

11. Section 404.621 is amended by revising the first sentence of paragraph (a)(2)(iii) and by adding a new paragraph (a)(2)(iv) to read as follows:

§ 404.621 Filing after the first month you meet the requirements for benefits.

(a) * * *

(2) * * *

(iii) You are a widow, widower, surviving divorced wife, or surviving divorced husband who is disabled and could be entitled to retroactive benefits for any month before age 60. * * *

(iv) You are a widow, widower, surviving divorced wife, or surviving divorced husband of the insured person who died in the month before you applied and you were at least age 60 in the month of death of the insured person on whose earnings record you are claiming benefits. In this case, you can be entitled beginning with the month of

death if you choose and if you file your application in or after July 1983.

[FR Doc. 84-14231 Filed 5-25-84; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Parts 436, 440, 442, 444, 446, 448, 450, 452, and 455

[Docket No. 83N-0301]

Clarification of Potency Standards for Certain Antibiotic Drugs; Extension of Comment Period

Correction

In FR Doc. 84-11631 beginning on page 18545 in the issue of Tuesday, May 1, 1984 make the following correction: In the third column, **FOR FURTHER INFORMATION CONTACT,** sixth line, "201-443-4290" should read "301-443-4290".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-62-84]

Information Returns of Brokers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register** the Internal Revenue Service is issuing temporary regulations relating to the information returns of brokers. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 30, 1984. The amendments would apply to sales effected on or after May 29, 1984 and are proposed to be effective on or after May 29, 1984.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-62-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist or C. Scott McLeod of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3238 or 202-566-3288 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 1 and 5f of Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to base on those temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations. The regulations are to be issued under the authority contained in sections 6045 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 600, 68A Stat. 917; 26 U.S.C. 6045, 7805).

Explanation of Provisions

The regulations amend the broker reporting requirements under section 6045 of the Internal Revenue Code of 1954 by providing a special rule for brokers engaged in "cash on delivery" transactions. The rule provides that in the case of a sale of securities through a "cash on delivery" account or other similar account, only the broker which receives the gross proceeds from the sale against delivery of the securities sold is required to report the sale. If, however, such broker's customer is another broker ("second-party broker") which is an exempt recipient, then only the second-party broker is required to report the sale. In addition, the regulations provide a list of exempt recipients and a list of brokers which qualify for the multiple broker exception. The persons listed as exempt recipients are the same as those treated as exempt recipients under § 1.6045-1 (c) (3) (i) and (ii) of the current regulations (*i.e.*, persons described in former Code section 3452 (c) (2) (A) through (I) and (K) (i)) with the addition of persons registered under the Investment Advisers Act of 1940 (54 Stat. 847; 15 U.S.C. 80b) who regularly act as brokers within the meaning of § 1.6045-1(a)(1). The persons listed as brokers which qualify for the multiple broker exception are the same as those treated as exempt recipients under § 1.6045-1(c)(3)(ii) of the current regulations (*i.e.*, persons described in former Code section 3452 (c) (2) (F) and (K) (i)) with the addition of persons registered under the Investment Advisers Act of 1940 (54 Stat. 847; 15 U.S.C. 80b) who regularly act as brokers within the meaning of § 1.6045-1(a)(1). Finally, the regulations clarify the reporting requirement for redemptions of partnership interests.

For the text of the temporary regulations, see FR Doc. (T.D. 7960) published in the Rules and Regulations section of this issue of the **Federal Register.**

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A hearing will be held on written request 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 and Executive Order 12291

Although this document is a notice of proposed rulemaking that solicits public comments, the Secretary of the Treasury has certified that the rules proposed herein will not have a significant impact on a substantial number of small entities because the number of significantly affected small entities is not substantial. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Drafting Information

The principal authors of the proposed regulations are Bruce H. Jurist and C. Scott McLeod 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 regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.6001-1 through 1.6109-2

Income taxes, Administrative practice and procedure, Filing requirements.

Rosco L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-14304 Filed 5-25-84; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-101-83]

Allocation and Apportionment of Partnership Expenses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the allocation and apportionment of the expenses of a partnership for purposes of determining taxable income from specific sources or activities. The regulations are necessary to provide guidance to partnerships and their partners, as well as to officers and employees of the Internal Revenue Service.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 30, 1984. The amendment to § 1.861–8 is proposed to be effective for taxable years beginning after December 31, 1976. The amendment to § 1.882–4 is proposed to be effective for periods after February 6, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–101–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: P. Ann Fisher of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 861 and 882 of the Internal Revenue Code of 1954. These amendments are proposed under the authority contained in sections 882(c)(1)(A) and 7805 of the Internal Revenue Code of 1954 (80 Stat. 1556, 26 U.S.C. 882(c)(1)(A) and 68A Stat. 917, 26 U.S.C. 7805, respectively).

Explanation of Provisions

Under the current regulations dealing with the allocation and apportionment of expenses for the purpose of determining taxable income from specific sources or activities, it is not expressly stated whether partnerhship expenses are allocated and apportioned at the partnership level or at the partner level. Under these proposed amendment, language would be added to § 1.861–8(a)(2) to indicate that all partnership expenses are to be allocated and apportioned at the partnership level. Section 1.882–4(c)(1) would be amended, however, to provide an exception to this general rule. A foreign corporation that is a member of a partnership would, in determining its taxable income effectively connected with the conduct of a trade or business within the United States, allocate and apportion its distributive share of the partnership interest expense at the partner level (rather than at the partnership level).

Comments and Requests for a Public Hearing

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

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public comment procedural requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

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

List of Subjects in 26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Income Tax Regulations

Paragraph 1. Paragraph (a)(2) of § 1.861–8 is amended by adding the following language at the end thereof:

§§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

(a) *In general.* * * *

(2) *Allocation and apportionment of deductions in general.* * * * In the case of a partnership, the rules contained in this section for the allocation and apportionment of deductions of the partnership are to be applied to the partnership, and not separately to each partner in the partnership, for purposes of determining each partner's taxable income from specific sources and activities under operative sections of the Code. Thus, partnership deductions are allocated and apportioned to classes of partnership gross income as if the partnership, and not each partner, were the taxpayer and with regard to gross income only of the partnership but not of one or more of the partners. Each partner shall separately take into account that partner's distributive share of such partnership deductions.

* * * * *

Par. 2. Paragraph (c)(1) of § 1.882–4 is amended by adding the following sentences at the end thereof:

§§ 1.882–4 Allowance of deductions to foreign corporations.

* * * * *

(c) *Allowed deductions*—(1) *In general.* * * * In addition, in the case of a foreign corporation which is a partner in a partnership, the foreign corporation shall apply the rules of § 1.882–5 to determine the portion of its distributive share of partnership interest expense (determined by the partnership) which may be allowed as a deduction. In such case, its distributive share of such interest expense is aggregated with, and allocated and apportionted with, its other interest expense under § 1.882–5.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84137 Filed 5–25–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Permanent State Regulatory Program of Iowa

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is proposing to modify the deadline for Iowa (1) to promulgate rules governing the training, examination and certification of blasters and (2) to develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation. On April 12, 1984, Iowa requested an extension of time for the development of a blaster certification program until January 1, 1985. Each State with a regulatory program approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) is required to develop and adopt a blaster certification program by March 4, 1984. Section 850.21(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

DATE: Comments not received by 4:00 p.m., June 28, 1984 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, 818 Grand Avenue, Kansas City, Missouri, 64106.

FOR FUTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Subchapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosive in a surface coal mining operation within 12 months after approval of a State program or within 12 months after the publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of the Iowa program, the applicable date is 12 months after publication date of OSM's rule, or March 4, 1984.

On April 12, 1984, Iowa requested an extension of the March 4, 1984 deadline, until January 1, 1985, to submit its blaster certification program. The State's letter indicated that it had been their understanding that promulgation of regulations by March 1, 1984, was satisfactory progress toward development of a blaster program. Iowa stated that blaster rules were proposed on January 16, 1984, and thus additional time would be necessary before a program with promulgated regulations could be developed and submitted to OSM.

Therefore, OSM is seeking comment on the State's request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 915

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority. Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

Dated: May 22, 1984.

Carson W. Culp,

Acting Director, Office of Surface Mining.

[FR Doc. 84–14235 Filed 5–25–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3–84–23]

Regatta; New Jersey Offshore Grand Prix

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Special Local Regulations are being proposed for the New Jersey Offshore Grand Prix Regatta being sponsored by the New Jersey Offshore Powerboat Racing Association to be held on July 11, 1984 between the hours of 8:00 a.m. and 5:00 p.m. The Coast Guard is considering the issuance of this regulation to provide for the safety of participants and spectators on navigable waters during the event.

DATE: Comments must be received on or before June 28, 1984.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG D. R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3–84–23) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in

light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG D. R. Cilley, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The annual New Jersey Offshore Grand Prix (previously called the Benihana Grand Prix sponsored by Benihana of Tokyo) is an offshore powerboat race sponsored by the New Jersey Offshore Powerboat Racing Association and is well known to the boaters and residents of this area. The race is sanctioned by the American Powerboat Association and the Union of International Motorboating. It is composed of six classes of boats racing on two different race courses. The Open class will have approximately 20 vessels racing on a course 155.8 statute miles in length. There will be approximately 70 vessels in the four other classes racing on a course 90.0 statute miles in length. Both courses run along the New Jersey coastline between Asbury Park and Seaside Park. Race headquarters will be located at Jenkinson's Pavilion, in Point Pleasant. To mark the southeast offshore corner of the race course, the Coast Guard will establish an orange and white lighted buoy in the following approximate position: latitude 40 degrees 07.9' north, longitude 73 degrees 51.9' west. Race participants will exit Manasquan Inlet between 9:00–9:30 a.m. on the day of the race escorted by race committee patrol vessels. An extensive Regatta Patrol under the control of the Coast Guard Patrol Commander will supervise this event in conjunction with vessels provided by the race sponsor and other local government agencies. A Safety Voice Broadcast will be issued by the Coast Guard to properly notify boaters of this event and the regulations issued for its control. In order to provide for the safety of life and property, the Coast Guard will regulate the movement of vessels and establish special anchorages for spectator vessels prior to and during this event.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since this event will draw a large number of spectator craft into the area for the duration of the event. This should easily compensate area merchants for the slight inconvenience of having navigation restricted. Based upon this assessment it is certified in accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations by adding a temporary § 100.35–304 to read as follows:

§ 100.35–304 New Jersey Offshore Grand Prix.

(a) *Regulated Area:* The Manasquan River from the New York and Long Branch Railroad to Manasquan Inlet, together with all the navigable waters of the United States from Asbury Park, New Jersey latitude 40° 14' N southward to Seaside Park, New Jersey latitude 30° 55' from the New Jersey seacoast to 8.4 miles seaward, off Sea Girt, New Jersey.

(b) *Effective Period:* This regulation will be effective from 8:00 a.m. to 5:00 p.m. on July 11, 1984. In case of postponement, the raindate will be July 12 or 13, 1984, and this regulation will be in effect for the same time period.

(c) *Special Local Regulations:*

(1) The regulated area shall be closed intermittently to general navigation during the effective period. No person or vessel may enter or remain in the regulated area while it is closed unless participating in the event or authorized by the sponsor or regatta patrol personnel.

(2) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(3) The spectator fleet will be controlled by establishing special anchorage areas. These areas will keep spectators away from the race participants while still allowing them to watch the races safely. The anchorage areas will be marked by patrol vessels either at anchor or on patrol provided by the sponsor or the Coast Guard. The sponsor provided boats shall be flying colored pennants to aid in their identification. Special Anchorages are established as follows:

(i) Asbury Park, NJ south to Manasquan Inlet, NJ. The spectator fleet will be held behind (west of) a line running north to south from the Asbury Park Convention Center to the north jetty at Manasquan Inlet. At the Asbury Park Convention Center the spectator fleet shall be held behind a line north of the Convention Center Pier. These lines will be set up by the Coast Guard Patrol Commander on the day of the race.

(ii) Seaside Heights: The spectator fleet shall be held behind a line south of the Seaside Funtown Pier. This line shall be set by the Coast Guard Patrol Commander on race day.

(4) No spectator, press or commercial fishing boats will be allowed to cross the race course without the permission of the Patrol Commander. Those vessels wishing to cross the race course shall obtain permission to do so by contacting the nearest Coast Guard patrol vessel.

(5) Party fishing boats will be permitted to fish either inside the special anchorage area, or in a specially designated fishing area south of Manasquan Inlet inside a line 500 yards offshore and parallel to the beach extending south to the Seaside Heights special anchorage area. All other fishing boats must completely exit the regulated area by 8:00 a.m. on race day.

(6) The sponsor shall anchor a race committee boat 100 yards off the north breakwater at Manasquan to mark the southern end of the spectator area and another race committee boat shall be 100 yards off the south breakwater to mark the start-finish line. In addition, two race committee boats shall be anchored halfway between the south breakwater and lighted Gong Buoy No. 2 to mark the mid channel for the race boats. A press boat will also be anchored just north of this boat.

(7) The sponsor shall anchor a race committee boat approximately 250 yards off the Asbury Park Convention Center. A second race committee boat shall be positioned by the sponsor another 250 yards further offshore. These two vessels shall serve as the turn boats for the northern boundary turn.

(8) No vessel shall proceed at a speed greater than six (6) knots while in Manasquan Inlet during the effective period.

(9) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon

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

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

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

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

(iii) $250 for any other person.

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

(46 U.S.C. 454; 33 CFR 100.35 and 33 CFR 1.01–1)

Dated: May 18, 1984.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84–14202 Filed 5–25–84; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[AD–FRL 2595–2]

Ambient Air Quality Surveillance for Particulate Matter; Correction

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on the Ambient Air Quality Surveillance for Particulate Matter that appeared on page 10435 in the **Federal Register** of Tuesday, March 20, 1984, (49 FR 10435). This action is necessary to correct typographical errors and errors of omissions. In particular, EPA announces that it will accept written comments on the guideline, "Procedures for Estimating Probability of Nonattainment of a PM_{10} NAAQS Using Total Suspended Particulate or Inhalable Particulate Data" which was referred to in the notice of proposed rules. A related notice appearing in today's **Federal Register** extends the period for public comment on this proposed rule and public hearing as well as the comment periods for the proposed revisions to the national ambient air quality standards for particulate matter and the proposed revisions to EPA's regulations concerning ambient air monitoring reference and equivalent methods for particulate matter until September 17, 1984.

DATES: Comments must be submitted on or before September 17, 1984.

ADDRESSES: Copies of the probability guideline, "Procedures for Estimating Probability of Nonattainment of a PM_{10} NAAQS Using Total Suspended Particulate or Inhalable Particulate Data" are available for inspection and copying at:

- The Central Docket Section.
- State Air Programs Branch, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203.
- Air Programs Branch, U.S. EPA, Region II, 26 Federal Plaza, New York, NY 10278.
- Air Programs and Energy Branch, U.S. EPA, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106.
- Air Management Branch, U.S. EPA, Region IV, 345 Courtland Street, NE, Atlanta, GA 30365.
- Air Programs Branch, U.S. EPA, Region V, 230 S. Dearborn Street, Chicago, IL 60604.
- Air Programs Branch, U.S. EPA, Region VI, First International Building, 1201 Elm Street, Dallas, TX 75270.
- Air Programs Branch, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, MO 64106.
- Air Programs Branch, U.S. EPA, Region VIII, 1860 Lincoln Street, Denver, CO 80295.
- Air Programs Branch, U.S. EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105.
- Air Programs Branch, U.S. EPA, Region X, 1200 6th Avenue, Seattle, WA 98101.

Submit comments (duplicate copies are preferred) to Central Docket Section, U.S. Environmental Protection Agency, Attn: Docket No. A–83–13, 401 M Street, S.W., Washington, DC 20460. Docket No. A–83–13 is located in the Central Docket Section of the Environmental Protection Agency, West Tower Lobby Gallery I, 401 M Street, S.W., Washington, DC. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Neil Berg or Stanley Sleva, Monitoring and Data Analysis Division (MD–14), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711, phone: 919–541–5651 or (FTS) 629–5651.

SUPPLEMENTARY INFORMATION: On March 20, 1984, EPA proposed revisions to the regulations in 40 CFR Part 58, Ambient Air Quality Monitoring and Data Reporting, to account for the March 20, 1984, proposed revisions of the particulate matter national ambient air quality standards. The proposed revisions to Part 58 would establish ambient air quality monitoring requirements for PM_{10} (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers). They also would require PM_{10} data reporting and adherence to uniform quality assurance and network design and siting criteria. The changes to the March 20, 1984, proposed rules appearing today will correct typographical errors and errors of omission which were discovered after the proposal. The principal modification is the formal request for public comment on the draft guideline document, "Procedures for Estimating Probability of Nonattainment of a PM_{10} NAAQS Using Total Suspended (TSP) or Inhalable Particulate (IP) Data. Comments on this guideline are requested since the proposed Section 58.13 short-term operating schedule is based on a PM_{10} nonattainment probability described in the guideline. Although the guideline was referenced in the proposed rules, the Agency specifically requests public comment on the technical content of the guideline as it applies to use in the Part 58 proposed rules.

The remaining changes correct the draft date of the guideline, a word omission and the equations for calculating precision upper and lower 95 percent probability limits.

Dated: May 18, 1984.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

The following corrections are made in FR Docket 84–6862, appearing on page 10435 in the issue of March 20, 1984:

(1) On page 10436, column one, **ADDRESSES:** First sentence "in * * * PM_{10}, two * * *" is corrected to read "In * * * PM_{10}, three * * *" Second sentence, "These two * * *" is corrected to read "These three * * *"

(2) On page 10436, column two, after "• Optimum Network Design and Site Exposure Criteria for Particulate Matter" add the following: "• Procedures for Estimating Probability of Nonattainment of a PM_{10} NAAQS Using Total Suspended Particulate or Inhalable Particulate Data."

(3) On page 10441, column one, § 58.13, paragraph (c), second sentence "The sampling * * * PM^{10} * * * PM^{10}

* * *" is corrected to read "The sampling * * * PM_{10} * * * PM_{10}"

(4) On page 10441, column one, § 58.13, paragraph (c)(1), third sentence "September 1983." is corrected to read, "February 1984."

(5) On page 10441, column three, first full sentence below Figure 1, "The site having the concentration * * *" is corrected to read "The site having the highest concentration * * *"

(6) On page 10445, column one, first full paragraph, equations 6 and 7 "Limit = $d_j + 1.96\ S_j$ 2 [6] and Limit = $d_j - 1.96\ S_j$ 2 [7]" are corrected to read "Limited = $d_i + 1.96\ S_i/\sqrt{2}$ [6] and Limit = $d_i - 1.96\ S_i/\sqrt{2}$ [7]".

[FR Doc. 84-14090 Filed 5-25-84; 8:45 am]

BILLING CODE 6560-50-M

LEGAL SERVICES CORPORATION

45 CFR Part 1622

Public Access to Meeting Under the Government in the Sunshine Act

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes revisions to the Corporation's regulations implementing the Government in the Sunshine Act ("Sunshine Act"). The revisions are needed to ensure that the Corporation's regulations adhere more closely to the Government in the Sunshine Act and are consistent with other LSC regulations. In addition to several slight revisions, the proposed rule makes five major changes in the present regulations. These changes are: (1) the addition of two new definitions for "public observation" and "publicly available"; (2) the revision of § 1622.6(b) so that the regulation more closely follows the wording of the Sunshine Act; (3) the addition of § 1622.6(d); to follow more closely the Sunshine Act; (4) the revision of newly designated § 1622.6(e)(2) to follow more fully the Sunshine Act; and (5) the additional of a new § 1622.9 which provides for emergency proceedings. These clauses are needed to ensure that the Corporation complies with the requirements of the Government in the Sunshine Act.

DATE: Comments must be received on or before May 29, 1984.

ADDRESS: comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 260, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Terry G. Duga, Assistant General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: The proposed rule makes a number of changes in the present regulations. The majority of the changes are technical in nature. However, two new definitions and a new section regarding "Emergency Proceedings" have been added. A section by section analysis of the changes made follows:

Section 1622.2 Definitions—The first change is the removal of the word "member" and the insertion of the word "Director" in the fourth definition. The use of the word "Director" rather than "member" is a technical change in nomenclature. This change is made to conform with the nomenclature used in the corporation's By-laws. The substantive meaning of the section does not change.

The second change in the definitions section is in the definition of "General Counsel." The words "a person designated by the General Counsel" are removed and in their place are inserted the words "in the absence of the General Counsel of the Corporation, a person designated by the President to fulfill the duties of the General Counsel." This change reflects the Corporation's belief that the General Counsel's duty to certify that a meeting is, in his opinion, properly closed, is not a duty that may be delegated by the General Counsel under the government in the Sunshine Act. Allowing the President of the Corporation to designate a person to fulfill the duties of the General Counsel in the absence of the General Counsel allows the Corporation to function if the General Counsel is not available, while conforming to the opinion that the duty to certify the closing of a meeting is not a duty that may be delegated by the General Counsel.

The third change is in the definition of "Secretary." The initial "S" in "Secretary of the Corporation" is capitalized. This change is technical in nature correcting the English usage in the definition. The removal of the words "a person designated by the Secretary" and the insertion in their place of the words "in the absence of the Secretary of the Corporation, a person appointed by the Chairman of the meeting to fulfill the duties of the Secretary" makes the regulation conform with the provisions of the Corporation's By-laws.

The fourth change is the definition of the term "public observation." While the Sunshine Act does not specifically define the term "public observation," several agencies, in their implementing regulations, do define the term. This definition is based upon definitions contained in regulations promulgated by the Foreign Claims Settlement Commission and the Commodity Credit Corporation (45 CFR 504.20(g) and 7 CFR 1409.2(e) respectively). It is also based upon an April 19, 1977, Department of Justice letter to agencies covered by the Sunshine Act, and upon provisions for public comment at Board meetings contained in the Corporation's By-laws.

Finally, a definition of the phrase "publicly available" has been added to inform members of the public where they may locate the documents required by § 1622.6(e).

Section 1622.4 Public announcement of meetings—Three changes have been made. In subsections (a) and (b), the word "made" following "announcement shall be" is removed and the word "posted" is inserted in its place. This change in nomenclature clarifies that the announcement requirement of the Sunshine Act is to be fulfilled by the posting of the required announcement at least seven days prior to the meeting. This change comports with what has been standard Corporation practice and does not relieve the Corporation of the duty of submitting the announcement to the **Federal Register** for publication.

In subsections (b) and (d), the word "members" is removed and the word "Directors" is inserted in its place. This change in nomenclature is made to follow the nomenclature used in the Corporation's By-laws.

In subsection (c), the phrase "the governing body of" is inserted before the words "each recipient of funds from the Corporation" and "each recipient within the same state." This change reflects the provisions of the Corporation's By-laws and ensures that the recipient's governing body receives notification of Board and Advisory Council meetings.

Section 1622.5 Grounds on which meetings may be closed or information withheld—The changes in this section consist of two deletions and one typographical correction. The word "committee" has been removed in the first sentence after the words "Except when the Board," and "if the Board,". This change reflects the provision in the Sunshine Act that allows only the full Board to close a Board or Committee meeting.

At the end of subsection (f), the period is removed and replaced with a semi-colon.

Section 1622.6 Procedure for closing discussion or withholding information—Four changes have been made. The first change is the removal of the word "members" from subsections (a), (c), and newly designated (e)(1), and the insertion of the word "Directors" in its place. This change in nomenclature is

made to conform with the nomenclature used in the Corporation's By-laws.

Subsection (b) is revised, but is not substantively different from the old subsection (b). The revised subsection, however, more closely follows the language of the Sunshine Act.

A new subsection (d) is added which follows the language of the Sunshine Act and ensures that votes of each Director participating in a vote to close a meeting or portion thereof shall be recorded and that no proxy votes shall be allowed.

Subsection (d) is redesignated subsection (e). This change reflects the addition of the new subsection (d).

Subsection (e)(2) is revised to follow, more closely, the language of the Sunshine Act.

Section 1622.7 Certification by the General Counsel—This section is amended by removing the words "publicly whether" after the word "certify" and inserting the word "publicly" before the word "certify" and inserting the words "that, in his opinion," after the word "certify." This change follows the language of the Sunshine Act and clarifies that the General Counsel is giving an opinion and not a guarantee.

Section 1622.8 Records of closed meetings—Two changes have been made. In subsection (a), the word "members" has been removed and the word "Directors" inserted in its place. This change reflects the nomenclature used in the Corporation's By-laws. In subsection (b), the words "or until one year after the conclusion of any Corporation proceeding with respect to which the meeting was held, whichever occurs later" are added to the end of the subsection. This addition follows the language of the Sunshine Act and prescribes the period for which the records must be retained.

Section 1622.9 Emergency Proceedings—This new section is the major change in this Part. The problem has arisen with respect to interference with the conduct of Corporation business at past Board meetings. Because the right to public observation does not include the right to disrupt the conduct of Corporation business, this section is added to provide a procedure for the orderly transaction of business in the extraordinary circumstances when members of the public abuse their right to observe the conduct of the meeting of the Board.

The Corporation is not the only agency to deal with this potential problem. The National Commission on Libraries and Information Science provides that anyone who participates or attempts to participate in the Commission meeting without approval is subject to removal. 45 CFR 1703.302. The United States Postal Services provides for the removal of persons who disrupt a Board meeting and subjects such persons to possible fines or imprisonment. 39 CFR 232.1(n). Such measures are considered inappropriate for the Legal Services Corporation.

In the extraordinary event that the Board is prevented from conducting Corporation business because of actions by members of the public, it is felt that the removal of the Board from such interference is the least confrontational option that will still allow the Board to conduct its business.

This section ensures that such a removal is not a "closed meeting" within the meaning of the Sunshine Act. Representatives of the public and the media will be invited to attend and observe the conduct of the Board meeting. In addition, information concerning the proceedings shall be available to the public at the close of the meeting.

To ensure the openness of the emergency proceedings, it has been provided that the meeting be recorded or transcribed and that the recording or transcript be made available for public inspection and that copies shall be furnished upon request at the actual cost of transcription or duplication.

The final safeguard is the admonition set forth in subsection (d) which ensures that the emergency proceedings are not closed meetings. It also ensures that no information concerning the meeting will be withheld due to the fact that the Board is forced to use the emergency proceeding provision.

The safeguards contained in this section ensure that the Board may conduct Corporation business while also ensuring that the Board meetings comply with the requirements of the Sunshine Act.

This section follows the Emergency Proceedings provision in the Corporation's By-laws. The section is included in this Part to ensure that such proceedings comply with the Sunshine Act.

The final change in this Part is the redesignation of § 1622.9 to § 1622.10. No substantive change has been made. It has merely been renumbered to allow the insertion of the new § 1622.9.

List of Subjects in 45 CFR Part 1622

Legal services, Government in the Sunshine Act.

For the reasons set out in the preamble, 45 CFR Part 1622 is proposed to be revised to read as follows:

PART 1622—PUBLIC ACCESS TO MEETINGS UNDER THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

Authority: Section 1004(g), Pub. L. 95–222, 91 Stat. 1619 (42 U.S.C. 2996c(g)).

§ 1622.1 Purpose and scope.

This part is designed to provide the public with full access to the deliberations and decisions of the Board of Directors of the Legal Services Corporation, committees of the Board, and state Advisory Councils, while maintaining the ability of those bodies to carry out their responsibilities and protecting the rights of individuals.

§ 1622.2 Definitions.

"Board" means the Board of Directors of the Legal Services Corporation.

"Committee" means any formally designated subdivision of the Board established pursuant to Section 1601.27 of the By-Laws of the Corporation.

"Council" means a state Advisory Council appointed by a state Governor or the Board pursuant to Section 1004(f) of the Legal Services Corporation Act of 1974, 42 U.S.C. 2996c(f).

"Director" means a voting member of the Board or a Council. Reference to actions by or communications to a "Director" means action by or communications to Board members with respect to proceedings of the Board, committee members with respect to proceedings of their committees, and council members with respect to proceedings of their councils.

"General Counsel" means the General Counsel of the Corporation, or, in the absence of the General Counsel of the Corporation, a person designated by the President to fulfill the duties of the General Counsel or a member designated by a council to act as its chief legal officer.

"Meetings means the deliberations of a quorum of the Board, or of any committee, or of a council, when such deliberations determine or result in the joint conduct or disposition of Corporation business, but does not include deliberations about a decision to open or close a meeting, a decision to withhold information about a meeting,

or the time, place, or subject of a meeting.

"Public observation" means the right of any member of the public to attend and observe a meeting within the limits of reasonable accommodations made available for such purposes by the Corporation, but does not include any right to participate unless expressly invited by the Chairman of the Board of Directors, and does not include any right to disrupt or interfere with the disposition of Corporation business.

"Publicly available" for the purposes of § 1622.6(e) means to be procurable either from the Secretary of the Corporation at the site of the meeting or from the Office of Government Relations at Corporation Headquarters upon reasonable request made during business hours.

"Quorum" means the number of Board or committee members authorized to conduct Corporation business pursuant to the Corporation's By-laws, or the number of council members authorized to conduct its business.

"Secretary" means the Secretary of the Corporation, or in the absence of the Secretary of the Corporation, a person appointed by the Chairman of the meeting to fulfill the duties of the Secretary, or a member designated by a council to act as its secretary.

§ 1622.3 Open meetings.

Every meeting of the Board, a committee or a council shall be open in its entirety to purblic observation except as otherwise provided in § 1622.5.

§ 1622.4 Public announcement of meetings.

(a) Public announcement shall be posted of every meeting. The announcement shall include: (1) the time, place, and subject matter to be discussed; (2) whether the meeting or a portion thereof is to be open or closed to public observation; and (3) the name and telephone number of the offical designated by the Board, committee, or council to respond to requests for information about the meeting.

(b) The announcement shall be posted at least seven calendar days before the meeting, unless a majority of the Directors determineds by a recorded vote that Corporation business requires a meeting on fewer than seven days notice. In the event that such a determination is made, public announcement shall be posted at the earliest practicable time.

(c) Each public announcement shall be posted at the offices of the Corporation in an area to which the public has access, and promptly submitted to the **Federal Register** for publication. Reasonable effort shall be made to communicate the announcement of a Board or committee to the chairman of each council and the governing body of each recipient of funds from the Corporation, and of a council meeting to the governing body of each recipient within the same state.

(d) An amended announcement shall be issued of any change in the information provided by a public announcement. Such changes shall be made in the following manner:

(1) The time or place of a meeting may be changed without a recorded vote.

(2) The subject matter of a meeting, or a decision to open or close a meeting or a portion thereof, may be changed by recorded vote of majority of the Directors that Corporation business so requires and that no earlier announcement of the change was possible.

An amended public announcement shall be made at the earliest practicable time and in the manner specified by §1622.4(a) and (c). In the event that changes are made pursuant to § 1622.4(d)(2), the amended public announcement shall also include the vote of each Director upon such change.

§ 1622.5 Grounds on which meetings may be closed or information withheld.

Except when the Board or council finds that the public interest requires otherwise, a meeting or a portion thereof may be closed to public observation, and information pertaining to such meeting or portion thereof may be withheld, if the Board, or council determines that such meeting or portion thereof, or disclosure of such information, will more probably than not:

(a) Relate solely to the internal personnel rules and practices of the Corporation;

(b) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C 552): Provided, that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular types of matters to be withheld;

(c) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(d) Involve accusing any person of a crime, or formally censuring any person;

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigatory records compiled for the purpose of enforcing the Act or any other law, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trail or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety or law enforcement personnel;

(g) Disclose information the premature disclosure of which would be likely significantly to frustrate implementation of a proposed Corporation action, except that this paragraph shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(h) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case involving a determination on the record after opportuntiy for a hearing.

1622.6 Procedure for closing discussion or withholding information

(a) No meeting or portion of a meeting shall be closed to public observation, and no information about a meeting shall be withheld form the public, except by a recorded vote of a majority of the Directors with respect to each meeting or portion thereof proposed to be closed to the public, or with respect to any information that is proposed to be withheld.

(b) A separate vote of all the Directors shall be taken with respect to each meeting or portion thereof proposed to be closed to the public, or with respect to any information which is proposed to be withheld; except, a single vote may be taken with respect to a series of meetings or portions thereof which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is schedules to be held no more than thirty days after the initial meeting in such series.

(c) Whenever any person's interest may be directly affected by a matter to be discussed at a meeting, the person

may request that a portion of the meeting be closed to public observation by filing a written statement with the Secretary. The statement shall set forth the person's interest, the manner in which that interest will be affected at the meeting, and the grounds upon which closure is claimed to be proper under § 1622.5. The Secretary shall promptly communicate the request to the Directors, and a recorded vote as required by paragraph (a) of this section shall be taken if any Director so requests.

(d) With respect to each vote taken pursuant to paragraphs (a) through (c) of this section, the vote of each Director participating in the vote shall be recorded and no proxies shall be allowed.

(e) With respect to each vote taken pursuant to paragraphs (a) through (c) of this section, the Corporation shall, within one business day, make publicly available:

(1) A written record of the vote of each Director on the question;

(2) A full written explanation of the action closing the meeting, portion(s) thereof, or series of meetings, together with a list of all persons expected to attend the meeting(s) or portion(s) thereof and their affiliation.

§ 1622.7 Certification by the General Counsel.

Before a meeting or portion thereof is closed, the General Counsel shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state each relevant exemption. A copy of the certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Corporation.

§ 1622.8 Records of closed meetings.

(a) The Secretary shall make a complete transcript, or electronic recording adequate to record fully the proceedings of each meeting or portion thereof closed to the public, except that in the case of a meeting or any portion thereof closed to the public pursuant to paragraph (h) of § 1622.5, a transcript, a recording, or a set of minutes shall be made. Any such minutes shall describe all matters discussed and shall provide a summary of any actions taken and the reasons therefor, including a description of each Director's views expressed on any item and the record of each Director's vote on the question. All documents considered in connection with any action shall be identified in the minutes.

(b) A complete copy of the transcript, recording, or minutes required by paragraph (a) of this section shall be maintained at the Corporation for a Board or committee meeting, and at the appropriate Regional Office for a council meeting, for a period of two years after the meeting, or until one year after the conclusion of any Corporation proceeding with respect to which the meeting was held, whichever occurs later.

(c) The Corporation shall make available to the public all portions of the transcript, recording, or minutes required by paragraph (a) of this section that do not contain information that may be withheld under § 1622.5. A copy of those portions of the transcript, recording, or minutes that are available to the public shall be furnished to any person upon request at the actual cost of duplication or transcription.

(d) Copies of Corporation records other than notices or records prepared under this Part may be pursued in accordance with Part 1602 of these regulations.

§ 1622.9 Emergency proceedings.

(a) In the event that the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of the majority of the number of Directors present at the meeting to remove the meeting to a different location and to invite representatives of the public and media to attend the proceeding at the new location.

(b) The emergency proceedings at the new location shall be recorded by means of an electronic recording adequate to record fully the emergency proceedings, or a transcript of the emergency proceedings shall be made by a certified court reporter.

(c) In the event that the actions of members of the public present at the meeting necessitate action pursuant to § 1622.9(a), the Corporation shall also:

(1) Make a written statement summarizing the proceedings at the emergency proceedings available to the public at the close of the emergency proceedings;

(2) Make the entire transcript or electronic recording produced pursuant to paragraph (b) of this section available for public inspection within a reasonable time after the close of the emergency proceedings. A copy of the transcript or recording shall be furnished to any person upon request at the actual cost of duplication or transcription;

(3) Report the activities of the emergency proceedings at the next scheduled meeting of the Board.

(d) Action taken pursuant to this section shall not be construed to be actions taken pursuant to § 1622.6 (Procedure for closing discussion or withholding information). Action taken pursuant to this section does not create any right to withhold any information regarding the emergency proceedings or actions taken therein.

§ 1622.10 Report to Congress.

The Corporation shall report to the Congress annually regarding its compliance with the requirements of the Government in the Sunshine Act, 5 U.S.C. 552(b), including a tabulation of the number of meetings open to the public, the number of meetings or portions of meetings closed to the public, the reasons for closing such meetings or portions thereof, and a description of any litigation brought against the Corporation under 5 U.S.C. 552b, including any costs assessed against the Corporation in such litigation.

Dated: May 22, 1984.

Donald P. Bogard,

President.

[FR Doc. 84-14121 Filed 5-25-84; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

[CC Docket No. 84-283]

Preservation of Records of Communication Common Carriers; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Extension of comment/reply comment period.

SUMMARY: In response to a motion filed by Bell Communications Research, the Commission has extended the time for filing comments and reply comments for amending the rules concerning preservation of records of communication common carriers in the Commission's Notice of Inquiry (NOI) in CC Docket 84-283. The new dates are:

DATES: Comments are due on or before July 2, 1984.

Reply comments are due on or before August 1, 1984.

ADDRESS: Comments in response to this NOI should be submitted to the

Secretary, Federal Communications Commission, Washington, D.C., 20554.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C., 20554, Telephone No. (202) 634–1965.

SUPPLEMENTARY INFORMATION: The Notice of Inquiry was published on April 27, 1984 on page (49 FR) 18138.

Order

Revision of Part 42 Preservation of Records of Communications Common Carriers, CC Docket No. 84–283.

Adopted May 16, 1984.
Released May 16, 1984.

1. We have before us a motion filed on May 15, 1984, by Bell Communications Research (BCR) on behalf of the Bell Operating Telephone Companies for an extension of time of 45 days to file comments on our Notice of Inquiry (NOI) in CC Docket No. 84–283. BCR also requested that the period for reply comments be extended from 15 days to 30 days.

2. In support of its motion BCR states that many personnel within the various companies must be involved in analyzing the requirements of Part 42. Many of these personnel have been heavily involved in other matters relating to the Access Charge Proceeding in CC Docket No. 78–72 and CC Docket No. 83–1145 as well as numerous offspring of these dockets. Further, the Telephone Companies state that internal analysis of Part 42 will require a minimum of 30 days with another 15 days required for internal coordination before filing. Therefore, a 45-day extension is necessary. In addition BCR states that because the Telephone Companies wish to perform a thorough analysis of any other comments filed in this proceeding, they request 30 days be allowed for the filing of reply comments.

3. We hereby grant BCR's request to extend the period for filing comments from May 17, 1984, to July 2, 1984, and the period for filing reply comments from June 1, 1984, to August 1, 1984. This should provide all parties adequate time to analyze and address all issues raised in this proceeding.

4. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291, That the motion of BCR for an extension of time to file comments and an extension of time to file reply comments is granted to the extent set forth above.

Jack D. Smith,
Chief, Common Carrier Bureau.

[FR Doc. 84–14162 Filed 5–25–84; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine "Townsendia Aprica" to be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules.

SUMMARY: The Service proposes to determine *Townsendia aprica* (Last Chance townsendia) to be an endangered species under the authority of the Endangered Species Act of 1973, as amended. The Last Chance townsendia has three small populations totaling approximately 220 individuals in Sevier and Emery Counties, Utah. Most of the plants are on public land managed by the Bureau of Land Management; a few are on private land. Trampling by cattle and off-road vehicle activity are current threats, and coal strip-mining and oil and gas exploration are potential threats to the populations. This proposal, if made final, would implement protection provided by the Endangered Species Act of 1973, as amended. The Service is requesting comments on this action.

DATE: Comments from all interested parties must be received by July 30, 1984. Public hearing requests must be received by July 13, 1984.

ADDRESS: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for public inspection during usual business hours of the Service's Regional Endangered Sepceis Staff at 134 Union Boulevard, fourth floor, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Regional Bontanist, Regional Endangered Species Staff at either address above (303/234–2496; FTS 234–2496).

SUPPLEMENTARY INFORMATION:

Background

Townsendia aprica (Last Chance townsendia) was discovered in 1966 by Stanley L. Welsh and James L. Reveal, and was described as a new species by them in 1968. It is a herbaceous perennial less than 2.5 cm tall and 2–6 cm wide, in the sunflower family (Asteraceae). Stems grow from an underground base and branch to form a dense mat or tuft low to the ground. The flower heads are about 2 cm wide with almost no stalk, and have distinctive yellow to golden rays. The ray florets are densely glandular, with a very short (1–2 mm long) pappus. The golden ray florets make the plant unusual in its genus; ray florets of the other known taxa are white, blue, or red when fresh (Welsh and Reveal, 1968), except in *Townsendia johesii* var. *lutea* (Welsh, 1983), where the yellow is not so intense.

It appears that *Townsendia aprica* has never been abundant. At present, there are only three definitely known populations in eastern Sevier and adjacent western Emery Counties, Utah. A fourth nearby population in Emery County, Utah, has not been relocated (Atwood, 1984). A population believed to be this species, which was destroyed by gypsum mining in 1977, is now considered to have been *Townsendia jonesii* var. *lutea* (Walsh 1978, 1984). *Townsendia aprica* occurs on heavy clay soils of the Mancos Shale Formation, and is associated with the pinyon-juniper grasslands community. The species' location on this formation,which is underlain by coal, makes it subject to disturbance by mining activity. The populations are threatended by off-road vehicles, (ORV's), by potential coal strip-mining and/or oil and gas exploration, and one of them is currently threatened by cattle grazing and trampling.

Section 12 of the Endangered Species Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of Section 4(c)(2) of the 1973 Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species

pursuant to Section 4 of the Act. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1975 **Federal Register** notice. *Townsendia aprica* was included in the July 1975 notice (40 FR 27880) and the June 1976 proposal (41 FR 24527). General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909–17916). Comments on this species that are received during the comment period for this new proposal will be summarized in the final rule.

The Endangered Species Act amendments of 1978 required that all proposals over 2 years old be withdrawn. On December 10, 1979, the Service published a notice of the withdrawal of the still applicable portions of the June 1976 proposal along with other proposals that had expired (44 FR 70796). The July 1975 notice was replaced on December 15, 1980, by the Service's publication in the **Federal Register** (45 FR 82479–82569) of a new notice of review for plants, which included *Townsendia aprica*. No comments on this species have been received in response to the 1980 notice. On February 15, 1983, the Service published a notice in the **Federal Register** (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted, in accord with Section 4(b)(3)(A) of the Act as amended in 1982.

On October 13, 1983, the petition finding was made that listing *Townsendia aprica* was warranted but precluded by other pending listing actions, in accordance with Section 4(b)(3)(B)(iii) of the Act; notification of the finding was published in the January 20, 1984, **Federal Register** (49 FR 2485). Such a finding requires a recycling of the petition, pursuant to Section 4(b)(3)(C)(i) of the Act. Therefore a new finding must be made; we find that the petitioned action is warranted and hereby publish the proposed rule to implement the action, in accord with Section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in that section. These factors and their application to *Townsendia aprica* Welsh *et* Reveal, Last Chance townsendia, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* It is believe that *Townsendia aprica* has never been abundant (Welsh, 1978). At present, there are three known populations within about a 12-mile radius, nearly all on public land managed by the Bureau of Land Management (BLM) in Sevier and Emery Counties, Utah. The first locality, discovered in 1966 about 6 miles south of Fremont Junction in eastern Sevier County, is on BLM land and in serious jeopardy of distruction by cattle trampling. A cattle driveway traverses this habitat, where only 35 individual plants may occur, although none could be located in the dry year of 1982. The second population, with about 135 plants, is located a few miles to the north near Rock Canyon on BLM land in western Emery County. It is threatened by ORV activity, and potentially threatened by coal strip-mining and oil and gas exploration (Harris, 1980; MacBryde, 1984). There are leases for coal, oil and gas, or both covering all of the population. Dr. Welsh and the BLM have done evironmental inventory work with regard to the coal leasing, which led to the discoveries of this and the third population.

The third locality, with about 45 plants, is about 2 miles north of the second, near the Ivie Creek drainage, and is largely on public land managed by the BLM although about 20% is privately owned. Leases for coal and for oil and gas only exist on the public land; ORV activity is also a threat to the population. A 1971 collection (*Wright 51*) may represent a fourth population, perhaps 6 miles east of the second population near Rock Canyon, but the locality information is not definite.

B. *Overutilization for commerical, recreational, scientific, or educational purposes.* None.

C. *Disease or predation.* The habitat of Last Chance townsendia in the first population, south of Fremont Junction, is heavily grazed, as well as trampled, by cattle (Welsh, 1978).

D. *The inadequacy of existing regulatory mechanisms. Townsendia aprica* is not protected by any Federal or State laws or regulations. Known populations of *Townsendia aprica* are found on BLM and private lands. Although the BLM is aware of this species, it is not currently obligated to regulate activities so as to provide for the conservation of the species. The Endangered Species Act offers possibilities for protection of this species through Section 7 (interagency cooperation) requirements and through Section 9, which prohibits removal and reduction to possession of listed plants on areas under Federal jurisdiction.

E. *Other natural or manmade factors affecting its continued existence.* The small size and number of populations of Townsendia aprica make it vulnerable to fluctuations in ecological and genetic factors.

The careful assessment of the best scientific information available, as well as the best assessment of the past, present, and future threats faced by this species were considered in determining the preferred action of this rule. Based on this evaluation, the preferred action is to list *Townsendia aprica* as an endangered species. With only about 220 individuals known, the damage occurring, and other damage possible at the species' three locales, endangered status seems an accurate assessment of the species' condition. It is not prudent to propose critical habitat because doing so would increase risk for the species, as discussed below.

Critical Habitat

The Endangered Species Act in Section 4(a)(3), as amended, requires that to the maximum extent prudent and determinable the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time, because of the potential for vandalism. Listing highlights the rarity of a plant and can attract the attention of vandals. The species is moreover threatened by off-road vehicles damaging it and its habitat, and its localities are readily accessible by road. Publication of critical habitat descriptions and maps, together with the publicity attendant upon listing, would single out the location of each population and make this species even more vulnerable and increase enforcement problems. Therefore, it would not be prudent to designate critical habitat for *Townsendia aprica* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in

conservation actions by Fededral, State, and private agencies, groups, and individuals. The Endangered Species Act provides the possibility for land acquisition and cooperative efforts with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service as appropriate following listing. The protection required by Federal agencies and taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires all Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this provision of the Act are codified at 50 CFR 402, and are now under revision (see proposal at 48 FR 29989; June 29, 1983). Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species. If a species is subsequently listed, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of the species. If an action may affect a listed species, the Federal agency must enter into formal consultation with the Service. Possible effects of this rule on the BLM might include restricting traffic to some existing roads and establishment of some fencing to control cattle and vehicles, as well as exercising care in administering leases so that the species is accommodated in exploration or development activity.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Townsendia aprica*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commece in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions could apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species, under certain circumstances. No such trade in *Townsendia aprica* is known. It is anticipated that few trade permits would ever be sought or issued since this species is not known in cultivation, is not common in the wild, and is not of particular trade interest.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. The new prohibition would apply to *Townsendia aprica*. Permits for exceptions to this prohibition are available through Section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and these will be made final following public comment. *Townsendia aprica* occurs primarily on public lands managed by the BLM. It is anticipated that few taking permits for the species would ever be requested, as this plant is not common in the wild and has not been of interest to collectors. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

If this species is listed under the Act, the Service will review it to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through Section 8A(e) of the Act, and whether it should be considered for other appropriate international agreements.

Public Comments Solicited

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

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

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

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

(4) Current or planned activities in the subject area and their possible impacts on *Townsendia aprica.*

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

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

National Environmental Policy Act

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

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Authors

The primary authors of this proposed rule are Julie Bridenbaugh, then of the Endangered Species Staff, U.S. Fish and Wildlife Service, Denver Regional Office, Denver, Colorado, and Dr. Bruce MacBryde of the Washington Office of Endangered Species. Dr. James Miller of the Service's Denver Endangered Species Staff assisted as editor.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

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

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

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

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

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family:						
*	*	*	*	*	*	*
Townsendia aprica	Last Chance townsendia	U.S.A. (UT)	E	NA	NA.	
*	*	*	*	*	*	*

Dated: May 16, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–14212 Filed 5–25–84; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status and Critical Habitat for the Desert Dace (Eremichthys acros)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Eremichthys acros (the desert dace)* as a threatened species with a special rule to allow take in accordance with State law, and to designate its critical habitat. Known only from an area of thermal springs and their immediate outflow creeks in Humboldt County, Nevada, the species still survives in about 8 of more than 20 springs in 6 square miles of the area known as Soldier Meadows. habitat alterations have eliminated much former habitat, necessitating this action. The proposed rule would extend protection under provisions of the Endangered Species Act of 1973, as amended, to this fish. This proposal constitutes a required finding in regard to a petition filed with the Service on April 12, 1983 by the Desert Fishes Council. Comments and data related to this proposal are solicited. The Service also requests information on the species and on environmental and economic impacts and effects on small entities that would result from designating critical habitat for the desert dace.

DATES: Comments from the public and the State of Nevada must be received by July 30, 1984. A public hearing on this proposal will be held if requested by July 13, 1984.

ADDRESSES: Interested persons or organizations are requested to submit comments to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232. Comments and materials relating to this proposed rule are available for public inspection during normal business hours at the Service's Endangered Species Office, at the above address.

FOR FURTHER INFORMATION CONTACT: For futher information on the proposed rule, contact Mr. Don King, Great Basin Complex, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C, Reno, Nevada 89502 (702/784–5227) or Mr. John L. Spinks Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The desert dace, *Eremichthys acros*, is endemic to a series of thermal spring habitats in the Soldier Meadows area of Humboldt County, Nevada, where it was discovered in 1939 and described in 1948 by Carol Hubbs and R. R. Miller. This species is the only representative of the distinct genus *Eremichthys*, which is notable in its extended period of isolation and relict distribution. The species has apparently survivied in the Soldier Meadows are for at least tens of thousands of years. The species and genus is characterized by the presence of prominent horny sheaths on the jaws. No other cyprinid possesses such a remarkable feeding adaptation. The species is also notable for its high temperature tolerance.

Desert date typically occur in water 67° to 97°F, but have been recorded from water as hot as 100.4°F (Nyquist 1963). Water temperature appears to be a major factor controlling the distribution of desert dace within a spring system. If temperature at the spring headpool exceeds 100°F, desert dace are restricted to the somewhat cooler outflow creeks below the springs.

Many of the thermal springs and their outflow creeks inhabited by the desert dace occur on private land. The local landowner has modified much of the habitat of the species by diverting water away from natural channels into man-made ditches. The diversion of outflow water away from natural channels is especially detrimental in spring systems where the headpool temperature exceeds 100°F and the species can only occupy the outflow creeks.

Two reservoirs were recently constructed in the Soldier Meadows area approximately three miles from springs and creeks inhabited by desert dace. Channel catfish (*Ictalurus punctatus*) and smallmouth bass (*Micropterus dolomieui*) have been introduced into one of the reservoirs. If these exotics are introduced into nearby habitats occupied by the desert dace, they would probably compete with and prey on the desert dace. Exotic species may also introduce diseases or parasities to which the native species has not been previously exposed. Presence of the exotics makes diseases a greater threat than it would otherwise be.

The Soldiers Meadows area has been designated a Known Geothermal Resource Area. Geothermal exploration occurred in the area several years ago but was later abandoned. If geothermal exploration and development are resumed, these activities could impact the desert dace by interfering with the

aquifers that supply water to thermal springs in the area.

Because of the threats from agricultural activities, primarily water diversion, exotic species, and geothermal exploration and development, the Service proposes to list the desert dace as a threatened species. The low priority presently accorded geothermal development is a factor that indicates threatened, rather than endangered, is the most appropriate listing status.

In a petition dated April 4, 1983, and received April 12, 1983, the Desert Fishes Council requested that the desert dace be added to the list of Endangered and Threatened Wildlife. An administrative finding that the requested action may be warranted was made May 9, 1983, and reported in the **Federal Register** on June 14, 1983 (48 FR 27273). Publication of this proposed rule signifies that the requested action is warranted, and constitutes a required finding in accordance with Section 4(b)(3)(B)(ii) of the Act as amended in 1982.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; see proposed revisions to accommodate 1982 amendments in the **Federal Register** for August 8, 1983) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of five factors described in Section 4(a)(1). These factors and their application to the desert dace (*Eremichthys acros*) are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.*

The desert dace is endemic to warm springs and their outflow creeks in the Soldier Meadows area of Humboldt County, Nevada. Approximately eight warm springs with water temperatures as high as 100.4 °F are occupied by the species. Many of the springs' outflow creeks have been diverted from their natural channels into man-made ditches. The divesions are for agricultural activities, such as irrigation, providing water for cattle, and washing alkali out of the soil on the Soldier Meadows Ranch. These diversions have reduced habitat available to the desert dace. Diversion of spring outflows is especially serious in those spring systems where the water in the spring headpool is too hot to be tolerated by the desert dace. In these systems the species exists only in the natural outflows, or crenons. The man-made ditches do not provide suitable habitat for the species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.*

Not applicable to this species.

C. *Disease or predation.*

There is no evidence that either disease or predation has contributed to the threatened status of this species. Disease and predation could both result from the introduction of the species not native to this area (see Factor E. below).

D. *The inadequacy of existing regulatory mechanisms.*

At this time there are no regulations applicable to the desert dace.

E. *Other natural or manmade factors affecting its continued existence.*

Reservoirs have recently been constructed on the north and south end of the Soldier Meadows area. Channel catfish and smallmouth bass have been introduced into the southermost reservoir. If these exotics enter habitat occupied by the desert dace they could further reduce dace numbers. The presence of exotic fishes is usually detrimental to native fishes in the western United States due to competition and predation (Deacon *et al.* 1964), as well as the introduction of exotic parasites and disease (Wilson *et al.* 1966). Much of the area proposed for critical habitat is included in the Soldier Meadows Known Geothermal Resource Area. Although no exploration or drilling is currently occurring in the Soldier Meadows area, the resumption of such activity could result in interference with the thermal aquifers that supply water to springs in the area.

Critical Habitat

Critical habitat as defined by Section 3 of the Act and at 50 CFR Part 424, means: (1) The specific area within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to conservation of the species and (II) that may require special management consideration or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

The Act in Section 4(a)(3) requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. Proposed critical habitat for the desert dace includes all thermal springs and their outflows located within determinable section and fractional section boundaries in the Soldier Meadows area of Humboldt County, Nevada. The designated aquatic habitat within these boundaries is somewhat evanescent, shifting in response to seasonal and other climatic factors. The area enclosed by the determinable boundary is approximately 4 miles long and varies from 1 to 2⅔ miles wide. Mud Meadow Creek is near its eastern edge. The southern edge is approximately 1 mile north of Fly Creek.

Listing regulations of the Service, 50 CFR 424.12(b), state that when considering the designation of critical habitat, the Service shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements are to be listed with the critical habitat description.

With respect to the desert dace, the thermal springs and their outflows proposed as critical habitat satisfy all known criteria for ecological, behavioral, and physiological requirements of the species. The quantity and quality of water in the pools and outflow streams inhabited by this fish are the most important factors in its conservation. A range of favored temperatures between about 70° and 102°F restricts the fish to areas of the streams near the headwater pools, but these areas expand in summer, when pool temperatures are too high to be tolerated, and contract in winter, when temperatures in the lower streams drop below the favored range. These specialized requirements are met only in limited but seasonally variable portions of this one thermal spring area. Breeding and the growth of offspring are likewise confined to certain parts of the area. The species is native to these springs and outflows and is found nowhere else.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public and private) that may adversely modify such habitat or may be affected by such designation. Such activites are identified for the desert dace as follows.

In the past, water diversions from spring outflow creeks have modified or eliminated much suitable habitat for this species. Additional modification of springs or their outflow creeks without regard for the species could further jeopardize the species. In addition, the manipulation of water flows and surface disturbance associated with ranching,

and geothermal energy exploration or development, could adversely modify remaining habitat of the desert dace.

It should be emphasized that critical habitat designations only affect activities of Federal agencies through section 7 of the Act. Federal actions that could possibly be affected by this rule include actions of the Bureau of Land Management associated with aquatic habitat modifiction, grazing, and leasing of lands for geothermal exploration and/or development. Such activities could result in adverse modification of desert dace habitat. Section 7 consultation is designed, however, to explore alternatives or modifications to proposed activities that could avoid jeopardizing the continued existence of listed species or adversely modifying their critical habitat. The consultation process could possibly provide recommendations for conservation measures which if adopted, could insure compliance with Section 7 of the Act.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service will reevaluate the geographic critical habitat designation at the time of the final rule, after considering all additional information obtained.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this Interagency Cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29989; June 29, 1983). Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. This provision will affect the Bureau of Land Management (BLM) in the administration of its portion of the proposed critical habitat area.

When a species is listed, Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If an adverse effect is expected, the Federal agency must enter into consultation with the Service. These provisions will also affect the Bureau of Land Management due to its administration of a portion of the proposed critical habitat area.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of prohibitions which generally apply to all threatened wildlife species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or to sell or offer for sale a threatened species in interstate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies. General regulations governing the issuance of permits to carry out otherwise prohibited activities involving threatened animal species under certain circumstances are set out at 50 CFR 17.32.

The above discussion generally applies to threatened species of fish and wildlife. However, the Secretary has discretion under Section 4(d) of the Act to issue special regulations for a threatened species that are necessary and advisable for its conservation. The desert dace is threatened primarily by habitat disturbance or alteration, not by intentional, direct taking of the species or by commercialization.

Given this fact and the fact that the State currently regulates direct taking of the species through the requirement of State collecting permits, the Service has concluded that the State's collection permit system is more than adequate to protect the species from excessive taking, so long as such takes are limited to: educational purposes, scientific purposes, the enhancement of propogation or survival of the species, zoological exhibition, and other conservation purpose consistent with the Endangered Species Act. A separate Federal permit system is not required to address the current threats to the species. Therefore, the special rule allows takes to occur for the above-stated purposes without the need for a federal permit if a State collection permit is obtained and all other State wildlife conservation laws and regulations are satisfied. It should be recognized that any activities involving the taking of this species not otherwise enumerated in the special rule are prohibited.

Without this special rule, all of the prohibitions of 50 CFR 17.31 would apply. This special rule would allow for more efficient management of the species, and thus would enhance the conservation of the species. For these reasons, the Service concludes that this regulatory proposal is necessary and advisable for the conservation of the desert dace.

The proposed rule would also bring Sections 5 and 6 of the Endanger Species Act into effect with respect to the desert dace. Section 5 authorizes the acquisition of lands or interests therein for the purposes of conserving endangered and threatened species. Pursuant to Section 6, the Fish and Wildlife Service would be able to grant available funds to the State of Nevada for management actions aiding the protection and recovery of this species.

Listing the desert dace as threatened would provide for development of a recovery plan for this fish. Such a plan would draw together the State and Federal agencies having rsponsibility for conservation of the dace. The plan would establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate the cost of the various tasks necessary to accomplish them. It would assign appropriate functions to each agency and time frame within which to accomplish them.

The Service also will now review the desert dace to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should also be considered for other appropriate international agreements.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the

scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be designated as critical habitat as provided for by Section 4 of the Act;

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

(4) Current or planned activities that may adversely modify the subject areas being considered for critical habitat; and

(5) The foreseeable economic and other impacts of the critical habitat designation on federally funded or authorized projects, private individuals, etc.

Final promulgation of the regulations on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

National Environmental Policy Act

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

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Author

The primary author of this proposed rule is Dr. Jack E. Williams, U.S. Fish and Wildlife Service, Sacramento Endangered Species Office, Sacramento, California (916/440–2791). Dr. George E. Drewry of the Service's Washington Office of Endangered Species served as editor.

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

PART 17—[AMENDED]

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

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

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

2. It is proposed to amend § 17.11(h) by adding the following entry alphabetically to the table under the heading "Fishes" as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	* *	*	*	*	*		
Dace, desert	Eremichthys acros	U.S.A (NV)	Entire	T		17.95(e)	17.44( )
*	* *	*	*	*	*		

3. It is further proposed to amend § 17.95(e) *Fishes* by adding Critical Habitat of the desert dace as follows:

§ 17.95 Critical habitat-fish and wildlife.

* * * * *

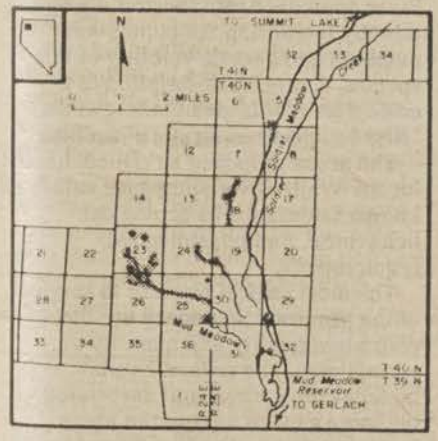
(e) Fishes * * *

Desert Dace

(Eremichthys acros)

Nevada. Humboldt County. Thermal springs and their outflows plus surrounding riparian areas for a distance of 50 feet from these springs and outflows in T40N, R25E, SW¼ Section 5, NW¼NW¼ Section 8, W½ Section 18, W½SW¼ Section 19; T40N R24E, Section 23, N½SE¼ and S½NE¼ Section 24, SE¼ Section 25, and N½ Sec. 25, and N½ Section 26.

Primary constituent elements of this habitat are considered to be quantity, and thermal and chemical quality of water in headpools and spring outflow streams; presence of a stable, natural substrate supporting food plants for the fish; and length of outflow streams adequate for seasonal movements in response to changes of water temperature.



4. It is further proposed to amend § 17.44 by adding a new special rule as follows:

* * * * *

(h) Desert dace

(Eremichthys acros)

(1) No person shall take the species; except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: for educational purposes, scientific purposes, the enhancement of propogation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (1) through (3) above.

* * * * *

Dated: May 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-14200 Filed 5-25-84; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To List the White River Spinedace (Lepidomeda albivallis) as an Endangered Species and Determine Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the White River spinedace (*Lepidomeda albivallis*) to be an endangered speces. This action is being taken because five populations of this species have been eliminated and others have been greatly reduced due to channelization and diversion of its spring habitats. The introduction of exotic fishes, which compete with and prey on the White River spinedace, has also been a primary cause of the decline. The White River spinedace occurs in remnant waters of the pluvial White River system in southern White Pine County and extreme northeastern Nye County, Nevada. Critical habitat is included with this rule. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 30, 1984. Public hearing requests must be received by July 13, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Srvice, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Don Sada, U.S. Fish and Wildlife Service, Great Basin Complex, 4600 Kietzke Lane, Building C, Reno, Nevada 89502 (702/784-5227).

SUPPLEMENTARY INFORMATION:

Background

The White River spinedace was described as a full species (*Lepidomeda albivallis*) by Miller and Hubbs (1960). Miller and Hubbs (1960) based on material collected in 1934. It is a large species of *Lepidomeda*, often attaining a length of 4 to 5 inches (Miller and Hubbs 1960) distinguish the White River spinedace from other species of *Lepidomeda* in possessing a pharyngeal tooth formula of 5–4 in the main row, typically fewer than 90 lateral-line scales, a moderately oblique mouth, a dorsal fin of moderate height, and distinctive coloration.

The White River spinedace is one of six species belonging to the Plagopterini, a unique tribe of cyprinid fishes. Members of the Plagopterini are restricted to the lower Colorado River system and are characterized by the possession of two spinal rays in the dorsal fin and reduction in scalation in certain taxa (Miller and Hubbs 1960, Uyeno and Miller 1973). The White River spinedace is the representative of the tribe within the upper White River system of southern White Pine County and extreme northeastern Nye County, Nevada. During pluvial times, 10,000 to 40,000 years before present, the White River was tributary to the Colorado River by way of the Virgin River (Hubbs et al. 1974). As the pluvial waters desiccated as the result of more xeric climates, the White River spinedace was restricted to permanent waters such as springs or perennial sections of the White River. Currently, the White River is dry for much of its course.

Historically, the White River spinedace was known from Preston Big, Nicholas, Arnoldson, Cold, Lund Town, and Flag Springs as well as from the White River near its confluence with Ellison Creek (Miller and Hubbs 1960, Williams and Wilde 1981). The species has been extirpated from all but Lund Town Spring and Flag Springs.

The primary threats to the continued existence of the White River spinedace are the channelization and diversion of water within the spring habitats as well as the introduction of exotic fishes such as guppies (*Poecilia reticulata*), mosquitofish (*Gambusia affinis*), and goldfish (*Carassius auratus*). The exotic fishes compete with and, in some instances, prey on the spinedace.

Viable populations of the White River spinedace still exist in Lund Town Spring and Flag Springs although the former locality contains established populations of exotic species. Both spring systems have been altered by manmade activities.

On December 30, 1982, the Service published a notice of review in the **Federal Register** (47 FR 58454–58460) of vertebrate animal taxa being considered for addition to the List of Endangered and Threatened Wildlife. The White River spinedace was included in this notice as a category 1 species indicating that the Service had substantial information to support the biological appropriateness of proposing its listing.

On April 12, 1983, the Service received a petition from the Desert Fishes Council requesting that the White River spinedace along with 16 other fish species be added to the List of Endangered and Threatened Wildlife. The Service published in the **Federal Register** (48 FR 27273–27274) on June 14, 1983 a finding that the petition presented substantial information that the petitioned action may be warranted. Publication of this rule constitutes the required 12-month finding in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to the White River spinedace (*Lepidomeda albivallis*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* When the White River spinedace was described by Miller and Hubbs in 1960, the species was present in large numbers throughout its known range. By 1979 (Hardy 1980), the spinedace was considered rare in all localities surveyed. Physical and biological habitat alteration have precipitated this decline. During the latter one-half of this century, agriculture and residential use increased around White River spinedace habitat because of the abundant water supply. The water supply was readily "controlled" by channelizing the spring flows and developing diversion structures along outflow creeks. These changes reduced available habitat for the spinedace and caused significant population declines. Continued channelization and diversion of the water supply threatens the remaining habitat of the White River spinedace.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* None apparent.

C. *Disease or predation.* See components below under criterion E.

D. *The inadequacy of existing regulatory mechanisms.* The State of Nevada has placed the White River spinedace on its Protected Species List. However, this action does not provide protection to the species on Federal land, or from federally-funded or approved projects on private land.

E. *Other natural or manmade factors affecting its continued existence.* The introduction of exotic organisms, especially fishes, is detrimental to the White River spinedace. The establishment of guppies (*Poecilia reticulata*) and mosquitofish (*Gambusia affinis*) in habitats occupied by the White River spinedace has been particularly harmful. In general, the introduction of exotic fishes is usually detrimental to native fishes because of competition, predation, or the introduction of exotic parasites and diseases (Deacon *et al.*, 1964, Hubbs and Deacon 1964).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in the preparation of this proposed rule. Based on this evaluation, the preferred action is to list the White River spinedace as endangered. The elimination of five populations and the reduction of others because of channelization and diversion activities in this fish's spring habitats, as well as competition and predation from exotic species, indicate that it is imminently threatened with extinction. Therefore, a proposed endangered classification is warranted.

Recent status surveys have been instrumental in assessing essential habitat and the present condition of the White River spinedace. Overcollection is not the primary threat facing this species. For these reasons the Service does not believe that determining critical habitat for the White River spinedace will contribute to its further decline; hence, this proposed rule includes a proposal for critical habitat.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act of the Section 4 regulations means: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

The Act requires that, at the time of proposal, critical habitat be determined to the maximum extent prudent and determinable. The critical habitat being proposed for the White River spinedace (*Lepidomeda albivallis*) is in southern White Pine County and extreme northeastern Nye County, Nevada, and consists of Preston Big Spring, Lund Town Spring and Flag Springs, as well as the associated outflows of each of these spring systems. Although the White River spinedace has been eliminated from Preston Big Spring, this spring is included as critical habitat in that it fits the definition of critical habitat as area currently outside the geographical area occupied by the species that are essential for its conservation. Recovery efforts would include the reintroduction of the White River spinedace into Preston Big Spring, thereby increasing the population numbers and genetic viability of this species. A precise description of the critical habitat is given below in the "Regulations Promulgation" section.

The areas proposed as critical habitat for the White River spinedace satisfy all known criteria for its ecological, behavioral, and physiological requirements.

The most critical element to survival of the proposed spinedace are the consistent quality and quantity of springflows. The critical habitat includes the springs and associated outflows as well as riparian areas immediately surrounding these aquatic areas. These riparian areas provide vegetative cover that contribute to providing the uniform water conditions preferred by the spinedace and provide habitat for insects and other invertebrates which constitute a substantial protion of its diet. The designation of these narrow, riparian land areas as critical habitat is proposed due to the essential role they play in the conservation of this species.

Section 4(b)(8) of the Act requires, to the maximum extent practicable, that any proposal to determine critical habitat to be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if unertaken or which in turn may be impacted by such designation.

Activities that may adversely affect the critical habitat of the White River spinedace include pollution of the

springwater, introduction of exotic species, excessive pumping of water from nearby aquifers, and further physical modification of the spring areas such as channelization and diversion of springflows or clearing of the surrounding vegetation.

Currently, there are no known Federal activities believed to be affected by the designation of critical habitat for this species.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. When a species is listed, Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or result in the destruction or adverse modification of its critical habitat. If a "my affect" determination is made, the Federal agency must enter into formal consultation with the Service. However, no such Federal involvement or impact is known or expected for this species.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered animal species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. Such permits are available for scientific purposes or to enhance the propagation or survival of the species.

Public Comments Solicited

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

(1) Biological or other relevant data concerning any threat (or lack thereof) to the White River spinedace;

(2) The location of any additional populations of the White River spinedace and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

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

(4) Current or planned activities in the subject area and their possible impact on the White River spinedace; and

(5) Any impacts resulting from the determination of critical habitat.

Final promulgation of the regulations on the White River spinedace will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF v. Andrus*, 657 F.2d 829 (6th Cir., 1981).

Authors

The primary authors of this proposed rule are Dr. Jack E. Williams, Endangered Species Staff, U.S. Fish and Wildlife Service, Room E2740, Federal Building, 2800 Cottage Way, Sacramento, California 95825 and Dr. James E. Deacon, Biology Department, University of Nevada, Reno, Nevada 89557. Ms. Linda M. Hurley of the Service's Washington Office served as editor.

References

Deacon, J. E., C. Hubbs and B. J. Zahuranec. 1964. Some effects of introduced fishes on the native fish fauna of southern Nevada. Copeia 1964:384–388.

Hardy, T. 1980. The Inter-basin area report—1979. Proc. Desert Fishes Council 11:5–21.

Hubbs, C. and J. E. Deacon. 1964. Additional introductions of tropical fishes into southern Nevada. Southwestern Nat. 9:249–251.

Hubbs, C. L., R. R. Miller and L. C. Hubbs. 1974. Hydrographic History and relict fishes of the north-central Great Basin. Memoirs California Acad. Sci. 7:1–259.

Miller, R. R. and C. L. Hubbs. 1960. The spiny-rayed cyprinid fishes (Plagopterini) of the Colorado River System. Misc. Publ. Mus. Zool., Univ. Michigan 115:1–39.

Uyeno, T. and R. R. Miller. 1973. Chromosomes and the evolution of the Plagopterin fishes (Cyprinidae) of the Colorado River system. Copeia 1973:776–782.

Williams, J. E. and G. R. Wilde. 1981. Taxonomic status and morphology of isolated populations of the White River springfish, *Crenichthys baileyi* (Cyprinodontidae). Southwestern Nat. 25:485–503.

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

PART 17—[AMENDED]

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

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

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

2. It is proposed to amend § 17.11(h) by adding the following in alphabetical order under the heading "Fishes" to the list of Endangering and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
Spinedace, White River	*Lepidomeda albivallis*	U.S.A. (NV)	Entire	E		17.95(e)	NA.

3. It is further proposed to amend § 17.95(e) *Fishes*, by adding critical habitat of the White River spinedace (*Lepidomeda albivallis*), in the same alphabetical order as the species is listed in § 17.11(h), as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) * * *

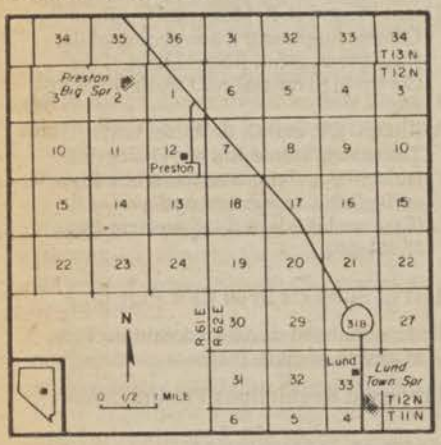
White River Spinedace

(Lepidomeda albivallis)

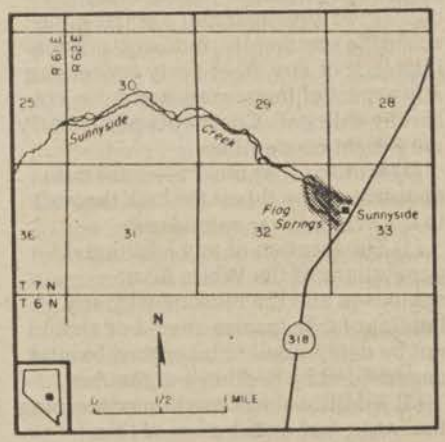
Nevada, White Pine County. Each of the following springs and outflows plus surrounding land areas for a distance of 50 feet from these springs and outflows:

Preston Big Spring and associated outflows within T12N, R61E, NE¼ Sec. 2.

Lund Town Spring and associated outflows within T11N, R62E, NE¼ of NE¼ of Sec. 4; T12N, R62E, S½ of SE¼ Sec. 33.



Nevada, Nye County. Flag Springs and associated outflows plus surrounding land areas for a distance of 50 feet from the springs and outflows within the following areas: T7N, R62E, SE¼ of NE¼ Sec. 32, SW¼ of NW¼ Sec. 33.



Known constituent elements include the consistent quality and quantity of cool springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

* * * * *

Dated: May 16, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-14199 Filed 5-25-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council has submitted an amendment (Amendment# 9) to the fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska for review by the Secretary of Commerce and is requesting comments from the public. Copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment will be accepted until August 3, 1984.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, AK 99802.

Copies of the amendment are available upon request from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510. The Environmental Assessment and Regulatory Impact Review/Initial Regulatory Flexibility Analysis are also available from the same address. The Council invites comments on these documents.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, Kodiak Field Office, National Marine Fisheries Service), telephone (907) 486-4791.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether or not to approve the amendment.

This amendment proposes measures for managing the Commercial Tanner Crab Fishery off the Coast of Alaska. The receipt date for this amendment is May 21, 1984.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 30 days.

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: May 22, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-14303 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 104
Tuesday, May 29, 1984

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

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Palisades Park, RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Palisades Park, RC&D Measure, Richmond County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27601, telephone (919) 755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on an outdoor recreational facility. The planned works of improvement include grading and seeding bare eroding areas to permanent vegetation; adding topsoil; and installing a diversion, catch basin and outlet pipes, walkway and steps, and a traffic control barrier. All treatment is aimed at erosion control and disposing of surface water at a nonerosive velocity.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic date developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Executive Order 12372, "Intergovernmental Review of Federal Program" is applicable)

Dated: May 17, 1984.

Coy A. Garrett,

State Conservationist.

[FR Doc. 84-14217 Filed 5-25-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL RIGHTS COMMISSION

California Advisory Committee to the United States Commission on Civil Rights; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regualtions of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission scheduled for June 9, 1984, at Los Angeles, California (FR Doc 84–13111 published May 16, 1984, on page 20747) appeared with the incorrect Chairperson and Regional Office. All inquiries should be directed to the Western Regional Office at (213) 688–3437 or the Chairperson, Maurice B. Mitchell, at (303) 444–3541.

All other information will remain the same.

Dated at Washington, D.C., May 23, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-14203 Filed 5-25-84; 8:45 am]

BILLING CODE 6335-01-M

Iowa Advisory Committee to the United States Commission on Civil Rights; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission scheduled for June 25, 1984, at Sioux City, Iowa, (FR Doc 84–12995 published May 15, 1984 on page 20533) appeared with an incorrect telephone number for the Central States Regional Office. The correct number is (816) 374–5253.

All other information will remain the same.

Dated at Washington, D.C., May 23, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-14204 Filed 5-25-84; 8:45 am]

BILLING CODE 6335-01-M

Kansas Advisory Committee to the United States Commission on Civil Rights; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission scheduled for June 27–28, 1984, at Hutchinson, Kansas (FR Doc 84–12992 published May 15, 1984, on page 20533) appeared with an incorrect telephone number for Mrs. Jaclyn Gossard and the Central States Regional Office. The correct number is (816) 374–5253.

All other information will remain the same.

Dated at Washington, D.C., May 23, 1984.

John I, Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-14205 Filed 5-25-84; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee to the United States Commission on Civil Rights Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 10:00 p.m., on June 21, 1984, at the Howard Johnson Motor Lodge, Unitah Room, 122 W. South Temple Street, Salt

Lake City, Utah 84101. The purpose of this meeting is to plan for future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Mr. Virginia Kelson, at (801) 532–5080 or the Rocky Mountain Regional Office at (303) 844–2211.

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

Dated at Washington, D.C., May 22, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–14206 Filed 5–28–84; 8:45 am]

BILLING CODE 6335–01–M

CIVIL RIGHTS COMMISSION

Consultation on Comparable Worth

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1983, Pub. L. 98–183, 97 Stat. 1304, that a public consultation of the U.S. Commission on Civil Rights will begin on June 6, 1984, at 8:30 a.m. in Conference Room B of the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, N.W., Washington, D.C. It will also convene on June 7, 1984, beginning at 9:00 a.m.

The purpose of the consultation is to hear presentations by panels of invited experts on issues involving comparable worth.

The Commission is an independent bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Dated at Washington, D.C., May 24, 1984.

Clarence M. Pendleton, Jr.,

Chairman.

[FR Doc. 84–14443 Filed 5–25–84; 9:57 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Survey of Income and Program Participation (SIPP)—Training Exercise for New Interviewers
Form numbers: Agency—4100, 4003, 4105, OMB—0607–0425
Type of request:
Extension of the expiration date of a currently approved collection
Burden: 10,000 respondents; 5,000 reporting hours

Needs and uses: The survey of Income and Program Participation (SIPP) collects information on the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. This information is extremely important for the formulation of Government domestic policy. In order to prepare for the second SIPP panel the Census Bureau will have to train new interviewers. To prepare interviewers the Bureau plans to provide them with 20 sample addresses to be used in training assignments. The Wave 1 suvey instruments will be used in the training assignment households.

Affected public: Individuals or households
Frequency: Other: November and December 1984
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4818

Agency: Bureau of the Census
Title: Survey of Income and Program Participation (SIPP)—1984 Panel Control Card
Form numbers: Agency—4001, 4001(R), 4001(T), OMB—0607–0425
Type of request: Extension of the expiration date of a currently approved collection
Burden: 124,800 respondents; 10,400 reporting hours

Needs and uses: The Survey of Income and Program Participation (SIPP) collects information on the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. This information is extremely important for the formulation of Government domestic policy. This data will support Government policy and program planning. The control card is the basic record for each sample unit in the survey and is updated each wave to reflect changes in household composition or individual characteristics and interview status as well as to ensure that individuals and household information can be linked from interview to interview.

Affected public: Individuals or households
Frequency: Monthly
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4818

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

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

Dated: May 21, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84–14225 Filed 5–25–84; 8:45 am]

BILLING CODE 3510–CW–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1984 Company Organization Survey
Form numbers: Agency—NC–9901, NC–9907, OMB—0607–0444
Type of request: Revision of a currently approved collection
Burden: 89,000 respondents; 75,092 reporting hours

Needs and uses: This survey is used for the continuing updating of the Standard Statistical Establishment List (SSEL). The SSEL provides: 1) a standard basis for assigning industrial classification codes of establishments engaged in all areas of economic activity; 2) a single universe for the selection and maintenance of statistical samples of establishments, legal entities, or enterprises; and 3) establishment level data from multiestablishment companies summarized in the County Business Patterns series of reports. The Federal Government and state and local authorities use this data in various economic development programs. Private businesses also make widespread use of the data for forecasting, analysis of sales performance, location of stores, etc.

Affected public: Farms, Business or other for-profit institutions, Nonprofit institutions, Small businesses or organizations
Frequency: Annually
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395–4814

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

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

Dated: May 21, 1984.

Edward Michals,

Department Clearance Officer.

[FR Doc. 84-14224 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-CW-M

Office of the Secretary

Advisory Committee; Availability of Report on Closed Meetings

AGENCY: Department of Commerce.

ACTION: Announcing public availability of report on closed meetings of advisory committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially-closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room LM133, Madison Building, 1st and Independence Avenue, SE., Washington, D.C. 20540.

Department of Commerce, Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–4217, Attention Ms. Geraldine P. LeBoo or Mr. Leon Weston.

SUPPLEMENTARY INFORMATION: The reports cover the closed and partially-closed meetings held in 1983 or 31 committees and their subcommittees, the names of which are listed below:

Civil Operational Remote Sensing Satellite Advisory Committee—(formerly Land Remote Sensing Satellite Advisory Committee)
—Commercialization Working Group
Committee of Chairmen of the Industry Advisory Committees for Trade Policy Matters (TPM)
Computer Peripherals Components and Related Test Equipment Technical Advisory Committee (TAC)
Computer Systems TAC
—Hardware Subcommittee
Electronic Instrumentation TAC
Industry Functional Advisory Committee on Customs Matters for TPM
Industry Functional Advisory Committee on Standards for TPM
Industry Policy Advisory Committee for TPM
—Export Policy and Programs Task Force
—International Trading System Task Force
—Key Industrial Issues Task Force
Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for TPM
—Customs Procedures Subcommittee
—Government Supports Subcommittee
—Military Trade Subcommittee
—Purchase/Finance Subcommittee
—Space Equipment Subcommittee
ISAC on Capital Goods for TPM
ISAC on Chemicals and Allied Products for TPM
ISAC on Consumer Goods for TPM
—U.S. Generalized System of Preferences Task Force
ISAC on Electronics and Instrumentation for TPM
—Foreign Industrial Targeting Subcommittee
—High Technology Subcommittee
ISAC on Energy for TPM
—Coal Subcommittee
—Oil and Gas Subcommittee
ISAC on Ferrous Ores and Metals for TPM
ISAC on Footwear, Leather, and Leather Products for TPM
ISAC on Industrial and Construction Material and Supplies for TPM
ISAC on Lumber and Wood Products for TPM
ISAC on Nonferous Ores and Metals for TPM
ISAC on Paper and Paper Products for TPM
ISAC on Services for TPM
ISAC on Small and Minority Business for TPM
ISAC on Textiles and Apparel for TPM
ISAC on Transportation, Construction, and Agricultural Equipment for TPM
ISAC on Wholesaling and Retailing for TPM
Marine Fisheries Advisory Committee
Numerically Controlled Machine Tool TAC
President's Export Council (PEC)
PEC Subcommittee on Export Administration
Semiconductor TAC
—Discrete Semiconductor Device Subcommittee
—Microcircuit Subcommittee
—Semiconductor Manufacturing Materials and Equipment subcommittee
Telecommunications Equipment TAC
—Fiber Optic Subcommittee

FOR FURTHER INFORMATION CONTACT: Mrs. Linda Engelmeier, Management Analyst, Officer of the Secretary, Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4217.

Dated: May 22, 1984.

Marilyn S. McLennan,

Chief, Information Management Division, Office of Information Resources Management.

[FR Doc. 84-14228 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-570-007]

Postponement of Final Antidumping Determination and Postponement of Hearing; Barium Chloride From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce has received a request from China National Chemicals Import and Export Corporation (Sinochem) that the final determination be postponed until not later than 135 days after the date of publication of the preliminary determination, as provided for in § 353.44(b) of the Department of Commerce Regulations (19 CFR 353.44(b)), and that the Department will postpone its final determination as to whether barium chloride from the People's Republic of China has been sold at less than fair value until not later than August 20, 1984.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377–2613.

SUPPLEMENTARY INFORMATION: On November 18, 1983, the Department of Commerce published notice in the **Federal Register** (48 FR 52494) that it

was initiating under section 732(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether barium chloride from the People's Republic of China is being, or is likely to be, sold at less than fair value. The Department published an affirmative preliminary determination on April 6, 1984 (49 FR 13728). The notice stated that if this investigation proceeded normally we would make a final determination by June 18, 1984. Pursuant to section 735(a)(2) of the Act, Sinochem requested an extension of the final determination date. Sinochem is qualified to make such a request since it accounts for one hundred percent of the exports of the merchandise. If an exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons, to grant the request. The Department will issue a final determination in this case not later than August 20, 1984. The hearing originally scheduled for April 30, 1984, has been postponed.

The new hearing date is July 9, 1984, at 2:00 p.m., in Room B-841, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication.

Requests should contain: (1) The party's name, address, and telephone number, (2) the number of participants, (3) the reason for attending, and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by July 2, 1984. All written views should be filed in accordance with 19 CFR 353.46, at the above address and in at least 10 copies not later than the date established for the submission of post-hearing briefs which will be announced at the hearing. If no hearing is held, all written views should be submitted not later than July 23, 1984.

This notice is published pursuant to section 735(d) of the Act.

Dated: May 18, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-14253 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-036]

Melamine in Crystal Form From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on melamine in crystal form from Japan. The review covers the five known manufacturers and/or exporters of this merchandise to the United States, and the period February 1, 1983 through January 31, 1984. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has tentatively determined to revoke the finding. There have been no shipments of this merchandise to the United States for seven years for four of the firms and five years for the fifth firm. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 38527) the final results of its last administrative review of the antidumping finding on melamine in crystal form from Japan (42 FR 23683, February 2, 1977) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of melamine in crystal form, a fine white crystalline powder used to manufacture melamine formaldehyde resins, currently classifiable under item 425.1020 of the Tariff Schedules of the United States Annotated.

The review covers the five known manufacturers and/or exporters of Japanese melamine to the United States and the period February 1, 1983 through January 31, 1984. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of Review and Tentative Determination To Revoke

There have been no shipments of this merchandise to the United States for five years from Mitsui Toatsu Chemicals, Inc., and seven years form C. Itoh & Co., Ltd., Nissan Chemical Industries, Ltd., Nosawa & Co., Ltd., and Nichimen Co., Ltd. We are satisfied that there is no likelihood of resumption of sales of this merchandise to the U.S. at less than fair value. In accordance with § 353.54(c) of the Commerce Regulations, we tentatively determine on our own initiative to revoke the finding on melamine in crystal form from Japan. If this revocation is made final it will apply to all unliquidated entries of this merchandise for consumption on or after the date of publication of this notice. The Department shall instruct the Customs Service to continue to suspend the liquidation of entries pending the Department's final determination of whether or not to revoke the finding.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and sections 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: May 10, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-14227 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-076]

Perchlorethylene From Italy; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumpting finding on perchlorethylene from Italy. The review covers the two known exporters of this merchandise to the United States, Montepide, S.p.A. and Enichem Polimeri, S.p.A., and the period May 1, 1982 through May 18, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has tentatively determined to revoke the finding. There have been no shipments of this merchandise to the United States for four years. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 55510) the final results of its last administrative review of the antidumping finding on perchlorethylene from Italy (44 FR 29046, May 18, 1979) and announced its intent to conduct the next review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of perchlorethylene, including technical grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is completely capable of being mixed with most organic liquids. It is a chlorinated solvent used mainly for drycleaning of clothing, but is also used in other applications such as vapor degreasing of metals. Such merchandise is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated.

The review covers the two known exporters of Italian perchlorethylene to the United States, Montepide, S.p.A. (formerly Montedison), and Enichem Polimeri, S.p.A. (successor to Rumianca), and the period May 1, 1982 through May 18, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review and Tentative Determination To Revoke

There have been no shipments of this merchandise to the United States since the date of the finding, a period of four years. Both firms have requested revocation of the finding. As provided for in section 353.54(e) of the Commerce Regulations, the firms have agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop which indicate that Italian perchlorethylene produced and thereafter exported by Montepide and Enichem Polimeri is being sold by them to the United States at less than fair value.

Therefore, we tentatively determine to revoke the finding on perchlorethylene from Italy. If this revocation is made final, it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication.

Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and sections 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: May 9, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-14228 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[A—247-003]

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On February 14, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic. The review covers the one known exporter of this merchandise to the United States and the period June 1, 1982 through May 31, 1983.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Edward Haley or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION: .

Background

On February 14, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 5643) the preliminary results of its administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic (28 FR 4507, May 4, 1963). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of portland cement, other than white, nonstaining portland cement, currently classifiable under

items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of portland cement, other than white, nonstaining portland cement, from the Dominican Republic to the United States, Fabrica Dominicana de Cemento, C. por A., and the period June 1, 1982 through May 31, 1983.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that a margin of 10.33 percent exists for the period June 1, 1982 through May 31, 1983.

The Department shall detemine, and the Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 10.33 percent shall be required on all shipments of portland cement, other than white, nonstaining portland cement, from the Dominican Republic entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information. The Department intends to begin immediately the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1)) and § 353.53 of the -Commerce Regulations (19 CFR 353.53).

Dated: May 17, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-14229 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-086]

Spun Acrylic Yarn From Japan; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Duty Order.

SUMMARY: On March 1, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on spun acrylic yarn from Japan. The review covers twelve of the thirteen known manufacturers and/or exporters of this merchandise to the United States and the period April 1, 1982 through March 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara J. Victor or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 7641) the preliminary results of its administrative review of the antidumping duty order on spun acrylic yarn from Japan (45 FR 24127, April 8, 1980). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of spun acrylic plied yarn for machine-knitting. Such merchandise is currently classifiable under items 310.5015 and 310. 5049 of the Tariff Schedules of the United States Annotated.

The review covers twelve of the thirteen known manufacturers and/or exporters of Japanese spun acrylic yarn to the United States and the period April 1, 1982 through March 31, 1983. We inadvertently dropped one firm, Nichimen Co., Ltd., from our preliminary results. We will cover that firm in our next administrative review.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of the review are the same as those presented in the preliminary results, and we determine that a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, equal to the following percentages of the entered value shall be required on all shipments of Japanese spun acrylic yarn from these firms entered, or withdrawn from warehouse, for consumpotion on or after the date of publication of this notice.

Japanese exporter	Cash deposit (percent)
Mitsui & Co., Ltd. (Mfr: Kanegafuchi Chem. Ind. Co., Ltd.)	[1] 0
Diafibers Co., Ltd.:	
(Mfr: Japan Exlan Corp.)	[1] 18.33
(Mfr: Mitsubishi Rayon Co., Ltd.)	[1] 20.26
C. Itoh & Co., Ltd.:	
(Mfr: Asahi Chem. Ind. Co., Ltd	[1] 29.05
(Mfr: Mitsubishi Rayon Co., Ltd.)	[1] 20.26
Gunze Sangyo, Inc. (Mfr: Asahi Chem. Ind. Co., Ltd.)	[1] 29.05
Teijin Shoji Kaisha, Ltd. (Mfr: Asahi Chem. Ind. Co., Ltd.)	[1] 29.05
Itoman & Co., Ltd. (Mfr: Japan Exlan Corp.)	[1] 18.33
Nissho Iwai Corp. (Mfr: Japan Exlan Corp.)	[1] 18.33
Mitsubishi Corp. (Mfr: Mitsubishi Rayon Co., Ltd.)	[1] 20.26

[1] No shipments during review period.

For any future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after March 31, 1983 and who is unrelated to any reviewed firm, a cash deposit of 29.05 percent shall be required.

These deposit requirements shall remain in effect until publication of the final results of the next adminstrative review. The Department intends to begin immediately its next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: May 9, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-14230 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Issuance of Permit to Take Marine Mammals; University of Hawaii

On March 23, 1984, notice was published in the **Federal Register** (49 FR 10974) that an application had been filed with the National Marine Fisheries Service by Dr. Louis M. Herman, Kewalo Basin Marine Mammal Laboratory, University of Hawaii, 1129 Ala Moana, Honolulu, Hawaii 96814, for a Permit to take four (4) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of scientific research.

Notice is hereby given that on May 21, 1984, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service, issued a Permit authorizing the above taking to Dr. Louis M. Herman subject to certain conditions set forth therein.

The permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: May 21, 1984.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-14302 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Limits for Certain Cotton Apparel Exported From India

On March 9, 1984, a notice was published in the **Federal Register** (49 FR 8985) announcing that, on February 28, 1984, the United States Government, under the terms of the Bilateral Cotton Textile Agreement of December 21, 1982, had requested the Government of India to enter into consultations concerning exports to the United States of cotton dressing gowns in Category 350 produced or manufactured in India.

Consultations have been held concerning this category, but no agreement has been reached on a mutually satisfactory solution. The United States Government has decided, therefore, pending agreement on a different solution, to control imports of cotton apparel in Category 350 at the prorated twelve-month limit of 13,363 dozen for the period which began on February 28, 1984 and extends through December 31, 1984. This limit is subect to flexibility adjustments under the terms of the agreement.

The limit for Category 350 may be adjusted to reflect final 1983 exports from India through April 30, 1984. For purposes of establishing the limit for the present restraint period, the count of 1983 exports from India in this category at the end of April 1984 is considered final by the U.S. Government, and there will be no further adjustments made to reflect 1983 trade.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton apparel products in Category 350 exported during the designated period.

Effective Date: May 28, 1984.

For Further Information Contact: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C., (202/377-4212).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 1984.

Commissioner of Customs, *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982 between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 28, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 350, produced or manufactured in India and exported during the indicated period, in excess of the following limit:

Category	Prorated 12 mo. limit[1]	Period
350	13,363 dozen	Feb. 28, 1984-Dec. 31, 1984

[1] The limit has not been adjusted to reflect any imports exported after February 27, 1984.

Textile products in Category 350 which have been exported to the United States during the ninety-day period which began on February 28, 1984, shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of India and with respect to imports of cotton textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-14259 Filed 5-25-84; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Limit for Certain Cotton and Man-Made Fiber Apparel Products Produced or Manufactured in Singapore

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 29, 1984. For further information contact Diana

Bass, International Trade Specialist, (202) 377–4212.

Background

During consultations, the Governments of the United States and the Republic of Singapore have agreed to amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981 to convert the existing consultation levels for woven blouses of man-made fibers in Category 641 and of cotton in Category 341 to specific limits at 128,000 dozen for Category 641 and at 93,000 dozen for Category 341 for goods produced or manufactured in Singapore and exported during 1984. Flexibility in the form of swing and carryforward amounting to 16,640 dozen for Category 641 and 12,090 dozen for Category 341 is being applied to the new specific limits, raising them to 144,640 dozen for Category 641 and 105,090 dozen for Category 341.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 1984.

Commissioner of Customs, *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during 1984.

Effective on May 29, 1984, the directive of December 19, 1984 is hereby amended to include adjusted restraint limits of 144,640 dozen [1] for Category 641 and 105,090 dozen [1] for Category 341.

The action taken with respect to the Government of Singapore and with respect to imports of cotton and man-made fiber textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–14280 Filed 5–25–84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limits have not been adjusted to account for any imports exported after December 31, 1983.

Import Restraint Limit for Man-Made Fiber Gloves and Mittens Produced or Manufactured in Thailand

On April 12, 1984, a notice was published in the **Federal Register** (49 FR 14554) announcing that, pending consultations with the Government of Thailand, the United States Government was establishing, according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 21 and August 8, 1983, as amended, an import restraint limit of 187,734 dozen pairs for man-made fiber gloves and mittens in Category 631, produced or manufactured in Thailand and exported during 1984.

The purpose of this notice is to advise the public that consultations concerning this category were held, but no mutually satisfactory alternative solution was agreed between the two governments. In the absence of such a solution, the Government of Thailand has advised the Government of the United States that it will not administer the limit in this category. Interested persons are advised that the import restraint limit of 187,734 dozen pairs is being implemented by the United States Government.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to charge 3,120 dozen pairs to the limit established for Category 631. This amount accounts for goods imported during the January–March 1984 period which have been exported during 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 1984.

Commissioner of Customs, *Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 21 and August 8, 1983, as amended, between the Governments of the United States and Thailand, I request that, effective on May 29, 1984, you charge 3,120 dozen to the import restraint limit established in the directive of April 9, 1984 for man-made fiber textile products in Category 631, produced or manufactured in Thailand and exported during 1984. These charges are for goods exported during January–March 1984.

The action taken with respect to the Government of Thailand and with respect to imports of man-made fiber textile products from Thailand has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–14281 Filed 5–25–84; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limit for Certain Cotton Apparel Exported from Pakistan

May 23, 1984.

On March 9, 1984 a notice was published in the **Federal Register** (49 FR 8986) announcing that, on February 29, 1984, the United States Government, under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, had requested the Government of Pakistan to enter into consultations concerning exports to the United States of cotton dressing gowns in Category 350 produced or manufactured in Pakistan.

Consultations have been held concerning this category, but no agreement was reached. The United States Government has decided, therefore, pending a mutually satifactory solution, to control imports in Category 350 at a limit of 15,285 dozen for the period which began on February 29, 1984 and extends through December 31, 1984. In the event a different solution is agreed upon between the two governments, further notice will be published in the **Federal Register.**

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or

withdrawal from warehouse for consumption, of cotton apparel products in Category 350 exported during the designated period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Effective Date: May 29, 1984.

For Further Information Contact: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C., 202/377–4212.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 23, 1984.

Commissioner of Customs, Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement on March 9 and 11, 1982 between the Governments of the United States and Pakistan; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on May 29, 1984, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 350 produced or manufactured in Pakistan, and exported during the period which began on February 29, 1984 and extends through December 31, 1984, in excess of 15,285 dozen.[1]

Textile products in Category 350 which have been exported to the United States prior to February 29, 1984 shall not be subject to this directive.

Textile products in Category 350 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1148(b) or 1484(a)(1)(A) prior to the effective data of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–14347 Filed 5–24–84; 10:51 am]

BILLING CODE 3510–DR–M

[1] The limit has not been adjusted to reflect any imports after February 28, 1984.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84–312–001]

ANR Pipeline Co.; Supplement To Request Under Blanket Authorization

May 21, 1984.

Take notice that on April 19, 1984, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84–312–001 a supplement to a request filed March 21, 1984, in Docket No. CP84–312–000 pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) requesting inclusion of "flexible authority" in the end-user transportation service ANR proposes to provide for Stone Container Corporation (Stone), all as more fully set forth in the supplement on file with the Commission and open to public inspection.

ANR states that Stone is considering alternatives in its source of supply of natural gas for its Franklin, Warren County, Ohio, facility. ANR further states such modifications may involve different suppliers and/or changes in receipt/delivery points, but would not involve any increase in the peak day, average day, or annual volumes to be transported by ANR. Consequently, it is asserted, Stone has requested ANR to supplement its request to include "flexible authority" whereby ANR would undertake certain filing requirements to advise the Commission in the event Stone obtains a different source(s) of supply or if additions or deletions of receipt and/or delivery points are required in furtherance of ANR's current end-user transportation proposal. It is further asserted that the inclusion of "flexible authority" would not authorize a change in the end-user, the end-use location or the daily maximum and annual transportation volumes.

Upon implementation of "flexible authority," ANR states it would, within 30 days of the addition or deletion of any gas supplies and/or receipt/delivery points, file with the Commission a report which would include

(i) A copy of the gas purchase contract between Stone and the seller and a copy of any respective modifications in the contractual transportation arrangement between ANR and Stone;

(ii) A statement as to whether the supply is attributable to gas under contract to, and released by, a pipeline or distributor and if so, the identification of the parties, and the current contract price;

(iii) A statement of the Natural Gas Policy of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(iv) A statement that the gas is not committed or dedicated to interstate commerce within the meaning of NGPA Section 2(18);

(v) The location of the receipt/delivery points being added or deleted and the appropriate transportation rate changes resulting from the addition or deletion of receipt or delivery points (for deletions the name of the producer/supplier being deleted will be provided);

(vi) Where an intermediary participates in the transaction between Stone and the seller, the information required by § 157.209(c)(1)(ix) of the Commission's Regulations; and

(vii) The identity of any other pipeline involved in the transportation.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14238 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-400-000]

Ashland Exploration, Inc.; Application for Certificate of Public Convenience and Necessity

May 21, 1984.

Take notice that on April 26, 1984, Ashland Exploration, Inc. (Ashland), P.O. Box 391, Ashland, Kentucky 41114, filed an application pursuant to Section 7 of the Natural Gas Act, 15 U.S.C. 717f(c), for a certificate of public convenience and necessity, if required, for the construction and operation of incidential facilities necessary to consummate the sale of natural gas for resale in interstate commerce all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On March 8, 1984, Ashland entered into a gas sales agreement with Columbia Gas of West Virginia, Inc., a local distribution company located in West Virginia. Pursuant to that agreement Ashland agreed to sell up to 5,000 Mcf per day at the Kenova, West Virginia delivery point. The gas proposed to be sold under the agreement is to be produced by Ashland from wells drilled in the Martha Field, Kentucky. Ashland represents that all the wells qualify either under NGPA Section 103 or 109(a)(3) of the Natural Gas Policy Act (NGPA). Therefore, the production from these wells is not subject to the Natural Gas Act jurisdiction of the Commission by reason of NGPA section 601(a)(1). To deliver the gas to the Kenova delivery point, however, Ashland will have to construct approximately 6,000 feet of 6" pipeline from Ashland's Catlettsburg refinery, located near Catlettsburg, Kentucky, across the Big Sandy River to the delivery point in Kenova, West Virgina. Ashland indicates that a certificate of public convenience and necessity may be required for the construction and operation of these incidental facilities necessary to consummate the sale.

Applicant avers that it is able and willing properly to do the acts and perform the service proposed and that the proposed sale is required by the present and future public convenience and necessity.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14239 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2103-000]

Charles E. Russoli; Application

May 21, 1984.

The filing individual submits the following:

Take notice that on May 14, 1984, Charles E. Russoli filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President-Financial—Pennsylvania Power & Light Company

Director—Safe Harbor Water Power Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14240 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-332-001]

The Crouse Group; Status as a Qualifying Small Power Production Facility

May 21, 1984.

Take notice that on October 31, 1983, the Crouse Group, Upper Lewis Road, Linfield, Pennsylvania, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The application states that the small power production facility will be located at Pigeon Point, Wilmington, Delaware. Applicant also states that the proposed facility will accept a combination of refuse-derived fuel and unprocessed municipal solid waste and will incinerate it and process steam which will be converted to electricity. The facility according to the application will be capable of producing 155,000 pounds per hour of steam at a pressure of 650 psi and a temperature of 650°F. The steam is capable of generating 13.8 megawatts of power.

Due to a failure of the Commission's internal mail distribution, a notice has not previously been issued in this proceeding. However, the application filed by the Crouse Group on October 31, 1983, was granted by operation of law pursuant to § 292.207(b)(5) of the Commission's regulations on February 1, 1984. This notice is being issued to rectify the prior absence of published notice.

Any person believing that the facility fails to comply with any statements contained in the application for Commission certification or fails to comply with § 292.203(a) of the Commission regulations may, pursuant to § 292.207(d)(1) file a petition for revocation of the certification with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All such petitions must be filed on or before June 22, 1984 and served on the applicant. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14241 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-428-000]

Idaho Power Co.; Filing

May 21, 1984.

The filing Company submits the following:

Take notice that on May 10, 1984, Idaho Power Company (Idaho) tendered for filing a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during March 1984, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 29
Sierra Pacific Power Company—Supplement 27
Portland General Electric Company—Supplement 22
Washington Water Power Company—Supplement 17
Montana Power Company—Supplement 26
Puget Sound Power & Light—Supplement 7

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rule of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14242 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-14-000]

Industrial Gas Associates; Petition for Adjustment Relief Under Section 502(c) of the Natural Gas Policy Act

May 21, 1984.

On April 24, 1984, D. W. Keefe filed on behalf of Industrial Gas Associates[1] (Industrial) an amended petition[2] with the Federal Energy Regulatory Commission (Commission) for adjustment relief under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA).[3] This petition concerns the Wilma Bee #1 well, located in the Union District, Ritchie County, West Virginia, of which Industrial is the operator. Petitioner is seeking relief from the refund provisions of § 270.101(e) concerning certain refunds it owes to Consolidated Gas Supply Corporation (Consolidated).

Section 271.805(a) of the Commission's regulations specifies that if a stripper well's production averages more than 60 Mcf per production day during any 90-day production period, then both the purchaser and the operator are required to file a written notice of disqualification with the Commission, the appropriate jurisdictional agency, and each other. Unless a producer files within 150 days of the last day of the 90-day production period of disqualification for a determination that the increase in production was due either to the well being seasonally affected, a recognized enhanced recovery technique or temporary pressure build-up, the producer loses his right to collect the NGPA section 108 price.

During the 90-day period between September 3, 1982, and December 5, 1982, the Wilma Bee #1 well produced an average of approximately 68 Mcf per production day. Industrial alleges that the Wilma Bee #1 well disqualified because the metering facility malfunctioned prior to and during the overproduction period, thus restricting the flow of natural gas production from the well and causing an abnormal pressure build-up. This pressure build-up resulted in a bubble of higher production during the over-production period. Industrial states that Consolidated owned and controlled these metering facilities.

Industrial states that neither it nor Consolidated filed the necessary notice of disqualification within the requisite period. Industrial states further that because it did not recognize that the Wilma Bee #1 well had become disqualified until September 28, 1983, it was impossible for Industrial to file for a determination that the well was seasonally affected within the requisite 150 days. Industrial did file for such determination on October 25, 1983, and it became final within 150 days. Because Industrial failed to timely file for a determination for seasonally affected status for the subject well, it lost the right to collect the NGPA section 108 price for the period between September 3, 1982, and October 25, 1983.[4] Under § 270.101(e) of the Commission's regulations, Industrial must refund the difference between the section 108 rate collected and the otherwise applicable section 103 rate with interest for production from the subject well.

Industrial now seeks relief under section 502(c) from the NGPA from the refund requirement under § 270.101(e) of th Commission's regulations. Industrial alleges that it will suffer a special hardship absent a staff adjustment. Industrial states that it incurred substantial losses for the year 1983. Industrial alleges that the additional loss of revenue through denial of the relief sought in this docket will adversely affect its cash flow and may jeopardize its ability to satisfy creditors and continue an economically viable operation.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14243 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-412-000]

Kansas Gas and Electric Co.; Filing

May 21, 1984.

The filing Company submits the following:

Take notice that on April 30, 1984, Kansas Gas and Electric Company (KG&E) tendered for filing a proposed change in its FPC Electric Service Tariff capacity requirements for two Delivery Points and establishes a third delivery point for the Kansas Power and Light Company for the period from June 1, 1984 through May 31, 1985.

KG&E states that the Letter of Intent is necessary because Kansas Power & Light Company has requested a change in the amount of transmission capacity to be reserved for Kansas Power & Light Company's use.

KG&E requests an effective date of June 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Kansas Power and Light Company and the State Corporation Commission.

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[1] Industrial Gas Associates has changed its name to the Frontier Energy Corporation; however, for purposes of this petition, the Commission will refer to the petitioner as Industrial Gas Associates.

[2] Petitioner filed an incomplete petition on February 27, 1984.

[3] 15 U.S.C. 3301-3432 (1982).

[4] Industrial alleges in its petition that the over-production from the Wilma Bee #1 well was due to pressure build-up, yet Industrial states that it filed for and received a determination that the subject well was seasonally affected.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 1, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14244 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-5214-001, et al.]

Sohio Petroleum Company, et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates[1]

May 21, 1984.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 ft.[3]	Pressure base
G-5214-001, D, April 23, 1984	Sohio Petroleum Company, 5151 San Felipe, P.O. Box 4587, Houston, Texas 77210.	Tennessee Gas Pipeline Company, Holmwood, Bell City and Midland Fields, Calcasieu and Acadia Parish, Louisiana.	[1]	
G-11024-001, D, April 25, 1984	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Company, East Cameron, West Cameron and Vermilion Areas, Offshore Louisiana.	[2]	
CI80-259-002, E, April 24, 1984	The Superior Oil Company (Successor In Interest To Southland Royalty Company), Post Office Box 1521, Houston, Texas 77001.	El Paso Natural Gas Company, Aneth Area, San Juan County, Utah.	[3]	14.65
CI63-1397-000, D, April 26, 1984	Mobil Producing Texas & New Mexico Inc. (formerly Northern Natural Gas Producing Company Inc.), Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, Pictured Cliffs formation, Mesa Verde formation, Basin (Dakota) and Blanco (Mesa Verde) Field, San Juan County, New Mexico.	[4]	
CI64-55-001, D, April 25, 1984	Union Oil Company of California, P.O. Box 7600, Los Angeles, California 90051.	Arkansas Louisiana Gas Compay, S.W. Waukomis Field, Garfield County, Oklahoma.	[5]	
CI73-200-000, D, April 20, 1984	Amoco Production Company, 501 West Lake Park Boulevard, Post Office Box 3092, Houston, Texas 77253.	Northern Natural Gas Company, Davidson Ranch, Crockett County, Texas.	[6]	
CI75-19-001, D, May 1, 1984	Texas Eastern Exploration Com., P.O. Box 2521, Houston, Texas 77252.	Texas Eastern Transmission Corporation, West Cameron Block 513, Offshore, Louisiana.	[7]	
CI77-280-002, May 10, 1984	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	ANR Pipeline Company, Ship Shoal Block 290 & 291, Offshore, Louisiana.	[8]	
CI78-1019-001, D, April 23, 1984	Energy Reserves Group, Inc., 217 North Water Street, P.O. Box 1201, Wichita, Kansas 67201.	Natural Gas Pipeline Company of America, Boonsville Field, Wise County, Texas, Permian Basin Area.	[9]	
CI79-27-001, May 14, 1984	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Northwest Central Pipeline Corporation, Ripley System Field, Payne County, Oklahoma.	[10]	
CI79-79-001, April 30, 1984	Sun Exploration and Production Company P.O. Box 2880, Dallas, Texas 75221-2880.	Northwest Central Pipeline Corporation, Lost Creek Field, Payne County, Oklahoma.	[10]	
G-3740-002, D, May 14, 1984	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	Tennessee Gas Pipeline Company, Gulf Coast Water Company Lease Survey 1, abstract 171, and I&GN RR Survey 4, Block 3, abstract 284, East Bay City Field, Matagorda County, Texas.	[11]	
CI84-375-000 (G-4833), B, April 20, 1984.	Amoco Production Company, 501 West Lake Park Boulevard, Post Office Box 3092, Houston, Texas 77253.	Natural Gas Pipeline Company of America, Fairbanks Field, Harris County, Texas.	[12]	
CI84-377-000 (G-2790), B, April 20, 1984.	....do	Transcontinental Gas Pipe Line Corporation, Greta Field, Refugio County, Texas.	[13]	
CI84-401-000, (G-15364), B, April 30, 1984.	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	West Lake Natural Gas and ARCO Oil & Gas, Nena Lucia Field, Nolan County, Texas.	[14]	
CI84-402-000, B, May 3, 1984	Hill Production Company, Wisconsin, 340 North Belt East, Suite 220, Houston, Texas 77060.	Trunkline Gas Company, East Lake Creek Field, Montgomery County, Texas.	[15]	
CI84-405-000 (CI65-1050-000), B, May 3, 1984.	A. D. Kelso (Successor to C.W. Sanders)	Sohio Petroleum Company, East Washington Field, McClain County, Oklahoma.	[16]	
CI84-406-000, B, May 7, 1984	MacKellar Inc., 2601 N. W. Expressway, Suite 203-E, Oklahoma City, Oklahoma 73112.	Northwest Central Pipeline Corporation (formerly City Service Gas Company), NE/4 Sec. 20-16N-6W, Kingfisher County, Oklahoma.	[17]	

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 ft ³	Pressure base
CI84-407-000, A, May 14, 1984	Cockrell Oil Corporation, 999 The Main Building, Houston, Texas 77002.	Tennessee Gas Pipeline Company, A Division of Tenneco, Inc., South Pass Block 6 Field and Southeast Pass Field, Plaquemines Parish, Louisiana.	(15)	
CI84-408-000, A, May 14, 1984	Exxon Company, U.S.A., Post Office Box 2180, Houston, Texas 77252-2180.	Northwest Pipeline Corporation, Fogarty Creek Unit, Sublette County, Wyoming.	(16)	
CI84-409-000, A, May 14, 1984	....do....	Northwest Pipeline Corporation, Graphite Unit, Sublette County, Wyoming.	(20)	
G-11742-010, D, May 16, 1984	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northwest Central Pipeline Corp., Hugoton Field, Grant, et al., Kansas.	(21)	
CI84-399-000, E, April 25, 1984	Texaco Inc. (Successor In Interest to Texas International Petroleum Corporation), P.O. Box 60252, New Orleans, Louisiana 70160.	Columbia Gas Transmission Corporation, Valentine Field, Lafourche, Louisiana.	(22)	14.73
CI84-411-000, B, May 15, 1984	V. F. Neuhaus, 1010 First City Tower II, Corpus Christi, Texas 78478.	Florida Gas Transmission Company, Cortez Field, Starr County, Texas.	(23)	
CI64-412-000, B, May 14, 1984	West Brothers Construction Company, Post Office Box 27, Orlean, New York 14760.	Consolidated Gas Supply Corp., Leicester Field, Wyoming County, New York.	(24)	
CI84-413-000, A, May 15, 1984	Exxon Corporation, Post Office Box 2180, Houston, Texas 77252-2180.	Transwestern Pipeline Corporation, North Horseshoe Bend, Eddy County, New Mexico.	(25)	14.73
CI84-414-000, A, May 15, 1984	....do....	Texas Eastern Transmission Corporation, Eugene Island Block 315, Offshore Louisiana.	(26)	15.025

[1] Leases expired and released, wells have been depleted of economically recoverable reserves and have been plugged and abandoned.
[2] (OCS G-0187) East Cameron 83, NW/4 expired on April 2, 1984.
[3] By Exchange Agreement dated October 19, 1983, but effective September 1, 1983, all of the right, title and interest of Southland Royalty Company was conveyed to Applicant.
[4] By Assignment of Operating Rights effective November 1, 1981, Northern assigned to El Paso Natural Gas Company an undivided one-half of its operating rights in certain producing acreage (Mesa Verde Formation).
[5] Assignment of dedicated leases in Section 32-21N-7W.
[6] The three wells on the acreage released from the terms and provisions of the gas purchase contract dated January 13, 1966 have been classified as NGPA 78 Section 103 wells.
[7] Permanent depletion of subject zones.
[8] Applicant is filing to clarify the point of delivery.
[9] Energy Reserves Group, Inc., has assigned all of its rights title and interest effective September 1, 1982 in the McKamy Gas Unit and McKamy-Little Gas Unit covered under the rate schedule.
[10] Applicant is filing for a new point of delivery.
[11] Acreage being abandoned has been released and has reverted back to land owner.
[12] Amoco has sold its working interest in the property covered by the Certificate of Public Convenience and Necessity issued in Docket No. G-4833 and related Rate Schedule No. 51, effective April 1, 1982.
[13] Amoco has sold of its properties effective January 1, 1983, in the Greta Field expect our 50% W.I. in the ARCO-operated J. J. O'Brien "A" Lease.
[14] The January 1, 1982 rollover contract previously filed with the Commission is actually a percentage-of-proceeds type contract, and therefore not subject to NGA filing requirements.
[15] The sole producing well on the acreage dedicated under the contract ceased producing on December 10, 1981, the well was abandoned, wellhead equipmemt sold for salvage, and the gas contract has been terminated by the parties.
[16] Percentage sale to Sohio being abandoned because the plant became uneconomic.
[17] The well has become uncommercial.
[18] Applicant is filing under Gas Sale and Purchase Contract dated June 16, 1976, as amended June 1, 1980.
[19] Applicant is filing under Gas Purchase Contract dated April 17, 1981.
[20] Applicant is filing under Gas Purchase Contract dated July 1, 1980.
[21] To release gas for irrigation fuel.
[22] By assignment effective July 1, 1983, Texaco Inc. has required the interest of Texas International Petroleum Corporation, in certain properties in the Valentine Field, Lafourche Parish, Louisiana.
[23] The purchaser under the contract has elected to remove the compression unit and facilities from the field for economic reasons.
[24] Seller unable to produce gas in commercially acceptable quantities. Production less than 20 MCF per day.
[25] Applicant is filing under Gas Purchase Contract dated February 1, 1978.
[26] Applicant is filing under Gas Purchase Contract dated April 16, 1984.

Filing Code: A—Initial Service.
B—Abandonment.
D—Amendment to delete acreage.
C—Amendment to add acreage.
E—Total Succession.
F—Partial Succession.

[FR Doc. 84-14245 Filed 5-25-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-427-000]

Tampa Electric Co.; Filing

May 21, 1984.

The filing Company submits the following:

Take notice that on May 8, 1984, Tampa Electric Company (Tampa) tendered for filing revised cost support schedules showing a change in daily capacity charge for its scheduled interchange service provided under interchange service agreements with Florida Power Corporation, Florida Power & Light Company, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Sebring Utilities Commission, Seminole Electric Cooperative, and the Cities of Gainesville, Kissimmee, Lakeland, St. Cloud, Tallahassee, and Vero Beach, Florida. Tampa states that the revised daily capacity charge is based on 1983 Form No. 1 data, and is derived by the same method that is shown in the cost support schedules submitted with the interchange agreements.

Tampa requests an effective date of May 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon each of th above-named parties to interchange agreements with Tampa, as well as the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests must be filed on or before June 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14246 Filed 5-25-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84-46-000]

Texas-New Mexico Power Co.; Application

May 21, 1984.

On May 9, 1984, the Texas-New Mexico Power Company (Applicant) filed an application with the Commission pursuant to Section 203 of the Federal Power Act, seeking an order disclaiming jurisdiction over a proposed corporate reorganization. According to Applicant, the Plan of Merger proposes that Applicant will restructure its corporate organization so that Applicant will become a subsidiary of a holding company, TNP Enterprises, Inc., by merger into a new subsidiary, with Applicant being the surviving corporation. Applicant states that TNP Enterprises is not and will not be a public utility as defined in the Federal Power Act.

Applicant states that the proposed transaction does not involve: (1) Disposal of any of a public utility's jurisdictional facilities; or (2) Merger or consolidation of any of a public utility's jurisdictional facilities with jurisdictional facilities owned by any other person, or (3) Acquisition by a public utility of any security of any other public utility, as contemplated by Section 203 of the Federal Power Act.

In addition, Applicant filed an application with the Commission, pursuant to Section 204 of the Federal Power Act seeking authorization to issue 10,000 shares of common stock, $10 par value. Applicant proposes to issue the securities pursuant to the Plan of Merger. The Applicant also seeks permission to have the common stock exempted from the competitive bidding requirements of the Commission's Regulations. According to the Applicant, the securities to be issued will replace the then currently outstanding common stock of Applicant which, concurrently therewith, will be converted into shares of TNP Enterprises, Inc.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, motions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 385.211 and 385.214. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14247 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-416-000]

Union Texas Petroleum Corp.; Application for Certificate of Public Convenience and Necessity

May 21, 1984.

Take notice that Union Texas Petroleum Corporation (Union Texas), on May 15, 1984, filed in Docket No. CI84-416-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.23 of the Commission's rules and regulations thereunder, for a certificate of public convenience and necessity authorizing it to construct and operate certain facilities for the transportation of natural gas all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Union Texas states that it, Unicon Producing Company and Union Texas Exploration Corporation are the owners of producing properties in the Breton Sound Area, Block 39, offshore Louisiana. The subject production has been dedicated by contract to Texas Eastern Transmission Corporation. Union Texas proposes to construct a four inch, 13,963.7 foot pipeline, and all necessary facilities appurtenant thereto, to connect its producing platform with the tap on Texas Eastern's 24-inch main line that runs through the vicinity. The estimated cost of the project is $900,000; there will be no transportation fee.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 358.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14248 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-438-000]

Central Maine Power Co.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that Central Maine Power Company ("CMP") on May 15, 1984, tendered for filing as a rate schedule an executed agreement dated as of May 1, 1983 between Central Maine and Massachusetts Municipal Wholesale Electric Company. The proposed rate schedule provides for the sale of interruptible energy by Central Maine to Massachusetts Municipal Wholesale Electric Company.

Central Maine states that a copy of the filing was served on Massachusetts Municipal Wholesale Electric Company and the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14262 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No.RP84-68-002]

Consolidated Gas Transmission Corp.; Filing

May 22, 1984.

Take notice that on May 9, 1984, Consolidated Gas Transmission Corporation (Consolidated) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 3, Rate Schedule F-7:

First Revised Sheet No. 73
Superseding Original Sheet No. 73
Original Sheet No. 79-C.

Consolidated states that these sheets of the proposed rate schedule reflect the correct gathering allowance of $.05 per Mcf. An effective date of May 20, 1984 is proposed.

Consolidated also filed a comparative statement of actual and estimated sales quantities and associated revenues for the twelve months before and after the proposed effective date of its Rate Schedule F–7.

Consolidated states that this filing supersedes and renders moot its May 7, 1984, filing in the captioned docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–14263 Filed 5–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER78–414–008]

Delmarva Power & Light Co.; Compliance Filing

May 22, 1984.

Take notice that on April 23, 1984, Delmarva Power, submitted for filing its compliance report pursuant to Commission Letter Order dated March 21, 1984.

Delmarva states that the previously filed "Compliance Cost of Service" should be revised as follows:

(1) A Rate revenue credit of $1,172,364.

(2) Removal of "Sportsman's Club" depreciation expense of $11,985.

(3) Removal of depreciation expense of $30,977 for over-capitalized AFUDC.

Delmarva also states that a copy of this filing has been mailed to each of the parties.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 4, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–14264 Filed 5–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP79–23–020, RP79–24–013]

Distrigas of Massachusetts Corp. and Distrigas Corp., Tariff Filing and Refund Report Filing

May 22, 1984.

Take notice that on May 4, 1984, Distrigas of Massachusetts Corporation (DOMAC) and Distrigas Corporation (Distrigas) tendered for filing certain tariff sheets in compliance with Ordering Paragraph (C) of the Federal Energy Regulatory Commission's (Commission) April 5, 1984 Order.

DOMAC filed the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Third Substitute Fourth Revised Sheet No. 17
Third Substitute Third Revised Sheet No. 18
Substitute Thirteenth Revised Sheet No. 3A
Substitute Twelfth Revised Sheet No. 3A
Substitute Eleventh Revised Sheet No. 3A
Substitute Tenth Revised Sheet No. 3A
Substitute Seventh Revised Sheet No. 3A
Second Substitute Sixth Revised Sheet No. 3A

The revised TS–1 rates on Sheet Nos. 17 and 18 reflect the rates used on the Appendix to the Commission's order issued January 20, 1984, for purposes of determining the refund floor.

Distrigas filed the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Substitute Thirteenth Revised Sheet No. 1
Substitute Twelfth Revised Sheet No. 1
Substitute Eleventh Revised Sheet No. 1
Substitute Tenth Revised Sheet No. 1
Substitute Seventh Revised Sheet No. 1
Substitute Sixth Revised Sheet No. 1

Each of the above revised tariff sheets have different proposed effective dates.

Distrigas' Sheet No. 1 and DOMAC's Sheet No. 3A reflect the removal of demurrage cost from the purchased LNG Cost Adjustment pursuant to Opinion Nos. 178 and 178–A as filed with the tariff filing made on November 25, 1983.

DOMAC also tendered for filing a report reflecting the calculation of refunds pursuant to Commission orders in Docket No. RP79–23–000. The refunds made on May 4, 1984, were in addition to an "Interim Refund" made on September 30, 1983. These refunds are calculated based on rates and revised tariff sheets which are pending Commission approval. The report shows that DOMAC has an additional refund, with interest, of $2,579,730.37 for the period July 5, 1979 through August 1, 1981 for customers to its Rate Schedule TS–1.

DOMAC states that it has sent copies of this filing to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–14265 Filed 5–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–435–000]

Florida Power Corp.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that on May 14, 1984, Florida Power Corporation (Florida Power) tendered for filing revisions to the daily capacity charges for scheduled interchange service to Florida Power & Light Company, Jacksonville Electric Authority, Orlando Utilities Commission, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., Tampa Electric Company, and the Cities of Gainesville, Kissimmee, Lakeland, St. Cloud, Tallahassee, and Vero Beach, Florida under interchange service contracts with each of these utilities. According to Florida Power, the revised charges are derived using the same methods reflected on the cost support schedules submitted with each of the original contracts.

Florida Power proposes to change the present daily capacity charge for fossil production plant of $127.29 per MW per

day for Service Schedule B to $126.36 per MW per day, based on 1983 data. Florida Power proposes to change the present daily capacity charges of $136.44 per MW per day for base load plant, $78.47 per MW per day for intermediate load plant, and $60.55 per MW per day for peaking load plant, for Service Schedules G and H to $131.26 per MW per day, $76.93 per MW per day, and $62.85 per MW per day, respectively, based on 1983 data. Florida Power also proposes to change the timing of annual revisions to the daily capacity charges for Service Schedules G and H from December 31 of each year to May 1 of each year, beginning in 1984.

Florida Power requests that the revised daily capacity charges by made effective on May 1, 1984, and requests waiver of the sixty day notice requirement. According to Florida Power, the filing has been serviced on each of the named utilities and and the Florida Public Service Commission.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14286 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-433-000]

Idaho Power Co.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that on May 14, 1984, Idaho Power Company submitted for filing a Service Agreement between it and Pacific Gas and Electric, covering the sale of nonfirm energy under Idaho Power Company's 1st Revised FERC Electric Tariff, Volume No. 1. It is requested that this Service Agreement become effective as of April 3, 1984.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before June 6, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14267 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-417-000]

Illinois Power Co.; Filing

May 22, 1984.

Take notice that on April 18, 1984, Illinois Power Company tendered for filing changes of delivery voltage and associated language concerning delivery of electric service, and a revised Exhibit B correcting the location of the Farmer City, Illinois 12 kV circuit breaker to the Farmer City, Illinois power plant.

Illinois Power Company states that there is no revenue change involved in these corrections and that these corrections have been discussed with and agreed by representatives of Farmer City, Illinois.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14268 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-47-000]

Iowa Electric Light and Power Co.; Application

May 23, 1984.

Take notice that on May 14, 1984, the Iowa Electric Light and Power Company filed an application pursuant to Section 204 of the Federal Power Act with the Federal Energy Regulatory Commission (the "Commission") seeking authority to issue its 1,000,000 shares of Additional Common Stock pursuant to its Dividend Reinvestment and Stock Purchase Plan.

Any person desiring to be heard or to make protest with reference to this Application should on or before June 14, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedures (18 CFR 385.211 or 385.214). The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14270 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-48-000]

Iowa Electric Light and Power Co.; Application

May 23, 1984.

Take notice that on May 14, 1984, the Iowa Electric Light and Power Company filed an application pursuant to Section 204 of the Federal Power Act with the Federal Energy Regulatory Commission (the "Commission") seeking authority to issue 100,000 shares of Additional Common Stock pursuant to its Employee Stock Purchase Plan.

Any person desiring to be heard or to make protest with reference to this Application should on or before June 14, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedures (18 CFR 385.211 or 385.214). The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14271 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-49-000]

Iowa Electric Light and Power Co.; Application

May 23, 1984.

Take notice that on May 14, 1984, the Iowa Electric Light and Power Company filed an application pursuant to Section 204 of the Federal Power Act with the Federal Energy Regulatory Commission (the "Commission") seeking authority to issue 100,000 shares of Additional Common Stock pursuant to its Employee's Stock Purchase Plan.

Any person desiring to be heard or to make protest with reference to this Application should on or before June 14, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedures (18 CFR 385.211 or 385.214). The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14272 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-376-000]

Lone Star Gas Company, a Division of ENSERCH Corp.; Request Under Blanket Authorization

May 22, 1984.

Take notice that on May 1, 1984, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP84-376-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Lone Star proposes to construct and operate two sales taps and appurtenant facilities to serve two residential customers in Oklahoma under the authorization issued in Docket No. CP83-59-000, as amended in Docket No. CP83-59-002, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Lone Star states that it proposes to sell natural gas to the following two residential customers at the specified locations:

Customer	Location	Line
Ron Daniels	Bryan County, OK	EA
Leon McGinnis	McCurtain County, OK	E32-3-8

Lone Star estimates the annual consumption to be 100 Mcf of natural gas per customer. Sales to these customers would be made at the appropriate rate as provided by state regulatory authorities, it is explained.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14269 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-434-000]

Niagara Mohawk Power Corp.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on May 14, 1984, tendered for filing as a rate schedule an agreement between Niagara and the New England Power Company, dated October 4, 1983, and an amendment dated March 15, 1984.

The agreement provides for the sale of surplus energy as scheduled by New England Power Company. Niagara is requesting an effective date of October 4, 1983. The amendment revises the limit on the energy reservation charge. Niagara is requesting an effective date for the amendment of March 1, 1984.

Copies of the filing were served upon the following:

New England Power Company, 25 Research Drive, Westboro, MA 01581
Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY 12223

Any person desiring to be heard or to protest said application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions shall be filed on or before June 6, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14273 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-432-000]

Northern Indiana Public Service Co.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that on May 14, 1984, Northern Indiana Public Service Company (NIPSCO) tendered for filing First Revised Sheet No. 3 to its FERC Electric Service Tariff—Fourth Revised Volume No. 1 which has been revised to include additional delivery points for Wabash Valley Power Association at Kosciusko County and Kankakee Valley Rural Electric Membership Corporations. Northern Indiana Public Service Company also tendered for filing the following:

Exhibit B-14, a supplement to the Service Agreement between NIPSCO and Wabash Valley Power Association, which covers the supply of electric energy for resale at delivery points located in Franklin Township, Kosciousko County and in Lincoln Township, LaPorte County, Indiana.

Copies of this filing were served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff Fourth Revised Volume No. 1 and the Public Service Commission of Indiana.

NIPSCO requests an effective date of April 15, 1984 for Exhibit B-14 and, therefore, requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 6, 1984. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a pary must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14274 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-365-002]

Northern Natural Gas Company, Division of InterNorth, Inc.; Amendment

May 22, 1984.

Take notice that on May 1, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-365-002 pursuant to Section 7(c) of the Natural Gas Act an amendment to its pending application filed in Docket No. CP83-365-000 so as to reflect the deletion of a minimum bill proposal for transportation services to be performed on behalf of Great Plains Gasification Associates (Great Plains), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern states in its application filed on June 3, 1983, that it proposed to transport, by displacement, sales j volumes purchased by Great Plains for start-up operations of Great Plains' coal gasification plant from Janesville, Wisconsin, to Ventura, Iowa. Further Northern states that the proposed transportation service was subject to a gas transportation agreement (Agreement) dated May 3, 1983, which provided a charge to Great Plains of 9.39 cents per Mcf of gas transported by Northern. The Agreement also contained a minimum bill provision equivalent to the difference between 1,350,000 Mcf and the total volumes transported multiplied by 9.39 cents, it is explained.

Subsequently, Northern and Great Plains executed an amendment to the Agreement deleting the minimum bill provision, it is stated. Consequently, Northern amends its application so as to reflect the deletion of the minimum bill provision and a charge to Great Plains of a transportation rate of only 9.39 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 12, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission'sRrules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Persons having heretofore filed need not do so again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14275 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-21-001]

Northern Natural Gas Company Division of InterNorth, Inc.; Filing

May 23, 1984

Take Notice that on May 17, 1984, Northern Natural Gas Company, Divison of InterNorth, Inc. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. 1:

Fourteenth Revised Sheet No. 91.

This sheet is filed to correct Northern's filing of April 27, 1984, as requested by a Staff member. The single item previously on Thirteenth Revised Sheet No. 91 has been included on Seventeenth Revised Sheet No. 90. Fourteenth Revised Sheet No. 91 is reserved for future use.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14296 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT84-16-001]

Northern Natural Gas Company Division of InterNorth, Inc.; Filing

May 23, 1984.

Take Notice that on May 17, 1984, Northern Natural Gas Company, Divison of InterNorth, Inc. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. 1:

Substitute Twentieth Revised Sheet No. 88.

This sheet corrects typographical errors concerning the expiration dates of Peoples CD-1, AOS-1, and Group O Rate Schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions on protests should be filed on or before May 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14297 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-37-005

Northwest Pipeline Corp.; Change In Rates

May 22, 1984.

Take notice that on May 17, 1984, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Fourteenth Revised Sheet No. 10

This tariff sheet reflects a reduction of .635¢ per therm in Northwest's commodity rates resulting from the availability of Canadian natural gas, for system supply, at a price of $3.40 per MMBtu. This incentive priced gas is made available to Northwest by an Amending Agreement between Northwest and its Canadian supplier, Westcoast Transmission Company Ltd.

dated February 28, 1984 as modified on May 3, 1984.

Northwest has requested an effective date of May 1, 1984 for the above referenced tariff sheets.

A copy of this filing is being served on all parties of record in Docket No. RP72–154, on all jurisdictional customers and affected state agencies, and all intervenors at Docket No. TA84–2–37–000.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 30, 1984. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–14276 Filed 5–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–2–43–001]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

May 23, 1984.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on May 18, 1984, tendered for filing Third Revised First Revised Sheet No. 6 and Third Revised Sheet Nos. 7 and 8 (all sheets issued May 17, 1984) to its FERC Gas Tariff, Original Volume No. 1. Third Revised First Revised Sheet No. 6 and Third Revised Sheet Nos. 7 and 8 issued May 17, 1984, are filed to replace the same designated tariff sheets issued March 22, 1984, pursuant to the Commission's Order issued April 20, 1984, in this docket.

Northwest Central states that pursuant to the Purchased Gas Adjustment in Article 21 and the Incremental Pricing Provisions in Article 24 of its FERC Gas Tariff, it proposes to decrease its rates effective April 23, 1984, to reflect:

(1) A 10.11¢ per Mcf increase in the Cumulative Adjustment due to an increase in Northwest Central's projected gas purchased costs. This increase reflects approximately a 10¢ change in Northwest Central's targeted purchased gas cost.

(2) A 23.06¢ per Mcf decreased Surcharge (to a negative 27.88¢ per Mcf from a negative 4.82¢ per Mcf) to amortize the credit Deferred Purchased Gas Cost Account balance over a twelve-month period.

(3) A 1.09¢ per Mcf rate reduction for Advance Payments subject to approval of the Stipulation and Agreement filed February 14, 1984, in Docket No. RP82–114–000, *et al.*

This filing reflects the continuation of a pattern of gas purchases designed to produce a purchase gas cost level which will permit gas to be sold competitively in Northwest Central's markets.

The Advance Payment Rate Adjustment is subject to approval of the Stipulation and Agreement filed with the Commission February 14, 1984, in Docket No. RP82–114–000, *et al.* This Stipulation and Agreement has not been approved by the Commission as yet. Northwest Central reserves the right to recover any monies refunded by this Advance Payment Rate Adjustment through a future surcharge if this Stipulation and Agreement is not approved by the Commission.

Northwest Central states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP82–114–000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before May 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–14298 Filed 5–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA84–6–000]

Ohio Edison Co.; Proceedings Under Part 41 of the Commission's Regulations

May 23, 1984.

Take notice that, on April 20, 1984, Ohio Edison Company (Ohio Edison) filed a "Memorandum of Facts and Argument" in response to a letter order issued by the Secretary on March 23, 1984. The March 23 letter order noted Ohio Edison's disagreement with respect to Correcting Entry No. 7 and Compliance Exception No. 1 of the Commission staff's audit of the company's books and records. The basic dispute involves the method of accounting for the Ohio Public Utility Excise Tax (based on gross receipts) associated with Ohio Edison's wholesale revenues.

The March 23 letter order requested that the company notify the Commission as to whether it consents to disposition of this issue in accordance with the shortened procedures provided for under Part 41 of the Commission's regulations. Instead, Ohio Edison filed the equivalent of an initial brief in apparent compliance with the briefing requirements of Part 41. The company's filing will be treated as a notification of consent to the Part 41 procedures. Ohio Edison will be allowed to file a further brief within the time prescribed below or to rely on the brief already filed, at its option.

Therefore, any interested party, including the Commission staff, may file a brief as prescribed in § 41.3 through § 41.5 of the Commission's regulations. A brief may be accompanied by a motion to intervene in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

The following procedural schedule is established:

(1) Initial briefs and motions to intervene shall be due no later than 30 days after the date of publication of this notice in the **Federal Register**; and

(2) Reply briefs shall be due no later than 20 days thereafter.

All briefs and motions to intervene must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–14277 Filed 5–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84-439-000]

Pacific Gas and Electric Co.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PG&E) on May 15, 1984, tendered for filing as an initial rate schedule a December 7, 1983 Letter Agreement for emergency transmission service by PG&E for the San Diego Gas and Electric Company (SDG&E).

The Agreement provides for emergency transmission service over PG&E's Diablo Canyon Generation Tie Lines from September 21, 1983 to October 7, 1983, a period when regular service being rendered to SDG&E under the Pacific Intertie Agreement (PIA), FERC Rate Schedule No. 38, was interrupted because of wind damage to transmission towers between States and Midway Substations. The transmission rate of 1.08 mills/kWh is a negotiated rate for generation tie services. Transmission losses between the Oregon-California border and Midway for energy transmitted using this service shall be the transmission losses currently applicable to transmission service under the PIA.

PG&E has requested a waiver of the Commission's usual notice requirement so as to permit an immediate effective date of September 21, 1983. PG&E has also requested a waiver of the usual notice requirement in § 35.15 of the Commission's Regulations so as to permit termination of the rate schedule of October 7, 1983, as provided in the Letter Agreement.

Copies of the filing and proposed termination were served upon SDG&E and the California Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14278 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-440-000]

Pacific Gas and Electric Co.; Contract Filing and Termination

May 23, 1984.

The filing company submits the following:

Take notice that Pacific Gas and Electric Company (PGandE), on May 15, 1984, tendered for filing as an initial rate schedule a December 7, 1983 Letter Agreement for emergency transmission service by PGandE for the Southern California Edison Company (SCE).

The Agreement provides for emergency transmission service over PGandE's Diablo Canyon Generation Tie Lines from September 21, 1983 to October 7, 1983, a period when regular service being rendered to SDG&E under the Pacific Intertie Agreement (PIA), FERC Rate Schedule No. 38, was interrupted because of wind damage to transmission towers between Gates and Midway Substations. The transmission rate of 1.08 mills/kWh is a negotiated rate for generation tie services. Transmission losses between the Oregon-California border and Midway for energy transmitted using this service shall be the transmission losses currently applicable to transmission service under the PIA.

PGandE has requested a waiver of the Commission's usual notice requirement so as to permit an immediate effective date of September 21, 1983. PGandE has also requested a waiver of the usual notice requirement in Section 35.15 of the Commission's Regulations so as to permit termination of the rate schedule on October 7, 1983, as provided in the Letter Agreement.

Copies of the filing and proposed termination were served upon SCE and the California Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14279 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-436-000]

Pacific Power & Light Co.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on May 14, 1984, tendered for filing, in accordance with Section 35.13a(d)(5) of the Commission's Regulations, Pacific's Revised Appendix 1 for the State of Oregon. The Revised Appendix 1 calculates an average system cost for the State of Oregon applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective December 28, 1983, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Oregon Public Utility Commissioner and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14280 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-430-000]

Public Service Company of Indiana, Inc.; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc., on May 14, 1984, tendered for filing pursuant to the Interconnection Agreement, dated April 15, 1977, as amended, by and between Hoosier Energy Division of Indiana Statewide Rural Electric Cooperative, Inc., now Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), Southern Indiana Gas and Electric Company (Southern Company), and Public Service Company of Indiana, Inc. (Service Company) a Modification No. 4 to become effective April 1, 1984.

Said filing provides for the following:

(1) Inserts a new Service Schedule E-1, Diversity Power.

(2) Inserts a new Service Schedule F-1, Limited Term Power.

(3) Modifies the Service Schedule B-1, Back-up Power, to incorporate the parties Order 84 language.

(4) Cancels Service Schedule C-1, Bulk Power Transmission Use.

(5) Revises the Service Schedule B-1, Back-up Power, reservation and demand charges for Hoosier.

(6) Revises the Service Schedule D-1, Deficiency Power, demand charges.

Copies of the filing were served upon Southern Company, Hoosier and the Public Service Commission of Indiana.

Service Company has requested waiver of the Commission's notice requirement to permit an effective date of April 1, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14281 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-431-000]

Public Service Company of New Hampshire; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that Public Service Company of New Hampshire ("PSNH") on May 14, 1984 tendered for filing an initial rate for the exchange of excess capacity and associated energy from the PSNH system for an equal amount of capacity from certain units of The Connecticut Light and Power Company, The Hartford Electric Company and Western Massachusetts Electric Company (herinafter referred to collectively as NU Companies). The timing of the exchange cannot be accurately predicted, but PSNH and NU Companies only enter into an exchange when each expects to derive economic benefit therefrom.

Prior to March of 1982, NU Companies paid to PSNH a Capacity Charge which was the product of the kilowatthours delivered to NU Companies during a weekly cycle and $.0030 per kilowatthour, and an Energy Charge which was the product of the kilowatthours received from PSNH and the energy charge rate as defined below.

Commencing on March 1, 1982, NU Companies paid and will pay to PSNH and Energy Reservation Charge which is the product of the capacity exchange amount, expressed in kilowatts, for each such exchange, and a rate which will be mutally agreed to by the parties hereto prior to the commencement of such exchange, which rate shall in no event exceed the cost justified rate of $0.00615 per kilowatthour. NU Companies will pay to PSNH an energy charge in an amount equal to the kilowatthours provided by PSNH during such exchange times the energy charge rate. The energy charge rate is based on the heat rate and the New England Power Exchanges ("NEPEX") Replacement Fuel price of the generating unit(s) which PSNH determines to be available to provide system power at the time of each such exchange.

Copies of the filing were served upon NU Companies and the New Hampshire Public Utilities Commission, the Connecticut Department of Public Utilities and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14282 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-441-000]

Public Service Company of Oklahoma; Filing

May 23, 1984.

The filing Company submits the following:

Take notice that on May 15, 1984 Public Service company of Oklahoma ("PSO") tendered for filing a Letter Agreement ("Agreement") dated May 3, 1984, between PSO and Southwestern Electric Power Company ("SWEPCO"). The Agreement provides for the transfer to SWEPCO of 37,700 MWh of PSO's entitlement to the Tennessee Valley Authority ("TVA")—South Central Electric Companies ("SCEC") Diversity exchange for the 1984 summer exchange period. This entitlement is provided for in an agreement between TVA and the Mississippi Power and Light Company for the delivery of the allocated diversity within the SCEC agreement. PSO states that it desires to transfer its diversity entitlement to lower its reserves in 1984 and that SWEPCO desires to purchase the diversity entitlement to meet its system requirements.

PSO requests an effective date of May 27, 1984, and therefore requests waiver of the Commission's notice requirements.

SWEPCO, Arkansas Power and Light Company, the Oklahoma Corporation Commission, the Arkansas Public Service Commission, the Louisiana Public Service Commission, and the Public Utility Commission Texas have been served with a copy of the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14283 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-135-001]

Southwestern Electric Power Co.; Refund Report

May 23, 1984.

Take notice that on May 9, 1984, Southwestern Electric Power Company ("SWEPCO") submitted for filing a refund report and letter agreements between SWEPCO and Empire District Electric Company ("Empire") amending Service Schedule RE, Replacement Energy, and Service Schedules ES, Emergency Service, to reflect settlement rates for third-party purchase and resale transactions approved in separate dockets, ER80-607, *et al.*

The Commission's letter order of January 21, 1982 in this proceeding accepted for filing, without provision for refund, an Interconnection Agreement between Empire and SWEPCO, including schedules providing for third-party purchase and resale transactions. Sebsequently, in Docket Nos. ER80-607, *et al.*, the Commission approved settlement rates for third-party purchase and resale transactions which are lower than the third-party transmission rates accepted in this docket.

SWEPCO states that it has refunded, with interest, to Empire the difference between the amounts collected under the rates approved in this proceeding and the amounts that would have been collected under the rates approved in ER80-607, *et al.*

SWEPCO requests an effective date of December 1, 1981 and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 7, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14284 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-497-001]

Southwestern Electric Power Co.; Refund Report

May 23, 1984.

Take notice that on May 8, 1984, Southwestern Electric Power Company (SWEPCO) submitted for filing its compliance report pursuant to Commission's letter order issued June 19, 1982.

SWEPCO submitted for filing, as a supplement to its compliance report, copies of two letter agreements between SWEPCO and Oklahoma Gas and Electric Company amending the affected Schedules, Service Schedule RE, Replacement Energy, and Service Schedule ES, Emergency Service, respectively, to reflect the approved settlement rates for third-party purchase and resale transactions.

SWEPCO also submitted certificates of concurrence from OG&E.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 8, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-14285 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $3,573.71 obtained as the result of a Consent Order which the DOE entered into with Brown Oil Company, a reseller of motor gasoline located in Dillon, Montana.

DATE AND ADDRESS: Applications for refund of a portion of the Brown consent order funds must be received within 90 days of publication of this notice in the **Federal Register.** All applications should refer to Case Number HEF-0042 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with Section 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 250.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by Brown Oil Company, which settled possible pricing violations in the firm's sales of motor gasoline to wholesale customers during the July 1979 through September 1979 audit period.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Brown consent order funds was issued on January 10, 1974. 49 FR 3124 (January 25, 1984).

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by wholesale customers who purchased gasoline from Brown during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register.** The specific information required in an application for refund is set forth in the Decision and Order.

Dated: May 21, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 21, 1984.

Decision and Order of the Department of Energy

Special Refund Procedures.

Name of Firm: Brown Oil Company
Date of Filing: October 13, 1983
Case Number: HEF-0042

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals to establish special procedures to make refunds in order to remedy the effects of violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V regulations set forth general guidelines by which the Office of

Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of a consent order or Remedial Order. The Subpart V process is intended to be used in situations where the DOE is unable to identify readily the persons or firms who may have been injured as a result of alleged or adjudicated violations or to ascertain the amount of each person's injury. *See Office of Enforcement*, 9 DOE ¶ 82,553 (1983).

Pursuant to the provisions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Proceedings in connection with a consent order entered into with Brown Oil Company (Brown). Brown is a "reseller-retailer" of motor gasoline as that term was defined in 10 CFR 212.31, and is located in Dillon, Montana. An ERA audit of Brown's records revealed possible pricing violations in the amount of $9,625.85 in the firm's sales of motor gasoline to its wholesale and retail customers during the period from July 1, 1979 through September 30, 1979 (the audit period). In order to settle all claims and disputes between Brown and DOE regarding the firm's sales of gasoline during the audit period, Brown and DOE entered into a consent order on July 22, 1980 in which Brown agreed to make direct refunds to its retail customers of $7,171.69 (including accrued interest). In addition, Brown agreed to pay $3,573.71 (including interest) to DOE in settlement of the firm's potential liability with respect to its sales to its wholesale customers during the audit period. This payment was deposited into an interest bearing escrow account for ultimate distribution to the parties bearing the burden of the alleged overcharges. The settlement represented 100 percent of the alleged overcharge amount found in the audit, plus interest accrued as of the date of the consent order. This Decision concerns the distribution of the $3,573.71 that was deposited into the escrow account, plus accrued interest to date.

On January 10, 1984, we issued a Proposed Decision and Order setting forth a tentative plan for the distribution of these escrowed funds. A copy of the Proposed Decision was published in the **Federal Register**, and comments were solicited regarding the proposed refund plan. 49 FR 3124 (January 25, 1984).

We noted in the January 10 Proposed Decision that three wholesale customers, and no others, had been identified by the ERA as having been allegedly overcharged by Brown. These customers, together with the amount of Brown's settlement payment attributable to each, are set forth in the table below.

Customer	Portion of settlement amount
Chris Standard Service, Dillon, Montana	$1,373.68
Robo Car Wash, Dillon, Montana	1,264.06
Clara Lively, Melrose, Montana	935.97

In the Proposed Decision, we tentatively determined that the money in the Brown consent order fund would be distributed to the three customers shown above in the amount of the alleged overcharges attributable to each, plus accrued interest. In view of the relatively small amount of money involved in this proceeding and since the record indicated that these firms may have been the only wholesale customers overcharged by Brown during the consent order period, we tentatively decided that this would be the most equitable and efficient method of accomplishing restitution.(*1*) We recognized, however, that other wholesale customers not identified by the ERA audit may have been overcharged by Brown during the audit period and may be entitled to a portion of the consent order fund.

No customers of Brown filed comments on the Proposed Decision. However, comments were filed by the states of Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. These states argued that any funds remaining in the consent order fund after distribution to meritorious claims filed by Brown's customers be distributed to the states for use in energy-related projects.(*2*)

We have determined that the procedures described in the Proposed Decision are the most equitable and efficacious means of distributing the Brown consent order funds. Accordingly, we shall now accept applications for refunds from wholesale customers who purchased motor gasoline from Brown during the audit period. As we proposed, the escrow funds will be distributed to the three firms that the ERA alleged in its audit were overcharged by Brown (provided each files an application) and to other eligible wholesale customers of Brown who apply for a refund. If no other eligible customers apply, refunds in the amounts indicated above, plus interest, will be distributed to the three identified customers.

Each applicant should include in its application a statement of its gasoline purchases from Brown during the audit period. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provided the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF–0042, and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

It is therefore ordered that:

(1) Applications for refunds from the funds remitted to the Department of Energy by Brown Oil Company pursuant to the Consent Order executed on July 22, 1980 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: May 21, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) In previous Decisions concerning special refund proceedings, we have generally required those parties claiming a portion of a consent order fund who are not consumers to demonstrate that they did not pass through the effects of the alleged overcharges to their customers. *National Helium Corp. (Farmland)* 11 DOE ¶ 85,257 (1984). We have also stated in our prior decisions, however, that if the refund is relatively small, the applicant need not make such a showing. *See Office of Enforcement (Lyon County Coop.)*, 10 DOE ¶ 85,016 (1982). In the present case, all of the refunds will be relatively small, and we will not require these

three firms to demonstrate that they did not pass through the alleged overcharges.

(2) It is unclear whether the states oppose the suggestion in the Proposed Decision that residual funds be distributed solely to Montana—the state in which Brown sold the gasoline.

[FR Doc. 84-14165 Filed 5-28-84; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of April 9 Through April 13, 1984

During the week of April 9 through April 13, 1984, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Orders

Atlantic Richfield Company, 04/12/84, BRO-1452; HDR-0144

The Atlantic Richfield Company objected to a Proposed Remedial Order which the Pacific District Office of Special Counsel of the Economic Regulatory Administration issued to the firm on May 15, 1981. In the PRO, ERA found that Arco violated 10 CFR 212.83 and its predecessor regulations by understating, in its Refiners' Monthly Cost Allocation Reports, its May 1973 costs of crude oil imported pursuant to interaffilite transfers. Arco also filed a Motion for Discovery in which it requested information regarding May 1973 prices of crude oil and the accounting procedures of other refiners. Further, ERA filed a Motion to Amend the PRO.

In considering Arco's Motion for Discovery, the DOE noted that Arco had previously requested but had been denied the discovery sought, and the DOE rejected Arco's contention that, as a result of statements made by ERA at an evidentiary hearing, such discovery was now relevant. Accordingly, the Motion for Discovery was denied. In considering the firm's Statement of Objections to the PRO, the DOE rejected Arco's contention that the landed cost definition of the October 1974 Amendments to the refiner price rule applied to May 1973 costs, and the DOE upheld ERA's position that the landed cost definition of the September 1973 Amendments contained the applicable standard. The DOE also rejected Arco's contention that procedures which had not been used for IRS or SEC reporting for May 1973 were "generally accepted" within the meaning of the customary accounting procedures standard of the September 1973 landed cost definition. After rejecting Arco's remaining contentions, the DOE considered ERA's Motion to Modify the PRO which concerned, *inter alia*, the PRO requirement that Arco file revised Cost Reports within 30 days of issuance of the PRO as a final Order. The DOE rejected the ERA's request that a filing of revised Cost Reports should be postponed until the conclusion of all enforcement proceedings involving Arco's Cost Reports. Instead, the DOE determined that revised Cost Reports should be filed at appropriate intervals so that Arco's Cost Reports would be reasonably up to date with the requirements of outstanding Remedial Orders. The DOE noted that this would be the second Remedial Order requiring a revsion of Arco's Cost Reports and determined that it was appropriate that Arco file revised reports reflecting the requirements of the Remedial Order set forth at 10 DOE ¶ 83,001 (1983) and this Remedial Order. Accordingly, the DOE modified the PRO to require such a refiling within 30 days of the issuance of the PRO as a final Order, and the DOE issued the PRO, as modified, as a final Remedial Order.

Gulf Oil Corporation, 04/09/84, HRO-0169

Gulf Oil Corporation failed to file a Statement of Objections to the Proposed Remedial Order issued to it. The DOE therefore examined the PRO and found that it established a prima facie case that was not rebutted by Gulf's Notice of Objection. Accordingly, the Gulf PRO was issued as a final Remedial Order.

Request for Exception

Caribou Four Corners, Inc., 04/09/84, HEE-0053, BYX-0195

The DOE reviewed the level of crude oil entitlements exception relief granted to Caribou Four Corners, Inc. for the period April 1980 through January 1981. The DOE determined in the review that Caribou should be granted additional exception relief in the amount of $359,324 for that period. This additional exception relief, however, was offset by the excessive exception relief that Caribou received during its 1980 fiscal year in the amount of $341,637. The DOE therefore determined that Caribou should have a net entitlement sales position of $17,687. Caribou asserted that the Economic Regulatory Administration of the DOE erroneously reduced Caribou's entitlement sales obligation in the December 1980 Entitlements Notice by $2,134,006. Caribou requested that the DOE direct the immediate payment of that amount to the firm. The DOE denied this request on the grounds that the reduction in Caribou's sales obligation was offset by the exception relief that the firm received.

Requests for Modification and/or Rescission

Economic Regulatory Administration/Butler Fuel Corporation, 04/12/84, HRR-0063

The Economic Regulatory Administration filed a Motion for Modification of a Remedial Order issued to Butler Fuel Corporation. The RO found that the firm had overcharged its customers and required the firm to roll back its selling prices and pay interest at specified rates. The ERA asked that these remedial provisions be modified. In considering the requests, the DOE determined that decontrol of petroleum prices constituted significantly changed circumstances that supported the requested modification of the rollback provision. The DOE rejected the ERA's proposal to distribute refunds based on customer lists to be provided by Butler, and decided that the overcharges should be disbursed through a special refund proceeding. Further, to ensure complete restitution, interest rates were increased to reflect the current DOE policy. ERA's Motion for Modification was therefore granted in part.

Texaco, Inc., 04/11/84, HRR-0085

Texaco, Inc. filed a Motion for Reconsideration of a Decision and Order which ruled on portions of a discovery motion filed by the Office of Special Counsel. Texaco requested that OHA reverse its determination requiring the firm to respond to portions of one OSC interrogatory, which concerned Texaco's historic and consistent treatment of its crude oil producing properties. In support of its motion, Texaco argued that the discovery request was untimely, and that granting the request was inconsistent with previous OHA decisions. OHA denied the Motion for Reconsideration, affirming its decision that the discovery request was timely and relevant, as well as consistent with its past rulings.

Interlocutory Orders

A. V. Wright, 04/11/84, HRZ-0184, HRZ-0194

Mr. A. V. Wright filed Motions to Dismiss and Strike in connection with a Proposed Remedial Order issued to the Petroex Energy Corporation. The Economic Regulatory Administration (ERA) had sought to hold Wright, President of Petroex, personally liable for the regulatory violations alleged in the Petroex PRO. The Office of Hearings and Appeals found that the ERA failed to allege a prima facie case of a regulatory violation by Wright in any capacity sufficient to hold Wright personally liable for the violations alleged in the Petroex PRO. Accordingly, the Motion to Dismiss Wright from the Petroex PRO proceeding was granted, without prejudice. Wright's Motion to Strike certain portions of the record in the Petroex PRO proceeding containing references to him was denied because he failed to demonstrate how he would be prejudiced by the retention of that material in the record.

Refund Applications

Ozona Gas Processing Plant I/Odessa L.P.G. Transport Company, Inc., 04/12/84, RF27-4

Odessa L.P.G. Transport Company, Inc. filed an Application for Refund seeking a portion of the funds obtained by the DOE pursuant to a consent order with the Ozona Gas Processing Plant (Ozona I). In considering the refund application, the DOE found that the Suburban Propane Gas Corporation purchase virtually all of the Ozona natural gas liquids (NGLs) sold during the consent order period, but had waived any claim it might have had to the Ozona funds. The DOE also determined that during certain portions of the consent order period, Odessa had paid Suburban prices for NGLs that exceeded average market prices for those products at the level of distribution concerned. Based on this finding, DOE concluded that Odessa was competitively injured as a result of its purchases of NGLs from Suburban. The Odessa refund application was accordingly approved in part. The refund granted in ths proceeding

was $174.011, plus a pro rata share of the interest accrued on the Ozona I consent order fund.

Standard Oil Company (Indiana)/Marathon Petroleum Company, 04/09/84, RF21–111042

Marathon Petroleum Company filed an Application for Refund in connection with its purchases of Amoco motor gasoline, which it resold at the wholesale level. Marathon elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering the Application, the DOE concluded that under the presumption method Marathon would be entitled to receive a refund of $112,849, based upon the total volume of its eligible Amoco motor gasoline purchases. However, in view of Marathon's potential liability in six enforcement proceedings currently before the Office of Hearings and Appeals, in which a portion of its potential liability related to the prices it charged for motor gasoline, the DOE determined that it would not be appropriate to immediately release the refund to Marathon. Rather, the DOE directed that the refund be deposited into an interest-bearing escrow account for possible later disbursement to Marathon.

Standard Oil Company (Indiana)/Ridge View Standard, et al., 04/12/84, FR21–2692, et al.

The DOE issued a Decision and Order concerning four Applications for Refund filed by retailers of Amoco motor gasoline. These firms did not elect to apply for refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering the Applications, the DOE found that the applicants had not shown that they were injured to an extent greater than the presumptive levels. Accordingly, three of the applicants were granted refunds based upon the presumptive method. The fourth application was dismissed, since the applicant had already been granted a refund under the presumptive method. The refunds granted in this proceeding total $5,409.

Standard Oil Company (Indiana)/Virginia, RF21–67; Standard Oil Company (Indiana)/Missouri, RQ8–71; Belridge Oil Company/Missouri, 04/11/84; RQ21–72

The Commonwealth of Virginia filed a proposed refund utilization plan for the use of $104,345, its portion of second-stage Amoco refund moneys attributable to sales of middle distillates within the Commonwealth. The State of Missouri also proposed a refund plan to use $2,385 obtained from Belridge Oil Company and $929, 312 obtained from Amoco for the benefit of motor gasoline and middle distillate consumers. Virginia proposed to provide boiler and furnace efficiency tuneups to consumers of middle distillates. Missouri proposed to partially fund the preliminary engineering costs for a Light Rail Transit Project in St. Louis and Traffic Signal Computerization Projects for Kansas City and Springfield. The DOE found that the plans benefited consumers of motor gasoline and middle distillates, and accordingly approved both plans.

Worldwide Energy Corporation/Texas, RQ31–68; Loveladdy Oil Company/Texas, RQ33–52; Gas Engine and Compressor Service/Texas, RQ35–69; Fagadau Energy Corporation/Texas, RQ32–51; ADA Resources, Inc./Texas, 04/09/84, RQ24–33

The State of Texas filed plans for the use of its share of funds obtained pursuant to consent orders with Worldwide Energy Corporation, Loveladdy Oil Company, Gas Engine and Compressor Service, Fagadau Energy Corporation, and Ada Resources, Inc. Texas proposed to use its share of the Ada settlement funds to provide weatherization assistance to low income residents of Harris County, Texas. Texas proposed to use its share of the funds from the remaining consent orders to establish a program to represent the interests of low-income residential consumers of utility services in the areas of advocacy, conservation, and public information. After reviewing the Texas proposals, the DOE found that neither plan would benefit the classes of consumers who were ultimately affected by the alleged overcharges covered by the consent orders. Accordingly, the Texas plans were dismissed without prejudice to submission of new restitutionary plans.

Dismissals

The following submissions were dismissed:

Name	Case No.
Atlantic Richfield Company	HES–0042
Mar-Low Corporation/Lowry	HRO–0203
Philip Martinico	RF21–03543

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 18 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84–14166 Filed 5–25–84; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Period of April 27 Through May 11, 1984

During the period of April 27 through May 11, 1984, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: May 22, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Atlantic Richfield Company, Los Angeles, California; HRO–0217, refined products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Order of Disallowance (POD) which the DOE Economic Regulatory Administration issued to the firm on November 30, 1983.

In the POD, the ERA found that in 1979 Atlantic overstated its costs in certain transactions between affiliated entities involving imported crude oil by $3,524,127.75.

According to the POD, Atlantic is required to submit corrected cost calculations and cost reports, to remit refunds with interest, and to use its revised cost figures in all calculations of any refund liability.

Atlantic Richfield Company, Los Angeles, California; HRO–0218, crude oil

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA alleges that during the period September 1973 through December 1976 Atlantic charged prices in first sales domestically produced crude oil (including condensate) which exceeded its lawful ceiling prices by not less than $252,091.00.

According to the PRO, Atlantic is required to refund this amount plus interest and to refund overcharges plus interest for other unaudited properties for other unaudited time periods.

Atlantic Richfield Company, Los Angeles, California; HRO–0219, refined products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic

Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA alleges that during the period December 1973 through March 1975 Atlantic unlawfully imposed certain incremental price increases on its premium and special diesel fuels, resulting in overcharges of approximately $6.4 million.

According to the PRO, Atlantic is directed to refund these overcharges plus interest and to recompute its applicable costs and recoveries. In the alternative, the PRO directs Atlantic to recalculate its costs and recoveries, to deem recoveries on all purchases of No. 2 oils at the highest increment charged to purchasers of premium and special diesel fuels, and to refund any overcharges generated as a result of this recalculation.

Atlantic Richfield Company, Los Angeles, California; HRO-0220, refined products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA finds that during the period August 1973 through December 1976 Atlantic improperly increased its products costs for crude oil available for recovery by $14,283,772 through incorrect application of the "A" factor formula of the refiner price regulations. The PRO also alleges that Atlantic made similar cost overstatements during the period January 1977 through December 1978.

According to the PRO, Atlantic is required to recompute its amounts of increased crude costs and to use these recomputed costs in all calculations of any refund liability.

Atlantic Richfield Company, Los Angeles, California; HRO-0221, refined products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA finds that during the period March 1979 through January 1981 Atlantic overstated the increased costs allocable to gasoline by approximately $10 million and to General Refinery Products by $300,000 through incorrect application of the "U" factor formula of the refiner price regulations.

According to the PRO, Atlantic is required to recompute its amounts of increased crude costs and to use these recomputed costs in all calculations of any refund liability.

Atlantic Richfield Company, Los Angeles, California; HRO-0222, refined products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA finds that during the period December 1976 through December 1980 Atlantic improperly claimed $20,175,413 of interest on marine vessels as increased crude oil costs.

According to the PRO, Atlantic is required to recompute its amounts of increased crude costs and to use these recomputed costs in all calculations of any refund liability.

Atlantic Richfield Company, Los Angeles, California; HRO-0223, Refined Products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA finds that during the period March 1979 through January 28, 1981 Atlantic overstated its increased crude costs, marketing costs and other non-product costs available for recovery by $278.5 million through incorrect application of the "R" factor formula of the refiner price regulations.

According to the PRO, Atlantic is required to recompute these costs and to use these recomputed costs in all calculations of any refund liability.

Atlantic Richfield Company, Los Angeles, California; HR-0224, Refined Products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA finds that during the period October 1980 through January 1981 Atlantic overstated the amounts of increased costs actually incurred in its sales of propane and thereby improperly recouped $21.4 million.

According to the PRO, Atlantic is required to calculate overcharges per unit of propane sold and remit refunds with interest to be disposed of as determined by the DOE.

Atlantic Richfield Company, Los Angeles, California; HR-0225, Refined Products

On May 9, 1984, Atlantic Richfield Company ("Atlantic"), 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the DOE Economic Regulatory Administration issued to the firm on September 30, 1983.

In the PRO, the ERA finds that during the period August 1973 through January 1981 Atlantic assigned improper May 15, 1973 selling prices to certain wholesale commercial and industrial level end-user customers and thereby calculated excessive selling prices for those customers.

According to the PRO, Atlantic is required to recompute those classes of purchasers' base prices and maximum selling prices, and to refund to those customers any amounts actually charged that exceed the recalcutated maximum prices. In the alternative, Atlantic is directed to recopute its recoveries to include deemed recoveries under the equal application rule, to refile its cost reports, and to remit any overcharges for disposition by the DOE.

Michael L. Reed and Knox Oil of Texas, Inc., Addison, Texas; HRO-0216, crude oil

On April 30, 1984, Knox Oil of Texas, Inc. and Michael L. Reed, Post Office Box 8028, Addison, Texas 77002, each filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Houston Office of the Economic Regulatory Administration issued to the firm on March 22, 1984. In the PRO, the Houston Office found that during January 1980 through December 1980, Reed and Knox were liable for crude oil resales that were in violation of 10 CFR 212.186, 210.62(c) and 205.202. According to the PRO, the Knox and Reed violation resulted in $360,986.25 of overcharges.

[FR Doc. 84-14167 Filed 5-25-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed With the Office of Hearings and Appeals; Week of May 4 Through May 11, 1984

During the week of May 4 through May 11, 1984, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission received prior to this period is also included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearing and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: May 18, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 4 through May 11, 1984]

Date	Name and location of applicant	Case No.	Type of submission
May 3, 1984	Economic Regulatory Administration, Dallas, Tex	HRD-0212	Motion for discovery. If granted: Discovery would be granted to the Economic Regulatory Administration in connection with the Statement of Objections submitted by Texaco Inc. in response to the August 6, 1981 Proposed Remedial Order issued to Texaco Inc. (Case No. BRO-1467).
May 4, 1984	Suffolk County, Washington, D.C	HFA-0224	Appeal of an information request denial. If granted: Suffolk County would receive documents and records relating to the Long Island Lighting Company or the Shoreham Nuclear Power Station.
May 5, 1984	Office of Special Counsel, Washington, D.C	HRD-0210	Motion for discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with the Statement of Objections submitted by Crown Central Petroleum Corporation in response to the December 29, 1983 Proposed Remedial Order (Case No. HRO-0198) issued to the firm.
May 9, 1984	Arkansas, California et al. Washington, D.C	HRZ-0201	Interlocutory Order. If granted: The following states would be allowed to participate in the Tesoro Petroleum Corporation Proposed Remedial Order Proceeding (Cases No. HRO-0196): Arkansas, California, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Texas, and West Virginia.
May 10, 1984	Atlantic Richfield Co., Washington, D.C	HRR-0091	Motion for modification/rescission. If granted: The March 22, 1984 Decision and Order (Case No. DRO-0193) issued to Atlantic Richfield Company would be modified regarding the overcharges for the period of September 1, 1976 through December 31, 1976.
Do	Gulf Oil Corp., Houston, Tex	HRD-0211	Motion for discovery. If granted: Discovery would be granted to Gulf Oil Corporation in connection with its Statement of Objections submitted in response to the Proposed Remedial Order issued to the firm (Cases No. HRO-0159).

REFUND APPLICATION RECEIVED

[Week of May 4 to May 11, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Feb. 17, 1984	Pan American/Farmland Industries, Inc	RF36-1.
May 3, 1984	Marion Corp./Callaway Seafood	RF37-1.
May 7, 1984	Marion Corp./Campbell Piping Contractors, Inc	RF37-2.
Do	Belridge/Pennsylvania	RO8-87.

[FR Doc. 84-14168 Filed 5-25-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL 2594-4; OPTS-41014]

Fourteenth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC) established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Fourteenth Report to the Administrator of EPA on May 8, 1984. This report, which revises and updates the Committee's priority list of chemicals, adds five designated chemicals to the list for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act. One additional chemical is recommended but not designated for response within 12 months. The new designated chemicals are bisphenol A, 1,2-dibromo-4-(1,2-dibromoethyl) cyclohexane, 2-ethylhexanoic acid, isopropyl biphenyl, and diisopropyl biphenyl. 3,4-Dichlorobenzotrifluoride is recommended for testing consideration but not designated for response within 12 months. The Fourteenth Report is included in this notice. The Agency invites interested persons to submit written comments on the Report, and to attend Focus Meetings to help narrow and focus the issues raised by the ITC's recommendations. Members of the public are also invited to inform EPA if they wish to be notified of subsequent public meetings on these chemicals. EPA also notes the removal of 22 chemicals from the priority list because EPA has responded to the ITC's previous recommendations for testing of the chemicals.

DATES: Written comments should be submitted by June 28, 1984. Focus Meetings will be held on June 27 and 28, 1984.

ADDRESSES: Send written submissions to: TSCA Public Information Office (TS-793, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460. Submissions should bear the document control number (OPTS-41014).

The public record supporting this action, including comments, is available for public inspection in Rm. E-107 at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays. Focus Meetings will be held at the Disabled American Veterans (DAV) Headquarters, 807 Maine Ave., SW., Washington, D.C. Persons planning to attend any one of the Focus Meetings and/or seeking to be informed of subsequent public meetings on these chemicals, should notify the TSCA Assistance Office at the address listed below. To insure seating accommodations at the Focus Meeting, persons interested in attending are asked to notify EPA at least 2 weeks ahead of the scheduled dates.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.(554-1404), Outside the U&A: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: EPA has received the Fourteenth Report of the TSCA Interagency Testing Committee to the Administrator.

I. Background

Section 4(a) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq*; 15 U.S.C. 2601 *et*

seq.) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemical substances and mixtures may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee to make recommendations to the Administrator of EPA of chemical substances and mixtures to be given priority consideration in proposing test rules under section 4(a). Section 4(e) directs the Committee to revise its list of recommendations at least every 6 months as necessary. The ITC may "designate" up to 50 substances and mixtures at any one time for priority consideration by the Agency. For such designations, the Agency must within 12 months either initiate rulemaking or issue in the **Federal Register** its reasons for not doing so. The ITC's Fourteenth Report was received by the Administrator on May 8, 1984, and follows this Notice. The Report designates five substances for priority consideration and response by EPA within 12 months; one additional substance is recommended for testing consideration such that an Agency response within 12 months is not required.

II. Written and Oral Comments and Public Meetings

EPA invites interested persons to submit detailed comments on the ITC's new recommendations. The Agency is interested in receiving information concerning additional or ongoing health and safety studies on the subject chemicals as well as information relating to the human and environmental exposure to these chemicals. A notice is published elsewhere in today's **Federal Register** adding the five substances designated in the ITC's Fourteenth Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716). The section 8(d) rule requires the reporting of unpublished health and safety studies on the listed chemicals. These five chemicals will also be added to the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712) published elsewhere in this issue. The section 8(a) rule requires the reporting of production volume, use, exposure, and release information on the listed chemicals. The nondesignated substance, 3,4-dichlorobenzotrifluoride, will be separately proposed for addition to the section 8(a) and 8(d) rules.

Focus Meetings will be held to discuss relevant issues pertaining to chemicals and to narrow the range of issues/effects which will be the focus of the Agency's subsequent activities in responding to the ITC recommendations. The Focus Meetings will be held June 27 and 28, 1984, at the Disabled American Veterans (DAV) Headquarters, 807 Maine Ave., SW., Washington, D.C. These meetings are intended to supplement and expand upon written comments submitted in response to this notice. The schedule for the Focus Meetings is as follows: June 27, 9:30 a.m.—isopropyl biphenyl and diisopropyl biphenyl, 1:00 p.m.—3,4-dichlorobenzotrifluoride; June 28, 9:00 a.m.—2-ethylhexanoic acid, 11:00 a.m.—bisphenol A, 2:00 p.m.—1,2-dibromo-4-(1 2-dibromoethyl) cyclohexane.

Persons wishing to attend one or more of these meetings should call the TSCA Assistance Office at the toll free number listed above at least 2 weeks in advance.

After consideration of the data pertaining to each chemical and any additional information provided in the written comments and the Focus Meetings, EPA will hold public meetings on each chemical after preliminary staff decisions have been made on the types of testing that are needed. These meetings will be in the month of September, but separate notice of these meetings will not be published at that time. Therefore, anyone wishing to attend these later meetings should contact EPA after July 30 at the address given for the TSCA Assistance Office in order to be notified in advance of the public meetings.

All written submissions should bear the identifying docket number (OPTS-41014).

III. Status of List

In addition to adding the 5 designations and one chemical recommended to the priority list, the ITC's Fourteenth Report notes the removal of 22 chemicals from the list since the last ITC report because EPA has responded to the Committee's prior recommendations for testing of the chemicals. Subsequent to the ITC's preparation of its Thirteenth Report, EPA responded to the ITC's recommendations for 22 additional chemicals. The 22 chemicals removed and the dates of publication in the **Federal Register** of EPA's responses to the ITC for these chemicals are: alkyl epoxides, January 4, 1984 (49 FR 449–456); aniline and bromo-, chloro-, and/or nitroanilines, January 3, 1984 (49 FR 108–126); aryl phosphates, December 29, 1983 (48 FR 57452–57460); bis(2-ethylhexyl) terephthalate, November 14, 1983 (48 FR 51845–51848); chlorinated benzenes, mono-, and di-, January 13, 1984 (49 FR 1760–1770); chlorinated benzenes, tri-, tetra-, and penta-, January 13, 1984 (49 FR 1760–1770); cyclohexanone, January 3, 1984 (49 FR 136–142); dibutyltin bis (isooctyl maleate), November 8, 1983 (48 FR 51361–51366); dibutyltin bis(isooctyl mercaptoacetate), November 8, 1983 (48 FR 51361–51366); dibutyltin bis(lauryl mercaptide), November 8, 1983 (48 FR 51361–51366); dibutyltin dilaurate, November 8, 1983 (48 FR 51361–51366); 1,2-dichloropropane, January 6, 1984 (49 FR 899–908); dimethyltin bis(isooctyl mercaptoacetate) November 8, 1983 (48 FR 51361–51366); 1,3-dioxolane, November 14, 1983 (48 FR 51839–51842); glycidol and its derivatives, December 30, 1983 (48 FR 57562–57571); halogenated alkyl epoxides, December 30, 1983 (48 FR 57686–57700); hydroquinone, January 4, 1984 (49 FR 438–449); monobutyltin tris(isooctyl mercaptoacetate), November 8, 1983 (48 FR 51361–51366); monomethyltin tris(isooctyl mercaptoacetate), November 8, 1983 (48 FR 51361–51366); quinone, January 4, 1984 (49 FR 456–465); 4-(1,1,3,3-tetramethylbutyl) phenol, November 15, 1983 (48 FR 51971–51976); and tris(2-ethylhexyl) trimellitate, November 14, 1983 (48 FR 51842–51845). The current list contains 14 designated substances or groups of substances and two recommended substances or groups of substances.

(Sec. 4, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: May 18, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

FOURTEENTH REPORT OF THE TSCA INTERAGENCY TESTING COMMITTEE TO THE ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469) provides for the testing of chemicals in commerce that may present an unreasonable risk of injury to health or the environment. It also provides for the establishment of a Committee, composed of representatives from eight designated Federal agencies, to recommend chemical substances and mixtures (chemicals) to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules.

Section 4(e)(1)(A) of TSCA directs the Committee to recommend to the EPA Administrator chemicals to which the

Administrator should give priority consideration for the promulgation of testing rules pursuant to section 4(a). The Committee is required to designate these chemicals, from among its recommendations, to which the Administrator should respond within 12 months by either initiating a rulemaking proceeding under section 4(a) or publishing the Administrator's reason for not initiating such a proceeding. Every 6 months, the Committee makes those revisions in the TSCA section 4(e) Priority List that it determines to be necessary and transmits them to the EPA Administrator.

As a result of its deliberations, the Committee is revising the TSCA section 4(e) Priority List by the addition of six chemicals and is noting the removal of 22, as a result of responses by EPA.

The Priority List is divided into two parts: Part A contains those recommended chemicals and groups designated for priority consideration and response by the EPA Administrator within 12 months, and part B contains chemicals and groups that have been recommended for priority consideration by EPA without being designated for response within 12 months. Although TSCA does not establish a deadline for EPA response to nondesignated chemicals and groups (part B of the Priority List), the Committee anticipates that the EPA Administrator will respond in a timely manner.

The entries being added to the Priority List are presented, together with the types of testing recommended, in the following Table 1.

TABLE 1.—ADDITIONS TO THE SECTION 4(e) PRIORITY LIST

Chemical/group	Recommended studies
A. Designated for response within 12 months:	
Bisphenol A (CAS No. 80-05-7).	Chemical Fate: Octanol/water partition coefficient; persistence. Health Effects: Chronic effects including oncogenicity; reproductive effects. Ecological Effects: Acute and chronic toxicity to fish, aquatic invertebrates, and algae; bioconcentration.
1,2-Dibromo-4-(1,2-dibromoethyl) cyclohexane (CAS No. 3322-93-8).	Chemical Fate: Water solubility; octanol/water partition coefficient; soil mobility; persistence. Health Effects: Toxicokinetic studies; subchronic studies including sperm morphology and vaginal cytology evaluation; chronic toxicity studies including oncogenicity. Ecological Effects: Acute and chronic toxicity to fish, aquatic invertebrates, and algae; bioconcentration.
2-Ethylhexanoic acid (CAS No. 149-57-5).	Health Effects: Chronic effects including oncogenicity.
Isopropyl biphenyl (CAS No. 25640-78-2). Diisopropyl biphenyl (CAS No. 69009-90-1).	Chemical Fate: Water solubility; octanol/water partition coefficient; persistence; soil mobility. Health Effects: Chronic toxicity, with emphasis on neurotoxic and kidney effects. Ecological Effects: Acute and chronic toxicity to fish, aquatic invertebrates, and algae; bioconcentration.
B. Recommended but not designated for response within 12 months:	
3,4-Dichlorobenzotrifluoride (CAS No. 328-84-7).	Chemical Fate: Water solubility; octanol/water partition coefficient; soil mobility; persistence. Health Effects: Toxicokinetics; genotoxicity; subchronic effects; chronic effects including oncogenicity. Ecological Effects: Acute and chronic toxicity to fish, aquatic invertebrates, and algae; bioconcentration.

TABLE 1.—ADDITIONS TO THE SECTION 4(e) PRIORITY LIST—Continued

Chemical/group	Recommended studies

TSCA Interagency Testing Committee

Statutory Member Agencies and Their Representatives

Council on Environmental Quality
Thomas H. Magness, III, Member
George W. Schlossnagle, Alternate (*1*)
Department of Commerce
Bernard Greifer, Member and Vice Chairperson
Environmental Protection Agency
Carl R. Morris, Member
Arthur M. Stern, Alternate
National Cancer Institute
Elizabeth K. Weisburger, Member and Chairperson
Richard Adamson, Alternate
National Institute of Environmental Health Sciences
Dorothy Canter, Member
National Institute for Occupational Safety and Health
Rodger L. Tatken, Member
Sanford S. Leffingwell, Alternate (*2*)
National Science Foundation
Winston C. Nottingham, Member
Occupational Safety and Health Administration
Ralph Yodaiken, Member
Martin Brown, Alternate (*3*)

Liaison Agencies and Their Representatives

Consumer Product Safety Commission
Arthur Gregory
Lakshmi Mishra
Department of Agriculture
Homer E. Fairchild
Richard M. Parry, Jr.
Department of Defense
Arthur H. McCreesh (*4*)
Patrick A. Truman (*5*)
Department of the Interior
Vyto A. Adomaitis
David R. Rosenberger
Food and Drug Administration
Arnold Borsetti
Allen H. Heim
National Taoxicology Program
Dorothy Canter

Committee Staff Martin Greif, Executive Secretary

Norma Williams, ITC Coordinator

Support Staff

Alan Carpien—Office of the General Counsel, EPA
Stephen Ells—Office of Toxic Substances, EPA
Vera W. Hudson—National Library of Medicine

Notes

(*1*) Dr. Schlossnagle was appointed on November 17, 1983.
(*2*) Dr. Leffingwell was appointed on October 27, 1983.
(*3*) Dr. Brown was appointed on February 10, 1984.
(*4*) Dr. McCreesh died suddenly on March 22, 1984.
(*5*) Commander Truman was appointed on January 10, 1984.

The Committee acknowledges and is grateful for the assistance and support given to it by the staffs of CRCS, Inc., and Dynamac Corporation (technical support prime and subcontractors) and personnel of the EPA Office of Toxic Substances.

Chapter 1—Introduction

1.1 *Background.* The TSCA Interagency Testing Committee (Committee) was established under section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Public Law 94-469). The specific mandate of the Committee is to recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemical substances and mixtures in commerce that should be given priority consideration for the promulgation of testing rules to determine their potential hazard to human health and/or the environment. TSCA specifies that the Committee's recommendations shall be in the form of a Priority List, which is to be published in the **Federal Register.** The Committee is directed by section 4(e)(1)(A) of TSCA to designate those chemicals on the Priority List to which the EPA Administrator should respond within 12 months by either initiating a rulemaking proceeding under section 4(a) or publishing the Administrator's reason for not initiating such a

proceeding. There is no statutory time limit for EPA response regarding chemicals which ITC has recommended, but not designated for response within 12 months.

Every 6 months, the Committee makes those revisions in the section 4(e) Priority List that it determines to be necessary and transmits them to the EPA Administrator.

The Committee is comprised of representatives from eight statutory member agencies, five liaison agencies, and one national program. The specific representatives and their affiliations are named in the front of this report. The Committee's chemical review procedures and prior recommendations are described in previous reports (Refs. 1 through 13).

1.2 *Committee's previous reports.* Thirteen previous reports to the EPA Administrator have been issued by the Committee and published in the **Federal Register** (Refs. 1 through 13). Seventy-three entries (chemicals and groups of chemicals) were recommended for priority consideration by the EPA Administrator and designated for response within 12 months. In addition, two groups were recommended without being so designated. Removal of forty-three entries was noted in the previous reports.

1.3 *Committee's activities during this reporting period.* Between October 1, 1983 and March 31, 1984 the Committee continued to review chemicals from its fourth scoring exercise and began to review chemicals from its fifth scoring exercise.

The Committee contacted more than 100 chemical manufacturers and trade associations to request information that would be of value in its deliberations. Fifty-four of those contacted provided unpublished information on current production, exposure, uses, and effects of chemicals under study by the Committee.

During this reporting period, the Committee evaluated 73 chemicals for priority consideration. Six chemicals were added to the section 4(e) Priority List, and 25 were deferred indefinitely. The remaining chemicals are still under study.

1.4 *The TSCA section 4(e) Priority List.* Section 4(e)(1) (B) of TSCA directs the Committee to: "* * * make such revisions in the [priority] list as it determines to be necessary and * * * transmit them to the Administrator together with the Committee's reasons for the revisions." Under this authority, the Committee is revising the Priority List by adding six chemicals: bisphenol A; 1,2-dibromo-4-(1,2-dibromoethyl) cyclohexane; 3,4-dichlorobenzotrifluoride; diisopropyl biphenyl; 2-ethylhexanoic acid; and isopropyl biphenyl. Five of these chemicals are designated for response within 12 months. The sixth, 3,4-dichlorobenzotrifluoride, is recommended, but not designated for response within 12 months. The testing recommended for these chemicals and the rationales for the recommendations are presented in Chapter 2 of this report.

Twenty-two chemicals and groups of chemicals are being removed from the Priority List because the EPA Administrator has responded to the Committee's prior recommendations for testing them. They are:

Alkyl epoxides
Aniline and bromo-, chloro-, and/or nitroanilines
Aryl phosphates
Bis(2-ethylhexyl) terephthalate
Chlorinated benzenes, mono- and di-
Chlorinated benzenes, tri-, tetra-, and penta-
Cyclohexanone
Dibutyltin bis(isooctyl maleate)
Dibutyltin bis(isooctyl mercaptoacetate)
Dibutyltin bis(lauryl mercaptide)
Dibutyltin dilaurate
1,2-Dichloropropane
Dimethyltin bis(isooctyl mercaptoacetate)
1,3-Dioxolane
Glycidol and its derivatives
Halogenated alkyl epoxides
Hydroquinone
Monobutyltin tris (isooctyl mercaptoacetate)
Monomethyltin tris (isooctyl mercaptoacetate)
Quinone
4-(1,1,3,3-Tetramethylbutyl)phenol
Tris(2-ethylhexyl) trimellitate

With the six recommendations and 22 removals noted in this report, 16 entries now appear on the section 4(e) Priority List. The Priority List is divided in the following Table 2 into two parts; namely, Table 2A, Chemicals and Groups of Chemicals Designated for Response Within 12 Months, and Table 2B, Other Recommended Chemicals and Groups.

TABLE 2.—THE TSCA SECTION 4(e) Priority List—May 1984

Entry	Date of designation
2A. Chemical and Groups of Chemicals Designated for Response Within 12 Months	
1. Bisphenol A	May 1984.
2. 2-(2-Butoxyethoxy)ethyl acetate	Nov. 1983.
3. Calcium naphthenate	May 1983.
4. Cobalt naphthenate	Do.
5. 1,2-Dibromo-4-(1,2-dibromoethyl) cyclohexane.	May 1984.
6. Diisopropyl biphenyl	Do.
7. Ethylene bis(oxyethylene) diacetate.	Nov. 1983.
8. 2-Ethylhexanoic acid	May 1984.
9. 1,2,3,4,7,7-Hexachloronorbornadiene.	Nov. 1983.
10. Isopropyl biphenyl	May 1984.
11. Lead naphthenate	May 1983.
12. Methylolurea	Do.
13. Oleylamine	Nov. 1983.
14. 2-Phenoxyethanol	May 1983.

Entry	Date of recommendation
2B. Other Recommended Chemicals and Groups of Chemicals	
1. Carbofuran intermediates	Nov. 1982.
2. 3,4-Dichlorobenzotrifluoride	May 1984.

To date, 65 chemicals and groups of chemicals have been removed from the Priority List. The cumulative list is presented in the following Table 3.

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Table 3--Cumulative Removals from the TSCA Section 4(e) Priority List
May 1984

Chemical/Group	EPA Responses to Committee Recommendations	
	FEDERAL REGISTER	
	Citation	Publication Date
1. Acetonitrile	47 FR 58020-58023	Dec. 29, 1982
2. Acrylamide	48 FR 725-727	Jan. 6, 1983
3. Alkyl epoxides	49 FR 449-456	Jan. 4. 1984
4. Alkyl phthalates	46 FR 53775-53777	Oct. 30, 1981
5. Alkyltin compounds	46 FR 5456-5463	Feb. 5, 1982 1/
6. Aniline and bromo-, chloro-, and/or nitroanilines	49 FR 108-126	Jan. 3, 1984
7. Antimony metal	48 FR 717-725	Jan. 6, 1983
8. Antimony sulfide	48 FR 717-725	Jan. 6, 1983
9. Antimony trioxide	48 FR 717-725	Jan. 6, 1983
10. Aryl phosphates	48 FR 57452-57460	Dec. 29, 1983
11. Benzidine-based dyes	46 FR 55004-55006	Nov. 5, 1981
12. Benzyl butyl phthalate	46 FR 53775-53777	Oct. 30, 1981
13. Biphenyl	48 FR 23080-23086	May 23, 1983
14. Bis(2-ethylhexyl) terephthalate	48 FR 51845-51848	Nov. 14, 1983
15. Butyl glycolyl butyl phthalate	46 FR 54487	Nov. 2, 1981
16. Chlorendic acid	47 FR 44878-44879	Oct. 12, 1982
17. Chlorinated benzenes, mono- and di-	49 FR 1760-1770	Jan. 13, 1984
18. Chlorinated benzenes, tri-, tetra-, and penta-	49 FR 1760-1770	Jan. 13, 1984
19. Chlorinated naphthalenes	46 FR 54491	Nov. 2, 1981
20. Chlorinated paraffins	47 FR 1017-1019	Jan. 8, 1982
21. 4-Chlorobenzotrifluoride	47 FR 50555-50558	Nov. 8, 1982

1/ Removed by the Committee for reconsideration. Seven individual group members were subsequently designated in the 11th ITC Report (Ref. 11) for priority consideration.

Table 3--Cumulative Removals from the TSCA Section 4(e) Priority List (cont'd)
May 1984

Chemical/Group	EPA Responses to Committee Recommendations	
	FEDERAL REGISTER	
	Citation	Publication Date
22. Chloromethane	45 FR 48524-48564	July 18, 1980
23. 2-Chlorotoluene	47 FR 18172-18175	April 28, 1982
24. Cresols	48 FR 31812-31819	July 11, 1983
25. Cyclohexanone	49 FR 136-142	Jan. 3, 1984
26. o-Dianisidine-based dyes	46 FR 55004-55006	Nov. 5, 1981
27. Dibutyltin bis(isooctyl maleate)	48 FR 51361-51366	Nov. 8, 1983
28. Dibutyltin bis(isooctyl mercaptoacetate)	48 FR 51361-51366	Nov. 8, 1983
29. Dibutyltin bis(lauryl mercaptide)	48 FR 51361-51366	Nov. 8, 1983
30. Dibutyltin dilaurate	48 FR 51361-51366	Nov. 8, 1983
31. Dichloromethane	46 FR 30300-30320	June 5, 1981
32. 1,2-Dichloropropane	49 FR 899-908	Jan. 6, 1984
33. Diethylenetriamine	47 FR 18386-18391	April 29, 1982
34. Dimethyltin bis(isooctyl mercaptoacetate)	48 FR 51361-51366	Nov. 8, 1983
35. 1,3-Dioxolane	48 FR 51839-51842	Nov. 14, 1983
36. Ethyltoluene	48 FR 23088-23095	May 23, 1983
37. Fluoroalkenes	46 FR 53704-53708	Oct. 30, 1981
38. Formamide	48 FR 23098-23102	May 23, 1983
39. Glycidol and its derivatives	48 FR 57562-57571	Dec. 30, 1983
40. Halogenated alkyl epoxides	48 FR 57686-57700	Dec. 30, 1983
41. Hexachloro-1,3-butadiene	47 FR 58029-58031	Dec. 29, 1982
42. Hexachlorocyclopentadiene	47 FR 58023-58025	Dec. 29, 1982
43. Hexachloroethane	47 FR 18175-18176	April 28, 1982

Table 3--Cumulative Removals from the TSCA Section 4(e) Priority List (cont'd)
May 1984

Chemical/Group	EPA Responses to Committee Recommendations	
	FEDERAL REGISTER	
	Citation	Publication Date
44. Hydroquinone	49 FR 438-449	Jan. 4. 1984
45. Isophorone	48 FR 727-730	Jan. 6, 1983
46. Mesityl oxide	48 FR 30699-30706	July 5, 1983
47. 4,4'-Methylenedianiline	48 FR 31806-31810	July 11, 1983
48. Methyl ethyl ketone	47 FR 58025-58029	Dec. 29, 1982
49. Methyl isobutyl ketone	47 FR 58025-58029	Dec. 29, 1982
50. Monobutyltin tris(isooctyl mercaptoacetate)	48 FR 51361-51366	Nov. 8, 1983
51. Monomethyltin tris(isooctyl mercaptoacetate)	48 FR 51361-51366	Nov. 8, 1983
52. Nitrobenzene	46 FR 30300-30320	June 5, 1981
53. Phenylenediamines	47 FR 973-983	Jan. 8, 1982
54. Polychlorinated terphenyls	46 FR 54482-54483	Nov. 2, 1981
55. Pyridine	47 FR 58031-58035	Dec. 29, 1982
56. Quinone	49 FR 456-465	Jan. 4, 1984
57. 4-(1,1,3,3-Tetramethylbutyl) phenol	48 FR 51971-51976	Nov. 15, 1983
58. o-Tolidine-based dyes	46 FR 55004-55006	Nov. 5, 1981
59. Toluene	47 FR 56391-56392	Dec. 16, 1982
60. 1,2,4-Trimethylbenzene	48 FR 23088-23095	May 23, 1983
61. Trimethylbenzenes	48 FR 23088-23095	May 23, 1983
62. 1,1,1-Trichloroethane	46 FR 30300-30320	June 5, 1981
63. Tris(2-chloroethyl) phosphite	47 FR 49466-49467	Nov. 1, 1982
64. Tris(2-ethylhexyl) trimellitate	43 FR 51842-51845	Nov. 14, 1983
65. Xylenes	47 FR 56392-56394	Dec. 16, 1982

BILLING CODE 6560-50-C

References

(1) Initial Report to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the **Federal Register** of Wednesday, October 12, 1977, 42 FR 55026–55080. Corrections published in the **Federal Register** of November 11, 1977, 42 FR 58777–58778. The report and supporting dossiers were also published by the Environmental Protection Agency, EPA 560–10–78/001, January 1978.

(2) Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1978. Published in the **Federal Register** of Wednesday, April 19, 1978, 43 FR 16684–16688. The report and supporting dossiers were also published by the Environmental Protection Agency, EPA 560–10–78/002, July 1978.

(3) Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1978. Published in the **Federal Register** of Monday, October 10, 1978, 43 FR 50630–50635. The report and supporting dossiers were also published by the Environmental Protection Agency, EPA 560–10–79/001, January 1979.

(4) Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1979. Published in the **Federal Register** of Friday, June 1, 1979, 44 FR 31866–31889.

(5) Fifth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, November 1979. Published in the **Federal Register** of Friday, December 7, 1979, 44 FR 70664–70674.

(6) Sixth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1980. Published in the **Federal Register** of Wednesday, May 28, 1980, 45 FR 35897–35910.

(7) Seventh Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1980. Published in the **Federal Register** of Tuesday, November 25, 1980, 45 FR 78432–78446.

(8) Eighth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1981. Published in the **Federal Register** of Friday, May 22, 1981, 46 FR 28138–28144.

(9) Ninth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1981. Published in the **Federal Register** of Friday, February 5, 1982, 47 FR 5456–5463.

(10) Tenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1982. Published in the **Federal Register** of Tuesday, May 25, 1982, 47 FR 22585–22596.

(11) Eleventh Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1982. Published in the **Federal Register** of Friday, December 3, 1982, 47 FR 54625–54644.

(12) Twelfth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, May 1983. Published in the **Federal Register** of Wednesday, June 1, 1983, 48 FR 24443–24452.

(13) Thirteenth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, November 1983. Published in the **Federal Register** of Wednesday, December 14, 1983, 48 FR 55674–55684.

Chapter 2—Recommendations of the Committee

2.1 *Chemicals recommended for priority consideration by the EPA Administrator.* As provided by section 4(e)(1)(B) of TSCA, the Committee is adding the following chemical substances to the section 4(e) Priority List: bisphenol A; 1,2-dibromo-4-(1, 2-dibromoethyl) cyclohexane; 3,4-dichlorobenzotrifluoride; diisopropyl biphenyl; 2-ethylhexanoic acid; and isopropyl biphenyl. The recommendation of these chemicals is being made after considering the factors identified in section 4(e)(1)(A) and other available relevant information, as well as the professional judgment of Committee members.

The five recommendations designated for response by the EPA Administrator within 12 months and supporting rationales are presented in section 2.2 of this report. Section 2.3 contains one recommendation with no designated time limit for response by the EPA Administrator.

2.2 *Chemicals designated for response within 12 months with supporting rationales.*

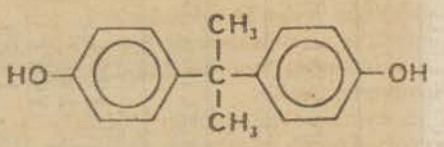
2.2a *Bisphenol A.*

Summary of recommended studies. It is recommended that bisphenol A be tested for the following:

A. Chemical Fate:
Octanol/water partition coefficient
Persistence
B. Health Effects:
Chronic effects including oncogenicity
Reproductive effects
C. Ecological Effects:
Acute and chronic toxicity of fish, aquatic invertebrates, and algae
Bioconcentration

Physical and Chemical Information

CAS Number: 80–05–7
Synonyms:
4,4'-Isopropylidenediphenol 2,2-Bis (p-hydroxyphenyl) propane
Phenol,4,4'-(1-methylethylidene)bis-
(9 CI)
Structural Formula:



Empirical Formula: $C_{15}H_{16}O_2$.
Molecular Weight: 228.
Melting Point: 153° C (crude); 155–157° C (purified).
Boiling Point: 220° C at 4 mmHg.
Vapor Pressure: 0.2 mmHg at 170° C
Specific Gravity: 1.195 (25/25° C).
Solubility in Water: Less than 0.1% at 25°C; 0.34% at 83° C; soluble in dilute base.
Solubility in Organic Solvents: Soluble in polar organic solvents such as acetone and methanol.
Log Octanol/Water Partition Coefficient: 3.84 (estimated; Ref. 14, Lyman et al., 1982).
Description of Chemical: White flakes.

Rational for Recommendations

I. *Exposure information*—A. *Production/use/disposal.* The 1982 production volume of bisphenol A was 479 million pounds (Ref. 4, C&EN, 1983). The annual domestic production capacity as of January 1, 1983, was estimated to be 930 million pounds (Ref. 26, SRI, 1983).

Bisphenol A is used primarily as an intermediate in the production of epoxy and polycarbonate resins. It is also used in the manufacture of phenoxy resins, corrosion-resistant unsaturated polyester-styrene resins, and polysulfone resins, and as a stabilizer for polyvinyl chloride resins, as an antioxidant in rubber and plastics, and as a raw material in the production of tetrabromobisphenol A and other compounds used in the manufacture of flame retardants (Refs. 5, 6, 11, 12 and 8, CEH, 1978, 1979; Kirk-Othmer, 1978, 1980; EPA, 1981).

Since bisphenol A is produced in a closed system, the chances of exposure during manufacture are expected to be minimal. It is shipped as prills in 50-pound bags, hopper cars or one ton super sacks. Therefore, the greatest potential for worker exposure is to the dust during packaging, handling and shipping (Ref. 20, NIOSH, 1983). The National Occupational Exposure Survey conducted during 1981–1983 estimated that 9446 workers were exposed to bisphenol A in the workplace. Estimates for exposure from downstream uses are not yet available (Ref. 21, NIOSH, 1984). Based upon its high production volume

and the fact that it is manufactured and used at many sites, bisphenol A is likely to enter the environment in substantial quantities. It can be released in industrial wastewaters during manufacturing, processing and through inadvertent spills.

B. *Evidence for exposure.* NIOSH has reported levels of exposure to bisphenol A in the workplace in three Health Hazarad Reports. Concentrations were measured at levels of 1.063 mg/m3 in spray operations (Ref. 17, NIOSH, 1979), of 0.0083 mg/m3 in sanding and grinding of cured epoxy resins (Ref. 18, NIOSH, 1980a), and less than 0.04 to 4.49 μg/m3 in epoxy coating operations (Ref. 19, NIOSH, 1980b).

Bisphenol A has been found in atmospheric fallout near Tokyo at concentrations ranging from 0.04 to 0.2 μg/m2 day (Ref. 15, Matsumoto and Hanya, 1980). In a study by Matsumoto et al. (Ref. 16, 1977), bisphenol A was found in water samples taken from two rivers receiving industrial discharges. One sample contained 10–90 ng/L, and the other contained 1–9 μg/L of bisphenol A. It has also been found at a concentration of 4.8 mg/L in an effluent prior to treatment at a Soviet plant manufacturing epoxy resins (Ref. 9, Friedman, 1980). Schackleford and Keith (Ref. 25, 1976) reported finding bisphenol A in an effluent from a chemical manufacturing plant in Indiana but did not quantify the amount.

II. *Chemical fate information.*—A. *Persistence.* Like other substituted phenols, bisphenol A is likely to undergo photolysis or oxidation, but at an undetermined rate. Some biodegradation during wastewater treatment and in receiving waters is also likely.

B. *Rational for chemical fate recommendations:* Although bisphenol A is not expected to be highly persistent, the fact that it has been found in river waters and in effluent discharges demonstrates that biodegradation is not rapid and complete. Testing is needed to estimate its removal during waste treatment and to determine its persistence in receiving waters.

III. *Biological effects of concern to human health*—A. *Toxicokinetics (absorption, distribution, and excretion).* A study of the metabolic fate of an orally administered dose of radio-labeled bisphenol A in the rat indicated that the major excretory route was through the feces, with 56 percent of the radiolabel excreted in this manner (Ref. 13, Knaak and Sullivan, 1966). Excretion through the urine accounted for 28 percent of the dose and was primarily as a glucuronide. No radiolabel could be detected in respiratory CO_2, and none remained in the body after 8 days.

B. *Mutagenicity.* Bisphenol A was not found to be mutagenic when tested in *Salmonella typhimurium* strains TA–1535, TA–1537, TA–98, and TA–100, with and without metabolic activation (Ong, 1979, cited in Ref. 8, EPA, 1981). these negative results were also obtained by the NTP (Ref. 24, 1984a). The chemical was also negative for inducing sister-chromatid exchanges and chromosamal aberrations in Chinese Hamster ovary cells in cluture. Zavadskii and Khovanova (1975 cited in Ref. 8, EPA, 1981) reported that bisphenol A produced no effects on somatic cells of *Drosophila melanogaster.*

C. *Short-term (acute) effects.* The oral LD_{50} in rats, mice, and rabbits was reported to be 3.25, 2.5 and 2.23 g/kg, respectively (Ref. 1, AIHA, 1967).

D. *Long-term (subchronic/chronic) effects. Carcinogenicity.* A carcinogenesis bioassay was conducted in which bisphenol A was fed at levels of 1,000 or 2,000 ppm to groups of 50 rats of either sex, at levels of 1,000 or 5,000 ppm to groups of 50 male mice, and at levels of 5,000 or 10,000 ppm to groups of 50 female mice for 103 weeks. It was concluded that, under the conditions of the bioassay, "there was no convincing evidence that bisphenol A was carcinogenic for rats or mice," (Ref. 22, NTP, 1982)

E. *Teratogenicity and reproductive effects.* In a teratogenicity study by Hardin et al., (Ref. 10, 1981), offspring from rats receiving intraperitoneal doses of 85 and 125 mg/kg on days 1 through 15 of gestation showed significantly reduced mean fetal body weights and crown-to-rump lengths. The mean number of implants and number of live fetuses per litter were also reduced in the high-dose rats. In both groups, numerous instances of enlarged cerebral ventricles and retarded skeletal ossification were seen; one case of hydroxephalus occurred in the high-dose group. Because of the limited number of litters, further testing in rats and mice is being conducted (Ref. 24, NTP, 1984b). In the NTP study, the animals are dosed during the post-implantation period while in Hardin's study they were dosed earlier in the cycle, i.e. during the pre- and post-implantation period.

Bisphenol A has been reported to produced estrogenic effects (Ref. 2, Bitman and Cecil, 1970). Bond et al. (Ref. 3, 1980) also tested ovariectomized rats for estrogenic effects and an increase in uterine water was observed at higher doses.

F. *Rational for health effects recommendations.* Concern exists regarding the potential carcinogenicity of bisphenol A by the inhalation route of administration, since that is the main route of human exposure. Consequently, it is recommended that bisphenol A be tested for chronic toxicity including oncogenicity by the inhalation route. Furthermore, because of the estrogenic activity, it should also be tested for reproductive effects.

IV. *Ecological effects of concern*—A. *Toxicity.* The 96-hour LC_{50} for sheepshead minnow, tested under flow-through conditions, was 7.5 mg/L (Ref. 7, Dow, 1982).

B. *Bioconcentration.* No test data were found. Based upon an estimated log P of 3.84, the expected bioconcentration factor (BCF), using the model of Veith et al. (Ref. 28, 1979), is 366.

C. *Rationale for ecological effects recommendations.* Based upon the large production volume, environmental releases from manufacturers and processors are likely to occur. The one acute toxicity test on the sheepshead minnow is inadequate to predict the acute and chronic effects on aquatic organisms. Because of the large exposure potential, tests with both freshwater and estuarine organisms are recommended. Acute and chronic toxicity tests with several species of fish, aquatic invertebrates, and algae should be performed. Based upon the estimated BCF of 366, a test with fish should be performed to quantify bioconcentration.

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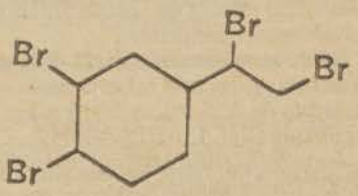
2.2.b *1,2-Dibromo-4-(1,2-Dibromoethyl)Cyclohexane.*

Summary of recommended studies. It is recommended that 1,2-dibromo-4-(1,2-dibromoethyl)cyclohexane (DBDBECH) be tested for the following:

A. Chemical Fate:
Water solubility
Octanol/water partition coefficient
Soil mobility
Persistence
B. Health Effects:
Toxicokinetic studies
Subchronic studies including sperm morphology and vaginal cytology evaluation
Chronic toxicity studies including oncogenicity
C. Ecological Effects:
Acute and chronic toxicity to fish, aquatic invertebrates, and algae
Bioconcentration

Physical and Chemical Information

CAS Number: 3322–93–8.
Synonym:
Vinylcyclohexene tetrabromide
Cyclohexane, 1,2-dibromo-4-(1,2-dibromoethyl) (9 CI)
Structural Formula:



Empirical Formula: $C_8H_{12}Br_4$.
Molecular Weight: 428.
Melting Point: 72–73° C.
Log Octanol/Water Partition Coefficient: 4.7 (estimated; Ref. 8, Lyman et al., 1982).
Description of Chemical: Solid.

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/disposal.* Production of DBDBECH was reported to be 600,000 pounds in 1982 and less than 1 million pounds in 1983 (Refs. 12 and 13, 1983, 1984). The TSCA Inventory (public portion) reported the 1977 production to be between and 10 million pounds (Ref. 5, EPA, 1983).The compound is used as a flame retardant in construction materials, in high-impact plastic parts of appliances, and in electric cable coatings (Refs. 3 and 12, Chemtronics, 1982; Saytech, 1983). Because it is an effective flame retardant with high thermal stability (Ref. 6, Green and Versnel, 1974), the demand for the compound is expected to increase with the current improvement in the housing and construction industry (Ref. 12, Saytech, 1983).

B. *Evidence for exposure.* There is no information documenting the presence of DBDBECH in the aquatic environment. Releases from production and use are expected to result in both human and environmental exposure.

II. *Chemical fate information*—A. *Transport.* Based on an estimated water solubility of 13 mg/L, transport of DBDBECH by water is likely. Based on an estimated log P of 4.7, some absorption to soil and suspended solids in water will also occur.

B. *Persistence.* No information was found.

C. *Rationale for chemical fate recommendations.* Chemical fate tests are needed to determine the mobility and persistence of DBDBECH under environmental conditions.

III. *Biological effects of concern to human health*—A. *Summary.* DBDBECH was shown to be negative in the *Salmonella* assay in strains TA98, TA100, TA1535, and TA1537 with and without metabolic activation (Ref. 10, NTP, 1984). In vitro cytogenetc and mouse lymphoma tests are planned by NTP (Ref. 10, NTP, 1984). No other information on the biological effects of DBDBECH was found.

B. *Rationale for health effects recommendations.* DBDBECH is structurally related to ethylene dibromide, which is a known carcinogen that has also been shown to produce reproductive abnormalities in several species (Refs. 1, 4, and 11, Amir et al., 1983; Courtens et al., 1980; Sastry and Mukherjee, 1980). Since no data on the health effects of DBDBECH were found, toxicokinetic and subchronic studies, including sperm morphology and vaginal cytology evaluation are recommended. If it is determined that there is substantial exposure to this compound, then chronic toxicity studies, including oncogenicity, are recommended.

IV. *Ecological effects of concern*—A. *Toxicity.* No data were found on the aquatic toxicity of DBDBECH. A similar compound, 1,2-dichloro-4-(1,2,dichloroethyl)cyclohexane, adversely affected rainbow trout and bluegills after one hour of exposure at 5 mg/L (Ref. 2, Applegate et al., 1957).

B. *Bioconcentration.* Based on an estimated log P of 4.7, aquatic organisms are likely to bioconcentrate DBDBECH. Using the equation of Veith et al. (Ref. 14, 1979), the bioconcentration factor is estimated to be 2000.

C. *Rationale for ecological effects recommendations.* Based on the production and uses of DBDBECH, releases to the aquatic environment are likely. Although no data were found, DBDBECH may be highly toxic to aquatic organisms and may bioconcentrate substantially. Testing is needed to determine the acute and chronic toxicity to aquatic organisms and to quantify the bioconcentration potential.

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2.2.c *2-Ethylhexanoic Acid (9 CI).*

Summary of recommended studies. It is recommended that 2-ethylhexanoic acid be tested for the following:

Health Effects: Chronic effects including oncogenicity.

Physical and Chemical Information

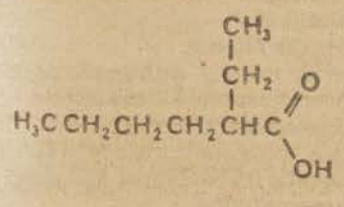
CAS Number: 149–57–5.

SYNONYMS:

Butylethylacetic acid

alpha-Ethylcaproic acid

Structural Formula:



Empirical Formula: $C_8H_{16}O_2$.

Molecular Weight: 144.

Melting Point: −83° C.

Boiling Point: 226.9° C at 760 mmHg.

Vapor Pressure: 0.03 mmHg at 20° C.

Specific Gravity: 0.9077 (20/20° C).

Solubility in Water: 0.1% at 20° C (Ref. 24, Union Carbide, 1983a).

Log Octanol/Water Partition Coefficient: 3 (estimated; Ref. 11, Lyman et al., 1982).

Description of Chemical: 2-Ethylhexanoic acid is a mild-odored liquid. It is a weak acid that, in the presence of a strong acid, will react with an alcohol to produce an ester (Ref. 15, Morrison and Boyd, 1973).

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/disposal.* The 1977 U.S. manufacture/importation of 2-ethylhexanoic acid, as listed in the public portion of the TSCA Inventory, was 11.1–61 million pounds (Ref. 7, EPA, 1982). The largest producer listed in the Inventory has stated that its current annual production range is 10–50 million pounds and that production is expected to remain at this level in the future (Ref. 6, Eastman Kodak, 1983). Other manufacturers have confirmed additional current production and importation of greater than one million pounds (Ref. 8, 3, and 2, Filo Chemical, 1983a; BASF, 1983, American Hoechst, 1983).

2-Ethylhexanoic acid is a chemical intermediate used primarily in the manufacture of 2-ethylhexanoic metal soaps (Ref. 9, Filo Chemical, 1983b). The soaps are utilized primarily as promoters for curing thermoset polyester resins, as driers for certain oil-based paints, inks, varnishes, and enamels, and as catalysts for polyurethane foams. Typically, the various soaps are added to the unsaturated polyester resin, paint, or foam polyol at levels of less than one percent (Ref. 6, Eastman Kodak, 1983).

Esters and salts of 2-ethylhexanoic acid have been used in the preparation of synthetic greases and lubricants. Diesters of 2-ethylhexanoic acid with triethylene glycol or tetraethylene glycol are used as thickeners in lubricants for both low- and high-temperature applications (Ref. 6, Eastman Kodak, 1983).

The National Occupational Hazard Survey lists 16,613 persons as being potentially exposed to 2-ethylhexanoic acid during 1970 (Ref. 16, NIOSH, 1983). Because vapors of the compound may irritate the eyes, nose, and throat, and the liquid material causes singificant skin and eye irritation, workers are urged to use protective clothing, eyewear and respirators during handling (Ref. 24 and 6, Union Carbide, 1983a; Eastman Kodak, 1983).

One manufacturer reported that trace amounts of the compound are released to the atmosphere during manufacture. Recommended disposal methods for the compound during manufacture and in-house use include incineration and treatment at an onsite wastewater treatment facility (Ref. 6, Eastman Kodak, 1983). Another manufacturer stated that its recommended method of waste disposal is incineration (Ref. 24, Union Carbide, 1983a).

B. *Evidence for exposure.* Although 2-ethylhexanoic acid is not used in consumer products, the 2-ethylhexanoate metal soaps are utilized in such products. Thus, general population exposure to the anion may occur. The compound also has been detected in leachate from a landfill in Oklahoma at 4.2 mg/L (Ref. 5, Dunlop et al., 1976).

II. *Chemical fate information.* No test data were found pertaining to the transport and persistence of 2-ethylhexanoic acid. Although rapid biodegratation of the chemical has been predicted, its presence in leachate from a landfill does not support this position.

III. *Biological effects of concern to human health*—A. *Acute toxicity.* The oral LD_{50} of 2-ethylhexanoic acid in rats was 3 g/kg and the dermal LD_{50} in rabbits was 6.3 ml/kg (Ref. 23, Smyth and Carpenter, 1944). The dermal LD_{50} in guinea pigs with a 4-day contact period was 6.3 g/kg (Ref. 25, Union Carbide, 1983b). The dermal LD_{50} in guinea pigs and rabbits was reported as 5,690 mg/kg and 1,260 mg/kg, respectively (Ref. 4, Clayton and Clayton, 1982). The inhalation LC_{50} in guinea pigs was determined to be greater than 400 ppm/6 hours (Ref. 6, Eastman Kodak, 1983). Undiluted 2-ethylhexanoic acid (0.001 ml) caused corneal necrosis of the rabbit eye. The undiluted compound and 10 percent solutions in acetone caused skin erythema in rabbits (Ref. 25, Union Carbide, 1983b).

B. *Teratogenicity/embryotoxicity.* No information was found regarding the teratogenicity or embryotoxicity of 2-ethylhexanoic acid.

C. *Metabolism and toxicokinetics studies.* No information was found on the metabolism or toxicokinetics of 2-ethylhexanoic acid. However, 2-ethylhexanoic acid was one of the initial metabolites identified when 2-ethylhexanol was administered orally to rats (Ref. 1, Albro, 1975).

D. *Genotoxicity.* 2-Ethylhexanoic acid has been selected for mutagenicity testing in the *Salmonella* microsomal assay and for in-vitro cytogenetics testing in Chinese hamster ovary cells (Ref. 22, NTP, 1984). No other

information was found on genotoxicity testing of this compound. However, 13 compounds containing the 2-ethylhexyl moiety were negative in the *Salmonella* assay both with and without metabolic activation (Ref. 19, NTP, 1983a).

E. *Carcinogenicity.* No information was found on the carcinogenicity of 2-ethylhexanoic acid. To date, NTP has tested four compounds containing the 2-ethylhexyl moiety for carcinogenicity and other chronic toxic effects in rats and mice, namely, di(2-ethylhexyl) phthalate (DEHP), di(2-ethylhexyl) adipate (DEHA), tris(2-ethylhexyl)phosphate, and 2-ethylhexyl sulfate (Refs. 17, 18, 20, and 21, NTP, 1982a; NTP, 1982b; NTP, 1983b; NTP 1983c). The administration of all four compounds correlated with increased occurrences of hepatocellular tumors, principally carcinomas, in female mice. DEHA and DEHP also induced hepatocellular tumors in male mice, while DEHP caused hepatocellular tumors in female mice and rats. These results suggest that compounds containing the 2-ethylhexyl moiety may have some carcinogenic potential for the mouse liver (Ref. 10, Kluwe, 1984).

F. *Other effects.* In a chemical class study, DEHP, DEHA, di(2-ethylhexyl)-sebacate, 2-ethylhexyl alcohol, 2-ethylhexanoic acid, and, to a lesser extent, 2-ethylhexyl aldehyde induced an increase in hepatic peroxisomes and peroxisome-associated enzymes, whereas adipic acid, diethyl phthalate, hexanol, hexyl aldehyde and hexanoic acid did not (Ref. 13, Moody and Reddy, 1978). Subsequent research on all of the above chemicals except di(2-ethylhexyl)sebacate demonstrated that those compounds that induced peroxisomal proliferation also produced a decrease in serum triglyceride and cholesterol concentrations in rats (Ref. 14, Moody and Reddy, 1982). These data indicate that the 2-ethylhexyl moiety may be important in inducing these effects.

G. *Rationale for health effects recommendations.* The potential exists for occupational exposure to 2-ethylhexanoic acid. General population exposure to the 2-ethylhexanoate anion may occur from the use of products containing 2-ethylhexanoate metal soaps. Suspicion exists as to the potential toxicity of the 2-ethylhexyl moiety on the basis of results from carcinogenicity studies of four 2-ethylhexyl compounds and of the ability of a group of 2-ethylhexyl compounds, including 2-ethylhexanoic acid, to induce peroxisomal proliferation and hypolipidemia in rats. Accordingly, chronic studies including oncogenicity studies in rats and mice are recommended for 2-ethylhexanoic acid.

IV. *Ecological effects.* Compounds of similar structure have been found to have low to moderate toxicity. 2-Ethylhexanoic acid is not expected to be toxic to aquatic organisms at the levels at which it is likely to occur in the environment. Hence tests for ecological effects are not recommended.

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2.2.d *Isopropylbiphenyls.*

Summary of recommended studies. It is recommended that the mixed isomers of isopropylbiphenyl (IPBP) and the mixed isomers of diisopropylbiphenyl (DIPBP) be tested for the following:

A. Chemical Fate:
Water solubility
Octanol/water partition coefficient
Persistence
Soil mobility
B. Health Effects:
Chronic toxicity, with emphasis on neurotoxic and kidney effects
C. Ecological Effects:
Acute and chronic toxicity to fish, aquatic invertebrates, and algae
Bioconcentraton

If IPBP and DIPBP can not be isolated and tested separately, then tests with

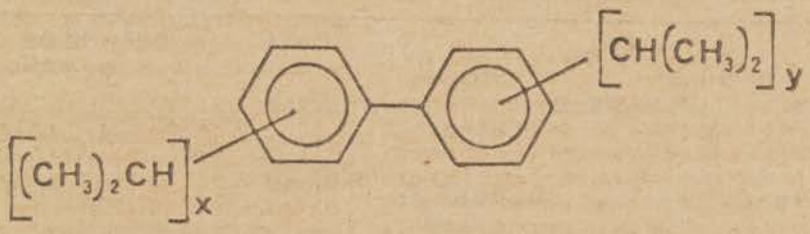
two commercial mixtures should be performed: one high in IPBP and one high in DIPBP.

Physical and Chemical Information

CAS Number:
Isopropylbiphenyl: 25640–78–2
Diisopropylbiphenyl: 69009–90–1

Synonyms:
Isopropylbiphenyl: IPBP—1,1'-Biphenyl, (1-methylethyl)-(9 CI)
Diisopropylbiphenyl: DIPBP—1,1'-Biphenyl, ar, ar'-bis(1-methylethyl)-(9 CI)

Structural Formula:



For IPBP: x=1, y=0
For DIPBP: x=1, y=1 or x=2, y=0

Empirical Formula:
Isopropylbiphenyl: $C_{15}H_{16}$
Diisopropylbiphenyl: $C_{18}H_{22}$

Molecular Weight:
Isopropylbiphenyl: 196
Diisopropylbiphenyl: 238

Melting Point: No data were found on the pure compounds.

Boiling Point: No data were found on the pure compounds.

Vapor Pressure: No data were found on the pure compounds.

Specific Gravity: No data were found on the pure compounds.

Water Solubility: No data were found on the pure compounds.

Log/Octanol Water Partition Coefficient:
Isopropylbiphenyl: 5.34 (estimated; Ref. 14, Peterman, 1983)
Diisopropylbiphenyl: 6.64 (estimated; Ref. 14, Peterman, 1983)

Available data on the physcial and chemical properties of various commercial mixtures of IPBP and DIPBP are presented in the following Table 1.

Table 1--Physical and Chemical Properties of Commercial Mixtures Containing Isopropylbiphenyls and Diisopropylbiphenyls

Property	Compound		
	CG[a]	Wemcol®	SURE SOL®-250
% Isopropylbiphenyl	≥ 94	98.9[b]	≥ 94[c]
% Diisopropylbiphenyl	< 6	<1.1	< 6
Specific gravity	0.98-0.99	0.988[b]	0.990[c]
Log P	--	5.23[d], 7.0[e]	--
Water solubility	--	10 mg/L[b], 0.051 mg/L[e]	--
Vapor pressure	--	5×10^{-4} mmHg[d]	0.01 mmHg[f]
Melting point	--	< -55°C[b]	--
Boiling point	>233° C	--	--

[a]Ref. 19, Sybron, 1982.
[b]Ref. 23, Westinghouse, 1977.
[c]Ref. 8, Koch, 1982.
[d]Estimated (Ref. 1, Addison, 1983).
[e]Measured (Ref. 13, Ozburn et al., 1980).
[f]Ref, 18, Sun, 1977.

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/disposal.* Isopropylbiphenyls (IPBPs) and diisopropylbiphenyls (DIPBPs) are produced simultaneously and are not separated for commercial purposes (Refs. 8, 9, Koch, 1982, 1983). Both compounds are sold as mixtures containing varying ratios of IPBP and DIPBP. The commercial mixtures generally contain also small amounts (<1%) of triisopropylbiphenyls.

Information on the current uses and production of commercial mixtures containing IPBP and DIPBP is presented in the following Table 2.

Table 2--Data on Current Production and Uses of Commercial Mixtures Containing Isopropylbiphenyls and Diisopropylbiphenyls[a]

Product	Manufacturer	Production (million lb.)	Percent IPBP	Use
SURE SOL®-250	Koch	3-4	≥94	Dielectric fluid
CG	Sybron	0.84-8.4	≥94	Dielectric fluid
PG	Sybron	0.36-3.6	≥75	Carbonless copy paper
MPG	Sybron		≥72.5	Carbonless copy paper

[a]Refs. 8 and 19, Koch, 1982; Sybron, 1982.

Mixtures of IPBP and DIPBP containing high percentages of IPBP (>94 percent) are used as dielectric fluids in capacitors (Refs. 8 and 19, Koch, 1982; Sybron, 1982), whereas mixtures containing less IPBP are normally used as dye solvents in the manufacture of carbonless copy paper (Ref. 19, Sybron, 1982). The dye solvent constitutes approximately 3 percent of the paper's weight. Tulp et al. (Ref. 21, 1978) analyzed a sample of the commercial product Wemcol®, a capacitor fluid, and found that it contained 60.3 percent 3-isopropylbiphenyl and 36.6 percent 4-isopropylbiphenyl, with the remainder containing four isomers of diisopropylbiphenyl.

SURE SOL®-250 is produced in a closed system (Ref. 8, Koch, 1982). No information was available on the number of workers exposed to IPBP and DIPBP during the manufacturing process.

The potential for widespread human exposure to IPBP and DIPBP exists through their use in carbonless copy paper. IPBP and DIPBP are expected to enter the environment via wastewaters from plants manufacturing the mixtures, from plants making carbonless copy paper, from paper mills using recycled paper, from capacitor leakage, and from landfills where capacitors and carbonless copy paper have been discarded. Leaching from landfills is also a potential source of human exposure through groundwater contamination.

B. *Evidence for exposure.* There is no direct evidence of human exposure to the compounds. However, two teams of investigators have reported health complaints by office workers using carbonless copy paper containing the compounds (Refs. 10 and 7, Levy and Hanoa, 1982; Kleinman and Horstman, 1982). Peterman (Ref. 14, 1983) investigated the distribution of PCB substitutes in the Fox River system of Wisconsin. He found *m*-IPBP and *p*-IPBP in the wastewater discharge of a deinking-recycling paper mill that used mixed waste paper. He also detected the compounds in walleyed pike collected in the lower Fox River downstream from the discharge site.

A monitoring study performed by the State of Wisconsin (Ref. 15, St. Amant et al., 1983) during 1978–81 revealed the presence of IPBP in fish from several other locations in Green Bay and Sturgeon Bay.

II. *Chemical fate information*—A. *Transport.* The high log octanol/water partition coefficients (between 5 and 7) and the low water solubilities indicate that these compounds are likely to sorb strongly to sediment and suspended matter in receiving waters. Suspended matter can be transported over large distances. There is insufficient information to determine the extent that these compounds are transported. As stated above, IPBP was found in fish downstream from the point of discharge.

B. *Persistence.* Westinghouse (Ref. 23, 1977) performed tests with a mixture containing 98.9 percent IPBP (Wemcol®). In a river die-away study using river water and sediment, greater than 80 percent of the mixture (concentration unspecified) was biodegraded in 48 hours. In a sewage sludge test, 60 percent biodegradation occurred in 24 hours and 100 percent in less than one week. These data suggest facile degradation. However, the presence of IPBP in the discharge of the paper mill after wastewater treatment and in fish several miles away indicates either that IPBP does not readily biodegrade or that at high concentrations (as are likely to be present in the recycling mill wastewater) bacteria cannot degrade

IPBP fast enough to remove it entirely from the effluent.

C. *Rationale for chemical fate recommendations.* Chemical fate tests to determine the potential for transport and persistence within the aquatic environment should be performed.

III. *Biological effects of concern to human health*—A. *Toxicokinetics and metabolism.* Sullivan et al. (Refs. 16 and 17, 1977, 1978) presented excretion studies indicating that 4–IPBP is nearly completely absorbed by the gastrointestinal tract of the rat and that 48 hours after administration of a single oral dose or intraperitoneal dose of ^{14}C–IPBP, more than 80 percent of the radioactivity was eliminated. The authors noted that 4–IPBP and/or its metabolites were sequestered in fatty tissues and were then released at slower rates into the bloodstream for ultimate metabolism and elimination. The same authors reported on biotransformation of 4–IPBP, indicating hydroxylation of the benzene ring and oxidative reactions of the isopropyl chain.

B. *Mutagencity.* Cline and McMahon (Ref. 5, 1977) and McMahon et al. (Ref. 12, 1979) studied the mutagenic activity of 4-IPBP in 10 microbial strains over a 10,000-fold concentration gradient with and without metabolic activation and it was found to be inactive. Other studies (Ref. 11, Litton Bionetics, 1976) demonstrated no mutagenic activity in assays conducted either in the presence or absence of a liver-activation system.

C. *Short-term (acute) effects.* Cannon (Ref. 3, 1975a) and Westinghouse (Ref. 23, 1977) reported acute oral LD_{50} values for IPBP in rats of 4.7 and 8.5 g/kg, respectively. During toxicity studies in rats and dogs, 4-IPBP produced erosions and ulcerations of the upper gastrointestinal mucosa, degenerative changes in kidney tubules, and papillary necrosis (Ref. 20, Todd et al., 1975).

Sullivan et al. (Ref. 17, 1978) performed 90-day toxicity studies with IPBP and noted nephrotoxicity, renal lesions, and small calculi in the renal pelvis and bladder.

When IPBP was administered orally to rats at 800 mg/kg/day for 10–15 days, it caused neutropenia, lymphocytosis, hypoproteinemia, dystrophy of the liver and kidneys, hyperplasia in the spleen, and hypertrophy in myocardial fibers (Ref. 22, Volodchenko et al., 1973).

D. *Skin absorption and irritation studies.* Several studies showing IPBP to be a skin irritant have been reported (Refs. 6, 23, and 4, Haley et al., 1959; Westinghouse, 1977; Cannon 1975b).

E. *Carcinogenicity, teratogenicity, embryotoxicity, and fetotoxicity.* No information was found.

F. *Observations in humans.* Levy and Hanoa (Ref. 10, 1982) reported that office workers complained of an unpleasant odor from a new set of self-copying paper forms. The workers complained also of headaches, irritation, fatigue, and redness of the eyes and face. The odor was attributed to the release of IPBP solvent from the sheets, which were impregnated with both color former and developer on the front and capsules with color former on the back. The complaints gradually disappeared after the suspect forms were replaced with forms from another manufacturer.

Kleinman and Horstman (Ref. 7, 1982) presented a preliminary report of health complaints attributed to the use of carbonless copy paper containing IPBP. Of the exposed office workers on the campus of the University of Washington who responded to a questionnaire, 26.8 percent reported health problems associated with the use of carbonless copy paper and 14.0 percent reported some health effects but were uncertain if these effects were related to the use of the paper. The authors reported a stastisically significant association between the number of complaints and the amount of paper used.

G. *Rationale for health effects recommendations.* There is a potential for dermal exposure to IPBP and DIPBP, particularly as a result of their use in carbonless copy paper. Also there is a potential for human exposure through consumption of fish and drinking water contaminated with the compounds. In view of reports of adverse health effects following exposure of office workers to copy paper containing the compounds, adverse effects in laboratory animals, and lack of chronic toxicity data, it is recommended that 2-year chronic toxicity testing be undertaken, with emphasis on evaluating funther neurotoxic and kidney effects.

IV. *Ecological effects of concern*—A. *Short-term (acute) effects.* According to Westinghouse (Ref. 23, 1977), the 96-hour LC_{50} values of Wemcol® (98.9% IPBP) for bluegills and rainbow trout are 4.0 and 2.5 mg/L, respectively. These tests were static tests, and the concentrations of IPBP were not measured in the test waters. These LC_{50} values substantially exceed the reported water solubility limit of 0.051 mg/L (Ref. 13, Ozburn et al., 1980).

Ozburn et al. (Ref. 13, 1980) performed 96-hour flow-through toxicity tests with Wemcol® and flagfish (*Jordanella floridae*). An acetone carrier was used to help solubilize the compound in the test water. The LC_{50} values for young and adult fish based on measured test concentrations of IPBP were 0.28 mg/L and greater than 0.75 mg/L, respectively. These values also exceed the reported solubility limit in water. Therefore, the aquatic toxicity data should be confirmed.

B. *Long-term (chronic) effects.* Ozburn et al. (Ref. 13, 1980) performed a 31-day test to investigate the potential effects of Wemcol® on reproduction of flagfish. After spawning had begun in all test aquaria, five concentrations of Wemcol® were introduced into the test aquaria. After exposure during a 21-day spawning period, fry survival was investigated over an additional 10-day exposure period. Exposure to Wemcol® had an effect on the adult fish; three of seven died at the 0.42 mg/L exposure level, and one each died at the 0.2 and 0.1 mg/L concentrations, respectively. Although there were apparently no adverse effects on reproduction, fry survival was reduced at a measured IPBP concentration of 0.43 mg/L.

C. *Bioconcentration and food-chain transport.* Ozburn et al. (Ref. 13, 1980) performed a 28-day uptake, 14-day depuration bioconcentration test with flagfish. Fish were exposed to mean IPBP concentrations of 3.5 and 24.1 µg/L. Using the BIOFAC computer program developed by Blau and Agin (Ref. 2, 1978), the bioconcentration factors for the low and high exposures were estimated to be 2,896 and 10,790, respectively. The times to 90 percent steady-state for the low and high exposures were 9.6 and 5.3 days, respectively. The time to 50 percent clearance at both exposure levels was less than 3 days.

D. *Rationale for ecological effects recommendations.* IPBP and DIPBP have been detected in the aquatic environment. Through their continued use in carbonless copy paper and as a dielectric fluid, there remains a potential for environmental release.

No data were found on the toxicity of DIPBP, and the aquatic toxicity data for IPBP need confirmation. The inconsistency in the toxicity data with regard to reported solubility indicates that acute toxicity values may be lower than presently measured. The data indicate that IPBP is toxic to fish at concentrations of less than 1 mg/L. There are no data on the effects of the compound on aquatic invertebrates such as *Daphnia magna*. Because of the suspected toxicity at less than 1 mg/L and the high bioconcentration potential of these compounds, chronic toxicity tests should be performed below the limits of solubility. An early life-stage test with at least one fish (rainbow trout) and a life-cycle test with at least one invertebrate (*Daphnia magna*)

should be performed. Bioconcentration tests with fish should also be performed.

Because of the uncertainties concerning the fate and persistence of these compounds, laboratory microcosm studies are recommended. These studies would determine distribution of the compounds in test animals, sediment, and water column of the test system and would measure the effects on benthic and water-column species.

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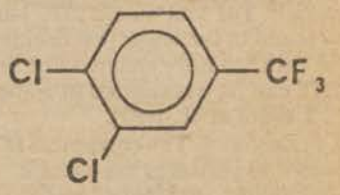
2.3.a *3,4-Dichlorobenzotrifluoride. Summary of recommended studies.* It is recommended that 3,4-dichlorobenzotrifluoride (DCBTF) be tested for the following:

A. Chemical Fate:
Water solubility
Octanol/water partition coefficient
Persistence
Soil mobility
B. Health Effects:
Toxicokinetics
Genotoxicity
Subchronic effects
Chronic effects including oncogenicity
C. Ecological Effects:
Acute and chronic toxicity to fish, aquatic invetebrates, and algae
Bioconcentration

Physical and Chemical Information

CAS Number: 328–84–7.

Synonyms:
Benzene, 1,2-xdichloro-4-(trifluoromethyl)-(9 CI).
3,4-Dichloro-α, α, α-trifluorotoluene.
Structural Formula:



Empirical Formula: $C_7H_3Cl_2F_3$.
Molecular Weight: 215.
Melting Point: −12° C.
Boiling Point: 170° C.
Vapor Pressure: 2 mmHg at 25° C.
Specific Gravity: 1.47.
Solubility in water: 25 mg/L (estimated; Ref. 6, Lyman et al., 1982).
Log Octanol/Water Partition ficient: 4.7 (estimated; Ref. 6, Lyman et al., 1982).
Description of Chemical: Clear liquid.

Rationale for Recommendations

I. *Exposure information*—A. *Production/use/disposal.* The only recent manufacturer of 3,4-dichlorobenzotrifluoride (DCBTF) in the United States has reported that the company no longer makes the compound (Ref. 7, Occidental, 1983). However, U.S. importation of the compound in recent years reached a peak of approximately 3.5 million pounds in 1981 as shown below (Refs. 13 and 14, USITC, 1980–83):

Year and volume imported

	Pounds
1979	509,507
1980	922,852
1981	3,482,106
1982	143,511

The compound is used as a raw material in the manufacture of other chemical intermediates. It is estimated that inhalation exposure occurs to workers at an average concentration of less than 10 ppm (Ref. 8, Rohm and Haas, 1982). Environmental releases to air and water from industrial processing have been reported (Ref. 8, Rohm and Haas, 1982). In addition, disposal of the compound in landfills is believed to be the source of DCBTF found in river water (Ref. 2, Elder et al., 1981).

B. *Evidence for exposure.* The compound has been found at concentrations of 0.02 to 0.28 mg/kg in the edible portion of fish sampled from the Niagara River (Ref. 16, Yurawecz, 1979). Elder et al. (Ref. 2, 1981) found DCBTF in water and/or sediment samples taken from Bloody Run Creek.

The creek drains the Hyde Park landfill and flows into the Niagara River. The concentrations were estimated to be on the order of 0.1 to 1 ppb in the water and 0.5 to 2 ppm in the sediment.

II. *Chemical fate information*—A. *Transport.* The fact that DCBTF has been found in the creek that drains the Hyde Park landfill demonstrates that DCBTF can be transported in water (Ref. 2, Elder et al., 1981).

B. *Persistence.* The compound is expected to persist in the aquatic environment as evidenced by the concentrations of DCBTF found in Niagara River fish (Ref. 16, Yurawecz, 1979). In an anaerobic biodegradation test with 4-chlorobenzotrifluoride (*p*-CBTF), a structural analog of DCBTF, only 64 percent of the compound was converted to gaseous products during a 59-day test (Ref. 3, EPA, 1984). Because of the volatility of *p*-CBTF, an attempt to determine aerobic biodegradation was unsuccessful; and in a 28-day test to determine photolysis, there was no degradation of this analog.

C. *Rationale for chemical fate recommendations.* Although DCBTF is expected to persist in the aquatic environment, information is needed to quantify the removal during wastewater treatment and the rates of biodegradation in receiving waters.

III. *Biological effects of concern to human health*—A. *Toxicokinetics (absorption, distribution, and excretion).* No texicokinetic data have been found, but the estimated log P of 4.7 suggests that the chemical may accumulate in body lipids.

B. *Metabolism.* No information was found.

C. *Mutagenicity.* No data on DCBTF were found. The analog 4-chlorobenzotrifluoride was positive in an unscheduled DNA synthesis assay (EUE cells) and in a sister-chromatid exchange study (Ref. 4, Hooker, 1981).

D. *Short-term (acute) effects.* The acute LC_{50} (oral) and LD_{50} (inhalation) studies with DCBTF in the rat resulted in values of 1.15 g/kg and >2,000 pm (1-hour exposure), respectively (Ref. 8, Rohm and Hass, 1982); a 24-hour skin painting study in the rabbit indicated an LD_{50} value of >5.0 g/kg.

E. *Long-term (subchronic/chronic) effects.* No information was found on neurotoxicity, behavioral toxicity, oncogencity, or other chronic effects. However, 90-day subchronic study of the analog *p*-CBTF demonstrated "renal tubular degeneration" in all male rats at doses of 40, 150, and 500 mg/kg and "centrilobular hypertrophy" in the livers of male and female rats (Ref. 3, EPA 1984).

F. *Reproduction.* No information was found.

G. *Teratogencity.* No information was found.

H. *Rationale for health effects recommendations.* There is concern for the cumulative toxicological effects of long-term worker exposure to the compound. This concern is enhanced by the observed chronic ecological effects at low doses (see section IV). Also, bioaccumulation potential of the compound is cause for concern for human exposure through food-chain transport. Based on these concerns and the absence of health-effects data, it is recommended that toxicokinetic, genotoxic, subchronic, and chronic studies, including oncogenicity studies, be conducted to evaluate the hazards of the compound.

IV. *Ecological effects of concern*—A. *Short-term (acute) effects.* No studies have been found on the acute toxicity of DCBTF; however, studies are available on *p*-CBTF. In static, acute toxicity tests with the bluegill, rainbow trout, and *Daphnia magna* the LC_{50} values ranged from 12 to 13.5 mg/L for *p*-CBTF (Refs. 9, 10, and 11, UCES, 1979a, 1979b, 1979c).

B. *Long-term (subchronic/chronic) effects.* No data were found on DCBTF. In a daphnid life-cycle test with *p*-CBTF, effects were observed at concentrations much lower than those that caused acute effects. The maximum acceptable toxicant concentration (MATC), based on measured concentrations, ranged between 0.030 and 0.050 mg/L while the 21-day LC_{50} was 0.071 mg/L (Ref. 12, UCES, 1979d). The MATC from a 30-day early life-stage test with the fathead minnow was >0.54 and <1.40 mg/L (Ref. 1, EG&G, Bionomics, 1981).

C. *Bioconcentration and food-chain transport.* No test data on DCBTF were found. Based upon an estimated log P of 4.7, the expected bioconcentration factor (BCF) using the equation of Veith et al. (Ref. 15, 1979) would be 2000. The BCF for *p*-CBTF in bluegills was determined to be in the range of 122 to 202 (Ref. 3, EPA, 1984). These values are in fairly good agreement with a BCF of 279, estimated using the Veith et al. equation and a log P of 3.7.

Based upon the expected persistence and bioconcentration potential of DCBTF, food chain transport may occur.

D. *Rationale for ecological effects recommendations.* No data have been found on the aquatic toxicity of DCBTF. However, because of its higher level of chlorination and higher estimated log P, the compound is expected to be more toxic than p-CBTF. DCBTF has an estimated log P of 4.7 as compared with an estimated log P of 3.7 for *p*-CBTF. Based upon the model developed by Konneman (Ref. 5, 1981), the estimated LC_{50} in fish for DCBTF and *P*-CBTF would be 1.3 and 8.0 mg/L, respectively.

Since *p*-CBTF has been found to cause chronic effects on daphnids at 0.050 mg/L, a concentration 240 times lower than the concentration that caused acute toxic effects, the major concern for DCBTF is its potential for chronic effects on invertebrates at very low concentrations.

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and Products. 1982. Publ. No. 1401. U.S. Govt. Printing Office, Washington, DC. p. 15.

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[FR Doc. 84–14050 Filed 5–25–84; 8:45 am]

BILLING CODE 6560–50–M

[OPPE–FRL 2594–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Regulation and Information Management Division (PM–223); U.S. Environmental Protection Agency; 401 M Street, SW., Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Hazardous Waste Programs

• Title: Information Requirements for Hazardous Waste Storage and Treatment Facilities (EPA #0814).

Abstract: Tank and container facilities must obtain an operating permit from EPA under the Resource Conservation and Recovery Act (RCRA). Respondents submit the required information voluntarily or when EPA requests Part B of the RCRA permit. The Agency will use the information to determine eligibility for a RCRA permit.

Respondents: Owners/operators of hazardous waste storage tank and container facilities.

Comments on all parts of this notice should be sent to:

David Bowers (PM–223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation and Information Management Division, 401 M Street, SW., Washington, D.C. 20460, and

Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 84–14057 Filed 5–25–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–211012B; TSH–FRL 2595–8]

Response to Citizen's Petition on Asbestos; Regional Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Response to Citizen's Petition; Notice of Regional Public Meetings.

SUMMARY: EPA will hold three regional public meetings as part of its effort to gather data and hear arguments on current options for asbestos abatement in schools and public buildings, pursuant to the EPA response to a citizen's petition. Those wishing to request time for statements at the meeting should contact the TSCA Assistance Office as indicated in "**FOR FURTHER INFORMATION CONTACT**" below.

DATES: Places and dates: The meetings will take place at the following locations and dates:.

June 14, 1984—Holiday Inn Civic Center, The Gold Room, 50 8th Street, San Francisco, California

June 20, 1984—Dirksen Building, 219 South Dearborn Street, Court Room 2525, Chicago, Illinois

June 28, 1984—Gardiner Auditorium, State House, State Capitol Building, Beacon Street, Boston, Massachusetts2

All meetings will begin at 9 a.m. and adjourn by 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: On November 16, 1983, the Service Employees International Union (SEIU) petitioned EPA, under section 21 of TSCA, to initiate rulemaking to require the abatement of friable asbestos-containing materials in public and private elementary and secondary schools. In addition, the petition requested rulemaking concerning the inspection and abatement of friable asbestos-containing materials in public and commercial buildings.

The specific points of the petition submitted by the SEIU are enumerated below:

1. Establish standards for determining when friable asbestos-containing materials in schools are hazardous.

2. Establish requirements for corrective action when friable asbestos-containing materials are determined to be hazardous.

3. Establish requirements for inspection and abatement of friable asbestos-containing materials in public and commercial buildings.

4. Establish standards for the performance of abatement activities, including standards for the protection of persons performing such activities.

The Agency granted the petitioner's requests as published in the **Federal Register** of April 17, 1984 (49 FR 15094). In granting the petition, the Agency agreed to hold a public meeting on May 7, 1984 to hear testimony from experts on how EPA should modify the Asbestos-in-Schools program. This meeting provided an opportunity for industry, unions, trade associations, public interest groups and other interested parties to furnish information and express their views orally on the details of what the Agency should include in its rulemaking proposals. In response to a subsequent petition, the Agency is conducting three regional meetings on this topic to be held in San Francisco, California, Chicago, Illinois and Boston, Massachusetts.

A copy of the petition and all related information and the administrative record in this proceeding are in Rm. E–107, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Interested persons may view or copy these materials between 9 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Dated: May 21, 1984.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 84–14197 Filed 5–25–84; 8:45 am]

BILLING CODE 6560–50–M

[OPPE-FRL 2596-3]

Establishment of the Nonconformance Penalty Negotiated Rulemaking Advisory Committee

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of the establishment of an advisory committee to negotiate nonconformance penalties. We have determined that establishing this Committee is in the public interest, and will assist the Agency in performing its duties under section 206(g) of the Clean Air Act, as amended.

Copies of the Committee charter will be filed with appropriate standing committees of the Congress and the Library of Congress.

The Committee's initial meeting will be held on June 14, 1984, in Suite 507 of the American Arbitration Association, 1730 Rhode Island Avenue, Northwest. Please note that the meeting will start at 8:30 a.m. (This is a change from the previously announced 10:00 a.m. starting time.) If interested in attending or receiving more information, please contact Chris Kirtz at (202) 382-7565.

Dated: May 24, 1984.

Milton Russell,

Assistant Administration for Policy, Planning and Evaluation.

[FR Doc. 84-14300 Filed 5-25-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Kentucky; Amendment to Notice of a Major-Disaster Declaration

[FEMA-705-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the Commonwealth of Kentucky (FEMA-705-DR), dated May 15, 1984, and related determinations.

DATE: May 22, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Note.—The notice of a major disaster for the Commonwealth of Kentucky dated May 15, 1984, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 15, 1984:

Casey, Estill, Harlan, Johnson, Lee, Owsley, Pulaski and Wayne Counties for Individual Assistance and Public Assistance.

Adair County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-14154 Filed 5-25-84; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-369]

Atlantic Permanent Federal Savings and Loan Association, Norfolk, Virginia; Final Action, Approval of Conversion Application

Dated: May 22, 1984.

Notice is hereby given that on April 17, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Atlantic Permanent Federal Savings and Loan Association, Norfolk, Virginia, for permission to convert to the stock form organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-14158 Filed 5-25-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-370]

Capital Savings and Loan Association, Jefferson City, Missouri; Final Action, Approval of Conversion Application

Dated: May 22, 1984.

Notice is hereby given that on April 30, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Capital Savings and Loan Association, Jefferson City, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-14157 Filed 5-25-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-368]

Nutmeg Federal Savings and Loan Association, Danbury, Connecticut; Final Action, Approval of Conversion Application

Dated: May 22, 1984.

Notice is hereby given that on April 30, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Nutmeg Federal Savings and Loan Association, Danbury, Connecticut, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts 02110.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84-14159 Filed 5-25-84; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-367]

Parish Federal Savings Bank, Denham Springs, Louisiana; Final Action Approval of Conversion Application

Dated: May 22, 1984.

Notice is hereby given that on April 30, 1984, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Parish Federal Savings Bank, Denham Springs, Louisiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agency of said Corporation at the Federal Home Loan Bank of Dallas 500 East John Carpenter Freeway, P.O. Box

619026, Dallas/Fort Worth, Texas 75261–9026.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–14180 Filed 5–25–84; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Somerset Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not late than June 20, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Somerset Bancorp, Inc.*, Somerville, New Jersey; to become a bank holding company by acquiring 80 percent of the voting shares of Somerset Trust Company, Somerville, New Jersey. Comments on this application must be received not later than June 14, 1984.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond Virginia 23261:

1. *Summit Bankshares, Inc.*, Ripley, West Virginia; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Ripley, Ripley, West Virginia.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *PSP Corporation*, Wellsburg, Iowa; to become a bank holding company by acquiring at least 69 percent of the voting shares of Peoples Savings Bank, Wellsburg, Iowa.

Board of Governors of the Federal Reserve System, May 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–14174 Filed 5–25–84; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Agecny Information Collections Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve three existing information collections.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, Acting GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Acquisition Policy, 202–523–4799.

SUPPLEMENTARY INFORMATION:

1. *Government Furnished Property Requirements.*

a. *Purpose.* This clause requires firms that are provided Government property under Federal contracts to maintain a system of property control.

b. *Annual reporting burden.* This is estimated as follows: Respondents and responses 1, hours 4.25.

2. *Limitation of Costs/Funds.*

a. *Purpose.* This clause requires firms performing under Federal cost-reimbursement contracts to notify the Government when incurred costs will exceed 75 percent of the estimated cost.

b. *Annual reporting burden.* This is estimated as follows: Respondents and responses 1,884; hours 942.

3. *Progress Payments.*

a. *Purpose.* This clause requires firms performing under Federal contracts that require progress payments to provide financial information which is used to determine the proper amount of payment.

b. *Annual reporting burden.* This is estimated as follows: Respondents 2,160; responses 25,920; hours 14,256.

Obtaining copies of proposals. Requestors may obtain copies from the Directives and Reports Management Branch (ATRAI), Room 3004, GS Building, Washington, DC 20405, telephone 202–566–0666.

Dated: May 21, 1984.

Frank J. Sabatini,

Director, Information Management Division.

[FR Doc. 84–14177 Filed 5–25–84; 8:45 am]

BILLING CODE 6820–34–M

Establishment of Advisory Panel

Establishment of Advisory Panel. This notice is published in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and advises of the establishment of the Joint Federal, State and Local Government Advisory Panel on Procurement and Supply. The Administrator of General Services has determined that establishment of this Panel is in the public interest.

Designation. Joint Federal, State and Local Government Advisory Panel on Procurement and Supply.

Purpose. The purpose of this Panel is to serve as a forum for exchange of information within the Federal, State and local government communities; increase professionalism and efficiency in procurement and supply support and related service operations; and provide liaison on operational probleme and policy in order that all resources, experience, and expertise available throughout various levels of Government may be fully utilized.

Contact for Information. The Office of Federal Supply and Services is the organization within GSA which is sponsoring this Panel. For additional information, contact James J. Grady, Jr., Director of Policy and Agency Assistance, GSA/FSS, Washington, DC 20406, telephone 703–557–7970.

Dated: May 21, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–14215 Filed 5–25–84; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Social Services Policy Research; Applications for Grants

Pursuant to section 1110 of the Social Security Act, the Assistant Secretary for Planning Evaluation (hereafter the Assistant Secretary) is seeking applications for grants for research and policy analysis concerning public and private provision of social services.

A. Type of Applications Requested

The Department is interested instimulating the development and dissemination of innovative ideas and approaches to improve the provision of social services by: (a) Stimulating private sector alternatives to publicly provided services, (b) encouraging the expanison of the use of volunteers, (c) increasing competition in order to improve the quality of services, control costs and increase efficiency, and (d) strengthening the American family. these themes and 10 research topics which fit into the themes are discussed below. Applications on other topics will be considered, also. Applications should demonstrate how the project will advance the purposes of one or more themes.

Aplications must present a research design and plan. In order to be considered, proposals must demonstrate that the findings will have national or regional significance.

Activities that generally will not meet the purposes of this announcement include:

- Demonstration projects.
- Case studies of one program or jurisdiction.
- Projects of local singificance only.
- Projects whose main activity is a conference not other meeting.
- Major survey research.

Themes

The themes to be addressed are:

- Support for the Family—Whenever possible, public policy should make it easier for families to take care of their own members. For example, projects which would help to better understand policies that support family cohesion or that aid families in taking care or ill or vulnerable members are useful.
- Volunteerism—There is much benefit to be gained from people voluntarily helping one another. Among the forms which contribute to our social well being are self-help groups, volunteers working at providing social services, voluntary associations and other informal expressions of caring. Studies of trends in volunteerism and of ways in which the use of volunteers can be encouraged and coordinated to reduce the need for government service programs would add to knowledge in this area.
- Private sector initiatives—Over the past several decades the public sector has assumed a much greater role in the provision of social services. More recently there has been a trend to return greater responsibility to the communities in which people live, such as churches, places of employment, local voluntary associations and other helping structures. Information on the extent of this movement to private sector delivery systems, on models of private sector service delivery which seem to work well, and in ways in which public policy can foster a continuation and increase in this trend is needed.
- Competition—Public policy should encourage a delivery system in which a variety of providers have the ability to offer services at a competitive price. In this way, there is greater likelihood that services would be provided in the most efficient and cost effective manner possible. This goal could involve investigation of the roles of public, non-profit and for-profit providers of services, identification of public policies which limit the competitiveness of various types of providers, and study of the ways that competition contributes to greater program efficiency.

Research Topics

A–1 *Employee Assistance Programs.* Many corporations provide an array of benefits to their employees through health plans, inhouse counseling services, day care assistance, etc. Some corporations are moveing toward giving their employees a choice (cafeteria style) from a menu of fringe benefits up to a cost ceiling. These services have the potential to reduce the demand for public services.

More knowledge is needed to guide public and private decision making about the services that are being supported by private industry, what percentage of employees in what industries are covered, what factors seem to lead corporations to assume a responsibility for such services for their employees, what are barriers to increased support, and what government can do to promote more corporate involvement.

Research in this area should be directed in inform both national policy makers and corporate executives seeking assistance in developing their corporate policy. For this topic, proposals for detailed case study analyses are acceptable, but other types of research (state-of-the-art analyses for industries or industry groups, for example) will also be considered. This topic fits into the themes of competition and of private sector initiatives.

A–2 *Constant-attendance allowances.* A constant-attendance allowance is a cash benefit paid on behalf of a permanently disabled person who requires either full- or part-time care by another person at home. The cash is provided in lieu of formal personal care service or services with the expectation that the money will be used to reimburse a relative or someone else for the provision of needed care. There are several examples of programs providing cash allowances for constant attendance in the United States. Several States use such allowances in the administration of workman's compensation, some States use them for long-term care of persons with disabilities that are not work-related, and the Veterans Administration uses them for patients needing care who meet certain income standards. In addition, a growing number of European countries use such allowances, both within their workman's compensation-type programs and for other disabled.

The Federal and some State governments have a number of current programs, and others are proposed in legislation currently under consideration, which provide for home care and/or additional income for the disabled. A full analysis of the issues arising in constant attendance allowance programs, and a comparison of the relative efficiency and cost of such programs with care provided with direct public service and with vouchers, would provide appropriate information to inform policy analysis and public discussion.

Useful research could include studies which synthesize the available information on constant attendance allowance programs in the United States and in other countries, and which compare the efficiency of constant attendance allowances with that of direct public provision of services and with voucher provision of services. This topic area relates to the themes of volunteerism, and of support for the family.

A–3 *Structure of the nursing home industry.* The nursing home industry has been in a period of major change in structure over the past ten to fifteen years. From an industry characterized by small units, usually individually owned and operated, it has been changing to one of chains of (often larger) homes, sometimes through new construction, sometimes through the

acquisition of existing homes. Recent legislation changing the reimbursement methods in Medicare and Medicaid for hospitals to provide for prospective payments raises the probability that hospitals may wish formal links with nursing homes to provide immediate access to beds for recuperative and rehabilitative care that is now often provided in the hospital. Changes in nursing home structure may have implications for access and supply of nursing home beds, public and private financing of care, quality and appropriateness of care, regulation and controls, health care cost containment efforts and consumer choice.

To guide decisions by legislative bodies and by public and private agencies, it is important to develop information and analyses on trends in diversification, centralization, and horizontal and vertical integration in the nursing home industry, both skilled and intermediate care facilities. Information on joint hospital/nursing home ventures, and on building or outright acquisition of nursing homes by hospitals is particularly important. Studies might utilize not only conventional academic sources, but data collected by industry associations and securities analysts, bond reference services, etc. This topic is related to competition, and to private sector initiatives.

A–4 *Barriers and incentives affecting the provision of voluntary care.* When voluntary care for the elderly and disabled in the community is available, there may be little pressure for government programs to be developed to care for those who need assistance, but when voluntary care is not available such pressures are more likely to develop. Information is needed on barriers to and incentives for the provision of such voluntary care. Research is especially important on voluntary care of those who need assistance with managing money, shopping, transportation and mobility outside the home, assistance in dealing with public and private agencies and programs, and supervision and continued contact and/or presence. Among the issues which might be examined are the impact of government programs, taxes, and policies on the incentives for voluntary assistance; effects of voluntary care and of care through government programs on care recipients; the current tax treatment of voluntary services, and the effects of possible changes; and IRS rules for designation of charitable organizations, and the effects of changes. This topic relates to volunteerism, and to support for the family.

A–5 *Housing, household relationships, and the demand for institutional care for the elderly.* The amount of housing which is well-suited to the needs of the elderly disabled varies widely in different parts of the United States. Persons needing mobility assistance cannot easily go up or down the stairs in two and three story houses or in walk-up apartments, hence the probability that such persons will enter nursing homes is greater for those who reside in such dwellings. Similarly, the decision on whether or not to enter a nursing home may hinge primarily on whether the house or apartment is shared with a spouse or other individual who can provide assistance. However, the relationship between these factors has not been empirically examined, and information to guide public and private decisions, and to project demand for nursing home beds, is not available.

The issues in this area include the relationship between type of housing occupied, relationship of other household members (if any) to the person needing care, and the demand for institutional care for elderly persons dependent in activities of daily living (personal care functions) or in transportation, meal preparation or other instrumental activities of daily living. This topic fits into the theme of support for the family.

A–6 *Protecting the frail: oversight and surrogate care.* Individuals with impairments of cognitive and/or emotional functioning often require someone to exercise some form of protective oversight, or to act as a surrogate in making decisions. For example, an elderly person may have a tendency to wander out into the neighborhood, and become confused and disoriented when he or she is only a few blocks from home. Others may not remember to pay bills, grocery shop, or prepare meals, even though they are capable of doing so if they are reminded. In the past, such persons were often confined to institutions, even though they presented no real danger to others, and not necessarily an immediate danger to themselves.

In the light of current and proposed changes in the reimbursement systems for institutions providing acute and chronic health care, as well as the continuation of efforts to reduce the proportion of individuals cared for in institutions, a full examination is needed of the policy issues concerning oversight and protective care. Examples of issues which might be addressed in a research study: Tradeoffs between cost and protection for individuals needing care; efficiency considerations in providing services; need for legal training to oversee financial affairs of those unable to make rational decisions; rights, duties, privileges of relatives of the individual; and linkages among the social service, legal, health and mental health systems. This topic addresses the support for the family and volunteerism themes.

A–7 *Examination of the "discovery" effect in community-based long-term care systems.* A community-based care system—Combinations of visiting nurse and other home health services, congregate and home-delivered meals, homemakers services, respite care, and board-and-care or other group quarters—could prove to be a cost-effective alternative to institutionalization for an elderly and functionally impaired individual; that is, when costs and benefits are measured on a per case basis. However, a full-scale community-based care program could also attract persons who would not otherwise seek public support in dealing with their long-term care needs. Thus, while cost-effective for the individual, replacing institutional care programs with community-based care systems might, in the aggregate, create upward pressures on public budgets.

Questions relating to this so-called "discovery" effect for the case of the community-based care system include: (1) What is the size of the target population for community-based care systems? (2) What proportion of this group would not be eligible for, would not seek, or could not find institutional care? (3) What would be the estimated costs of providing community-based care services to those who either are not eligible for, would not seek, or cannot obtain institutional services? (4) What can be learned from other programs (e.g., Food Stamps, AFDC, day care, water and sewage treatment programs) about the factors affecting the growth of their target populations over time, with emphasis on any "discovery" effects?

Studies might assess the theory and methodology for measuring the potential "discovery" effects that might be associated with public funding for community-based care systems for the elderly and/or disabled, analyze existing data bases and/or review the literature which address such effects. This study relates to the support for the family and volunteerism themes.

A–8 *Tax Analysis.* There is a need for research on tax proposals that have major impacts on family independence and responsbility. This research should consider impacts on tax revenues, transfer programs, specific demographic groups (e.g. low-income families and

welfare recipients), and human service programs. Some topics which would be of interest are: The dependent care tax credit, treatment of foster care payments, indexing or other modifications to the personal exemption, spousal IRA's, increase deductions for adoption expenses, taxation of fringe benefits, single versus family rate schedules, and IRA's for the care of the disabled. The analyses should present the issues in a balanced manner showing arguments both for and against, indicating the effects on various groups, and presenting costs of various alternatives. Tax options which provide incentives for families to be self-sufficient and independent of direct government programs are of particular interest. Also of interest are analyses of general tax proposals, such as the flat tax, which emphasize the impact on the poor, disabled, elderly, and single parents. This study primarily is related to the support for the family theme.

A–9 *Adoption Opportunities.* Adoption is usually a better option for children than long-term foster care. Little data are available to indicate what types of families, including both majority white and minority families, are more likely to adopt special needs children, and what techniques are most succcessful in placing these children with families.

Areas of inquiry could include: (a) Techniques used in different media—for example, newspapers, radio or television—and by various groups (such as family support groups) to assist in increasing the pool of families interested in adopting children with special needs; (b) what is known about adoptions arranged in the private sector, without public child welfare agency involvement; (c) ways that local informal groups can assist public agencies in making adoptions of special needs children; (d) ways of reducing the time taken to certify the acceptability of prospective adoptive families; and (e) why some approaches are more effective than others in facilitating the adoption of special needs children. This topic is primarily directed toward the theme of support for the family and the theme of volunteerism.

A–10 *Family Support and Adolescents.* Adolescence is frequently a difficult time for children and their parents, and some of the problems of adolescence generate or affect Federal programs; for example, teenage pregnancies, drug and alcohol dependency, and runaways. More information is needed on adolescents and their families, particularly on how intra-family communication can be improved and on how families can be supported in dealing with adolescent crises.

Among the questions that could be addressed are whether improved intra-family communication can prevent adolescent crises, whether this improvement serves to reduce dependency on government programs, what barriers exist to greater parental involvement in existing support systems and service programs, and whether particular approaches to fostering communication and aiding parents serves to overcome adolescent crises. This topic addresses the theme of support for the family.

Content of Application

The application must begin with a cover sheet followed by the required application forms and an abstract (of not more than one page) of the application. Failure to include the abstract may result in delays in processing of applications. The cover sheet should clearly specify which of the priority topics described above, or what other topic, the application addresses. Each application should be limited to a single policy topic.

Applicants may, however, apply in more than one area, using separate applications.

Each application should include:

(1) A statement about the policy significance of the project, how it relates to the themes and to one of the topical policy priorities selected from the list above, for those projects which fit into the topical priorities.

(2) The tasks that will be undertaken to accomplish the objectives of the project.

(3) A detailed plan of implementation of the project, including a time frame for activities, staff assignment to tasks, expected products, and a budget justification.

(4) Statements about who is expected to benefit from the project, how findings will be utilized, if appropriate, and how findings will be disseminated.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the Code of Federal Regulations on October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), which was published in the Code of Federal Regulations on June 9, 1981.

C. Effective Date and Duration

1. Grant awards pursuant to this announcement are expected to be made in both fiscal years 1984 and 1985. All applications received in response to this announcement will be evaluated together in FY 1984. Some acceptable applications will be held over for award in FY 1985.

2. Grant awards in FY 1984 are expected to be made on or about August 31, 1984. Grant awards in FY 1985 are expected to be made on or about October 30, 1984.

3. In order to avoid unnecessary delays in the preparation of applications, this notice is effective immediately. The closing dates for applications are specified in Section F and G below.

4. Applicants should present a work plan and budget, with adequate justification, covering no more than a one year period.

D. Statement of Funds Availability

1. It is expected that approximately $145,000 will be available for the fiscal year ending September 30, 1984, and that $400,000 will be available for the fiscal year ending September 30, 1985, for the award of a grant or grants pursuant to this announcement. One or more grants may be made, depending on which combination of awards is determined to be in the best interests of the government. The government may choose to not fund a grant in any of the priority topics listed above. It is expected that no award will be for more than $100,000. However, applications for less than that amount are encouraged.

2. Nothing in this application should be construed as committing the Assistant Secretary to dividing the available funds among all qualified applicants or to make any award.

E. Applications Processing

1. Applications will be reviewed by a government review panel (possibly augmented by outside experts) according to the criteria set forth in item 4. Three (3) copies of each application are required; however, to expedite review, applicants are encouraged to send an additional seven (7) copies of their application. Applicants will not be penalized if these extra copies are not included. Utilizing the scores from the review panel and other advice as desired, the Assistant Secretary for Planning and Evaluation will make the final selection of applications which will be awarded grants.

2. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

3. Applications should be as brief and concise as is consistent with the information requirements of the reviewers. Applications should be limited to 25 double-spaced pages, exclusive of resumes and the proposed budget and budget justification. They should be neither unduly elaborate nor contain voluminous supporting documentation.

4. Criteria for evaluation—The review panel will employ the following criteria in reviewing applications. The relative weights are shown in parentheses.

a. The extent to which the application appears to have the potential to make a useful contribution to knowledge and policy discusssion of one of the priority topics, or to some other important policy topic, and to at least one of the themes discussed above. (35 points)

b. The adequacy of the technical approach and management plan. The description of the technical approach should include a well articulated statement of objectives, a clear and thorough discussion of tasks to be accomplished which would meet those objectives, a full description of the proposed methodology to be used in completing the tasks, a schedule of activities, and a list of products, with completion dates. (30 points)

c. The appropriateness of the staffing and resource allocation. The application must explain the qualifications of the staff for carrying out the project, the assignment of responsibilities and the allocation of time of senior staff, and the applicant organization's resources and experience for carrying out the tasks of the proposed project. (35 points)

5. These grants are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." The regulations apply to certain Federal financial assistance and direct Federal development programs and activities of the Department of Health and Human Services. These regulations replace the intergovernmental consultation system developed by OMB Circular A–95.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by first class, registered, certified, or express mail not later than July 20, 1984, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service. Applications sent by a commercial carrier will be considered to be received on time by the Grants Officer if sent not later than July 20, 1984 as evidenced by a receipt from the commercial carrier.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between 9:00 a.m. and 4:30 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close-of-business on Friday, July 20, 1984.

H. Disposition of Applications

1. Approval, disapproval, or deferral. On the basis of the review of the application the Assistant Secretary will either (a) approve the application in whole or in part for funding in either FY84 or FY85; (b) disapprove the application; (c) defer action on the application for such reasons as lack of funds or need for further review.

2. Notification of disposition. The Assistant Secretary will notify the applicants as to the disposition of their applications. A signed notification of grant award will be issued to the contact person listed in block 4 of the application to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201. Phone (202) 245–1794. Questions concerning the preceding information should be submitted to the Grants Officer at the same address. Neither questions nor requests for applications should be submitted after July 6, 1984.

J. Federal Domestic Assistance Catalog

This announcement is not listed in the Federal Domestic Assistance Catalog.

Dated: May 22, 1984.

Robert B. Helms,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 84–14234 Filed 5–25–84; 8:45 am]

BILLING CODE 4150–04–M

Health Care Financing Administration

[BERC–296–NR]

Medicare Program; Provider Reimbursement Review Board Jurisdiction Over Appeals From Estimation of and Modifications to Base Year Costs Under the Prospective Payment System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of HCFA ruling.

SUMMARY: This notice announces a HCFA Ruling which clarifies the point in time the Provider Reimbursement Review Board (PRRB) may assume jurisdiction to hear appeals by hospitals from an intermediary's estimation of the hospital's base year costs and modifications thereto, made for purposes of determining the hospital-specific rate under the Prospective Payment System (PPS). The Ruling specifies that the PRRB cannot assume jurisdiction over such determinations until the end of the PPS cost reporting period and after the amount of total program reimbursement has been reported to the provider by the fiscal intermediary by means of a Notice of Amount of Program Reimbursement (NPR).

FOR FURTHER INFORMATION CONTACT: George Cray, (301) 597–3874.

SUPPLEMENTARY INFORMATION: We plan to compile and publish all HCFA Rulings in the "Health Care Financing Administration Rulings" Booklet which will be indexed for citation purposes. When this ruling is republished in the booklet, it will be known as HCFAR 84–1. The text of the HCFA ruling is as follows:

Provider Reimbursement Review Board Jurisdiction Over Appeals From Estimation of and Modifications to Base Year Costs Under the Prospective Payment System—HCFAR 84–1

Purpose

This ruling provides public notice of the interpretation by HCFA of the regulations at 42 CFR 405.474(b) and 42 CFR 405.1801 *et seq.* which implement the reviewing authority of the PRRB under section 1878(a)(1)(A) of the Social Security Act, 42 U.S.C. 1395oo(a)(1)(A).

Citations

Section 1878 of the Social Security Act [42 U.S.C. 1395oo(a)] and 42 CFR 405.1801 *et seq.*

Pertinent History

During the transition period for introduction of the PPS, the payment amount made to hospitals for each discharge consists of two parts. The "Federal portion" is a percentage of the product determined by multiplying the weighting for the applicable diagnosis related group (DRG) by the appropriate standardized amount. The standardized amounts are based on the historical average costs of all hospitals in a designated grouping, i.e., throughout the nation, within a particular census division and within designated urban or rural areas. The other part of the payment for each discharge, the "hospital-specific portion," is determined in the same way, except that the DRG weighting is multiplied by an amount reflecting the historical average costs of the particular hospital, rather than of a group of hospitals.

The cost base for determining the hospital-specific portion is determined by using each hospital's cost per discharge (after adjustment for the complexity of its case mix) during the hospital's 12-month cost reporting period ending on or after September 30, 1982, and before September 30, 1983 (42 CFR 405.474(b)(1)). Costs incurred during this base year are determined by the intermediaries in accordance with usual Medicare rules. Costs that Medicare does not allow are excluded by the intermediaries, and are neither the basis for reimbursement for the base year nor the basis for determining a hospital's historical costs in connection with the PPS hospital-specific portion.

After the intermediary determines a hospital's base year costs, the intermediary adjusts the costs in certain respects for the purpose of adapting the costs to use in the prospective payment system. These modifications do not affect a hospital's reimbursement for the base year, but only the amount of its hospital-specific payment rate under PPS. The potential modifications involve nursing differential costs, direct Medical education costs, capital related costs, kidney acquistion costs, malpractice insurance costs, services paid under Medicare Part B during the base year but covered by the prospective payment amount, FICA taxes to be paid during the PPS period but not paid during the base period, costs that were incurred for the purpose of increasing base year costs or costs or revenues that have the effect of distorting base year costs as an appropriate basis for computing the hospital-specific rate, and higher costs that result from changes in hospital accounting principles initiated in the base year (42 CFR 405.474(b)).

The intermediary's estimation of a hospital's base year costs and modifications thereto are reported to the hospital on HCFA Form 1007 prior to the beginning of its first cost reporting period under PPS. Ordinarily the estimation of base year costs appearing on this form will be identical to the determination of the base year costs in the NPR for the base year.

Questions have been raised as to the time at which the PRRB has jurisdiction to review the intermediaries' calculation of base year costs and the modifications thereto described above. In particular, the issue is whether the intermediary's estimation of base year costs and modifications thereto is reviewable at the time that this calculation is made and provided to each hospital prior to its becoming subject to PPS.

Actions that are reviewable by the PRRB are defined by statute and HCFA regulations. Section 1878 of the Social Security Act, 42 U.S.C. 1395oo, allows a hospital subject to PPS to appeal to the PRRB if it "has submitted such reports within such time as the Secretary may require in order to make payment" and is dissatisfied with a "final determination of the Secretary" as to the amount of payment under the PPS statutory provisions. HCFA's regulations make clear that the determination triggering the right of hospitals under PPS to PRRB review, "includes a determination of the total amount of payment due the hospital under that system for the hospital's cost reporting period covered by the determination" (42 CFR 405.1801(a)(2)–(3)). The regulations thus specify that issues related to payment amounts under PPS may not be appealed to the PRRB until the hospital seeking appeal has received its notice of amount of program reimbursement (NPR) for the PPS cost reporting period involved. Only the NPR determines the "total amount of payment due the hospital," as required by the regulations for PRRB review. (The regulations state that the appealable intermediary determination "includes" the determination of total PPS payments because the determination will also include reimbursement for capital costs and other items outside PPS.)

Moreover, in commenting on the interim PPS regulations published in the **Federal Register** on September 1, 1983 (48 FR 39751–39890), at least one commenter urged that the regulations be "clarified" to allow intermediary determinations regarding base year costs to be appealed to the PRRB immediately. The response to that and related comments in the preamble to the final regulations published January 3, 1984 (49 FR 00279), stated:

> Disputes that arise concerning prospective payments will be resolved under the administrative and judicial review procedures established in section 1878 of the Act and the Medicare regulations at 42 CFR Part 405, Subpart R. Under these procedures, a provider that is dissatisfied with the intermediary determination of the total amount of the program reimbursement due for a cost reimbursement period (as contained in a "Notice of Amount of Program Reimbursement" issued after the close of the period) may request a hearing * * *

Thus, the preamble also makes clear that the PRRB has jurisdiction to hear issues with respect to PPS payment amounts only after an NPR has been issued following conclusion of the applicable cost reporting period.

Insofar as a hospital seeks PRRB review of the intermediary's determination of the hospital's costs during the base year cost reporting period itself, however, the hospital may appeal to the PRRB following reaceipt of the NPR applicable to such year. If the hospital is successful in its appeal, its reimbursement for the base year will be adjusted accordingly and the hospital's hospital-specific payment rate will be adjusted beginning with the first day of the hospital's first cost reporting period on or after the hospital's successfull appeal. Thus, as a practical matter, initiation of PRRB review of an intermediary's determination for which an NPR is issued for the cost reporting period which serves as the base year will have the effect of appealing an intermediary' estimation of base year costs (but not including modifications thereto) before the conclusion of a hospital's first cost reporting period under PPS.

If a hospital seeks PRRB review of an intermediary's modifications to its base year costs, which were made by the intermediary not to affect base year reimbursement but for the purpose of establishing a hospital's PPS hospital-specific payment rate, appeal may not be sought immediately. Instead, as explained above, the PRRB lacks jurisdiction to review such actions until the hospital has received its NPR for its first PPS cost reporting period. Similarily, the PRRB lacks jurisdiction to review the estimation of a hospital's base year costs as stated on the HCFA Form 1007.

The prohibition on appealing issues related to PPS until after issuance of the NPR serves the substantial purpose of preventing piecemeal litigation. In the event that a hospital successfully appeals the modifications to its base

year costs made by the intermediary for purposes of PPS, the results of the appeal will be retroactive to the time of intermediary's action (42 CFR 405.474(b)(2)(iv)).

Ruling

Provider Reimbursement Review Board jurisdiction over appeals from estimation of and modifications to base year costs under the prospective payment system. It is HCFA's ruling that an intermediary's estimation of a hospital's base year costs and modifications thereto, made for purposes of determining the hospital-specific rate under PPS (HCFA Form 1007) is neither a final determination of program reimbursement nor a notice of the amount of program reimbursement as required by the statute and regulations. Accordingly, the PRRB has jurisdiction to review an intermediary's modifications to base year costs, made for purposes of implementing the prospective payment system, or the estimate of those costs as stated on HCFA Form 1007, only after an NPR has been issued for the hospital's first cost reporting period under the prospective payment system.

(Sec. 1878 of the Social Security Act: 42 U.S.C. 1395oo(a) and 42 CFR 1801 *et seq.*)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare hospital Insurance)

Dated: May 18, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84-14233 Filed 5-25-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ORE 05771, ORE 010313, OR 19325 or 19326, OR 19327]

Oregon; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that the existing land withdrawals for the Crooked River Project continue for an additional 100 years. The land(s) would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

The Bureau of Reclamation proposes that the existing land withdrawals made by BLM Orders of April 10, 1958 and September 16, 1953, PLO 2829 of December 3, 1962 and Secretarial Orders of April 14, 1943 and May 23, 1946, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located adjacent to the Prineville Reservoir approximately fifteen miles southeast of Prineville and aggregate 4,394.68 acres within Crook County, Oregon.

The purpose of the withdrawals are to project the Prineville Reservoir which is a part of the Crooked River Project. The withdrawal segregates the land(s) from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: May 17, 1984.

David Sinclair,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-14175 Filed 5-25-84; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Intention To Negotiate Concession Contract; Ogden Food Service Corp.

Pursuant to the provision of Section 5 of the Act of October 9, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice the Department of Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Ogden Food Service Corporation, authorizing it to continue to provide food and merchandising services for the public within Valley Forge National Historical Park for a period of five (5) years from January 1, 1985.

This contract renewal has been determined to be catergorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contact. This provision in effect grants Ogden Food Service an opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by the aforementioned Ogden Food Service Corporation. If the Ogden Food Service Corporation, amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with said Ogden Food Service Corporation.

The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be post-marked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact Superintendent, Valley Forge National Historical Park, Valley Forge Penna., (215-481-4070) for information as to the requirements of the proposed contract. Zip 19481.

Dated: May 15, 1984.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 84-14291 Filed 5-25-84; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 18, 1984. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 28, 1984.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Boulder County

Boulder vicinity, *Walker Ranch Historic District*, W of Boulder

Chaffee County

Salida, *Salida Downtown Historic District*, Roughly bounded by Arkansas River, RR track, 3rd, and D Sts.

Larimer County

Estes Park, *Park Theatre*, 130 Moraine Ave.

ILLINOIS

White County

Burnt Prairie, *Old Morrison Mill*, Off Liberty Rd.

KANSAS

Douglas County

Lawrence, *Miller, Robert H., House*, 1111 E. 19th St.

LOUISIANA

Lafayette Parish

Lafayette, *Daigle House*, 1022 S. Washington St.
Lafayette, *Elrose*, 217 W. University Ave.
Lafayette, *Lafayette Elementary School*, 1301 W. University Ave.
Lafayette, *Lafayette Hardware Store*, 121 W. Vermilion St.
Lafayette, *Roy, J. Arthur, House*, 1204 Johnston St.

MAINE

Lincoln County

Archeological Site 16.175 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.198 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.20 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.21 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.37, Area I (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.37, Area II (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.38 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.47 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.68 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.73 (Boothbay Region Prehistoric Sites TR),
Archeological Site 16.8 (Boothbay Region Prehistoric Sites TR),
Archeological Site 26.27 (Boothbay Region Prehistoric Sites TR),
Taylor Site (Boothbay Region Prehistoric Sites TR),

Penobscot County

Bangor, *Great Fire of 1911 Historic District*, Harlow, Center, Park, State, York, and Central Sts.

MARYLAND

Montgomery County

Gaithersburg, *Gaithersburg Latitude Observatory*, 100 DeSellum Ave.

MICHIGAN

Keweenaw County

Isle Royale National Park, *Algomo (Shipwrecks of Isle Royale National Park TR)*, Offshore of Mott Island
Isle Royale National Park, *America (Shipwrecks of Isle Royale National Park TR)*, North Gap Channel
Isle Royale National Park, *Chester A. Congdon (Shipwrecks of Isle Royale National Park TR)*, Congdon Shoal
Isle Royale National Park, *Cumberland (Shipwrecks of Isle Royale National Park TR)*, SW of Rock of Ages Reef
Isle Royale National Park, *Emperor (Shipwrecks of Isle Royale National Park TR)*, Canoe Rocks
Isle Royale National Park, *George M. Cox (Shipwrecks of Isle Royale National Park TR)*, SW Rock of Ages Reef
Isle Royale National Park, *Glenlyon (Shipwrecks of Isle Royale National Park TR)*, Glenlyon Shoal
Isle Royale National Park, *Henry Chisholm (Shipwrecks of Isle Royale National Park TR)*, SW of Rock of Ages Reef
Isle Royale National Park, *Kamloops (Shipwrecks of Isle Royale National Park TR)*, Kamloops Point
Isle Royale National Park, *Monarch (Shipwrecks of Isle Royale National Park TR)*, S of Blake's Point

NEBRASKA

Cherry County

Valentine, *Valentine Public School*, 3rd and Macomb Sts.

Valley County

Ord, *People's Unitarian Church*, 1640 N St.

NEW JERSEY

Atlantic County

Somers Point vicinity, *Jeffries, Capt. John, Burial Marker*, Palestine Bible Church Cemetery, NJ 559

Hudson County

Jersey City, *Ficken's Warehouse*, 750–766 Grand St.
Jersey City, *Labor Bank Building*, 26 Journal Sq.

Hunterdon County

Oldwick vicinity, *Kline Farmhouse (Cold Spring Cottage)*, NJ 517

Somerset County

Lamington, *Lamington Historic District*, Lamington, Black River, Rattlesnake Bridge, and Cowperthwaite Rds.

NEW YORK

New York County

New York, *St. Vincent Ferrer Church and Priory*, 869 and 871 Lexington Ave.

Tioga County

Berkshire, *Akins, Lyman P., House (Berkshire MRA)*, W. Creek Rd.
Berkshire, *Akins, Robert, House (Berkshire MRA)*, Main St.
Berkshire, *Ball, J., House (Berkshire MRA)*, NY 38
Berkshire, *Ball, Levi, House (Berkshire MRA)*, NY 38
Berkshire, *Ball, Stephen, House (Berkshire MRA)*, Main St.
Berkshire, *Belcher Family Homestead and Farm (Berkshire MRA)*, NY 38
Berkshire, *Berkshire Village Historic District (Berkshire MRA)*, Main St. and Leonard Ave.
Berkshire, *Buffington, Calvin A., House (Berkshire MRA)*, Depot St. and Railroad Ave.
Berkshire, *Colins, Nathaniel Bishop, House (Berkshire MRA)*, NY 38
Berkshire, *East Berkshire United Methodist Church (Berkshire MRA)*, E. Berkshire Rd.
Berkshire, *First Congregational Church (Berkshire MRA)*, Main St.
Berkshire, *Ford, Lebbeus, House (Berkshire MRA)*, Jewett Hill Rd.
Berkshire, *Royce, Deodatus, House (Berkshire MRA)*, NY 38
Berkshire, *Royce, J. B., House and Farm Complex (Berkshire MRA)*, NY 38

OREGON

Clatsop County

Astoria, *Astoria Wharf and Warehouse Company*, Water St.

Coos County

Coos Bay, *Chandler Hotel and Annex*, 187 W. Central Ave.

Lane County

Coburg, *Mathews, Nelson and Margret, House*, 231 E. Pearl St.
Eugene, *Shelton-McMurphy House and Grounds*, 303 Willamette St.

Multnomah County

Portland, *Commodore Hotel*, 1009 SW. Morrison St.
Portland, *Jewish Shelter Home*, 4133 SW. Corbett Ave.

Washington County

Forest Grove vicinity, *Beeks, Silas Jacob N., House*, NE of Forest Grove

PENNSYLVANIA

York County

Goldsboro, *Goldsboro Historic District*, Roughly bounded by North, Third, Fraser, and Railroad Sts.

PUERTO RICO

Cuayama County

Barranquitas, *Casa Natal de Luis Munoz Rivera*, Munoz Rivera and Manuel Torres Sts.

TEXAS

Cameron County

Brownsville, *La Nueva Libertad*, 1301 E. Madison St.

VIRGINIA

Loudoun County

Middleburg vicinity, *Benton*, VA 744

Newport News (Independent City)

S.S. John W. Brown, Fort Eustis

WISCONSIN

Eau Claire County

Eau Claire, *Kline's Department Store (Eau Claire MAR)*, 6—10 S. Barstow St.

Jefferson County

Jefferson, *Puerner Block-Breunig's Brewery*, 101—115 E. Racine, 110—112 N. Main St.

Winnebago County

Neenah, *Wisconsin Avenue Historic District*, 106—226 W. Wisconsin Ave., 110 Church St.

[FR Doc. 84-14290 Filed 5-25-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-163]

Procedures for Providing Notice of Specified Applications Through an ICC Register in Lieu of Federal Register Notice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Change in Subscription and Printing Services for the *ICC Register*.

SUMMARY: Due to the closing of in-house printing facilities at the ICC, all printing and subscription services for the *ICC Register* will be handled through the Government Printing Office. The subscription rate for this service has been changed by GPO.

DATES: Effective the week of May 14, 1984.

FOR FURTHER INFORMATION CONTACT:

At the ICC: Darlene Proctor, Ellen R. Keys (202) 275-7233;

At GPO: Subscription desk, (202) 783-3238.

SUPPLEMENTARY INFORMATION: At 48 FR 32175, July 14, 1983, the Commission published final rules which announced the formation of a new *ICC Register* and began a subscription service for that publication. The yearly subscription rate was established at $225.

Due to the closing of printing facilities at the ICC, in-house subscription and printing services for the *ICC Register* will be discontinued. All printing and subscription services for the *ICC Register* will be handled through the Government Printing Office effective the week of May 14, 1984. Current subscriptions will be transferred to GPO and will continue to run uninterrupted for their term at no additional cost to the subscriber.

GPO has established a change to the current subscription rate. The subscription price has been established at $255 per year domestic ($318.75 foreign), $1.75 single copy domestic ($2.20 foreign). Orders for new subscriptions or for renewals of subscriptions which expire after May 31, 1984, should be directed to GPO at the following address: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Federal Government agencies wishing to receive daily copies of the *ICC Register* should submit a rider requisition (SF1) to GPO through their agency's Printing and Binding Officer. GPO is now accepting riders for the balance of FY 84 and will also accept orders for FY 85.

Government riders for the *ICC Register* should be directed to: U.S. Government Printing Office, N. Capitol & H Sts., NW, Washington, DC 20401, ATTN: Robert Cox.

Dated: May 15, 1984.

By the Commission, Reese H. Taylor, Chairman.

James H. Bayne,

Secretary.

[FR Doc. 84-14161 Filed 5-25-84; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-74]

Passenger Train Operation

May 23, 1984.

TO: Union Pacific Railroad Company

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks at Dunsmuir, California, are temporarily out of service because of a derailment. An alternate route is available via the Union Pacific Railroad Company between Bieber, and Sacramento, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Bieber, California, and a connection with Southern Pacific Transportation Company (SP) at Sacramento, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 2:45 p.m., e.d.t., May 9, 1984.

(e) *Expiration date.* The provisions of this order shall expire at 12:00 noon, e.d.t., May 10, 1984, unless other wise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 25, 1984.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc 84-14211 Filed 5-25-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-156 (Sub-15X)]

Delaware and Hudson Railway Co.—Abandonment—In Luzerne County, PA; Exemption

Delaware and Hudson Railway Company (D&H) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 0.55 in the Borough of Larksville and milepost 1.88 in the City of Wilkes-Barre, including the connections to Wilkes-Barre Connecting Railroad Company, in Luzerne County, PA.

D&H has certified: (1) That no local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line, (2) that no formal complaint filed by a user of rail service on the line or by a State or local governmental entity acting in behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Pennsylvania has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on June 28, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by June 8, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed June 18, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to D&H's representative: George H. Kleinberger, 40 Beaver Street, Albany, NY 12207.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-14210 Filed 5-25-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-156 (Sub-14X)]

Delaware and Hudson Railway Co.—Abandonment—In Lackawanna County, PA; Exemption

Delaware and Hudson Railway Company (D&H) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between Valuation Station 0+00 at the junction thereof with Valuation Station 33+53.7 of the Vine Street Branch of D&H, and Valuation Station 16+78.1 for a total distance of 1,678.1 feet, in the City of Scranton, Lackawanna County, PA.

D&H has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, (2) that no formal complaint filed by a user or rail service on the line or by a State or local governmental entity acting on behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Pennsylvania has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

A condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on June 28, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by June 8, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed June 18, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to D&H's representative: George H. Kleinberger, 40 Beaver Street, Albany, NY 12207.

If the notice of exemption contains false or misleading information, the use of the exemption is void ab initio.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-14209 Filed 5-25-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-. 30X)]

The Gulf and Interstate Railway Co. of Texas and the Atchison, Topeka and Santa Fe Railway Co.—Abandonment and Discontinuance—In Chambers County, TX; Exemption

The Gulf and Inter-State Railway Company of Texas and the Atchiston, Topeka and Santa Fe Railway Company (Santa Fe) have filed a notice of exemption under 49 CFR 1152, Subpart F—*Exempt Abandonments.* Santa Fe intends to abandon and discontinue service over a portion of its Silsbee District extending from milepost 46.0 near Stowell to the end of the line at milepost 37.0 near White's Ranch, a distance of 9.0 miles, in Chambers County, TX.

Santa Fe certified: (1) That no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Texas has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on June 24, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by June 4, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 14, 1984.

with: Office of the Secretary, Case Control Branch, Interstate Commerce commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Mr. Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, the use of the exemption is void ab initio.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 21, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-14208 Filed 5-25-84; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities Higher Education Study Group; Meeting

May 22, 1984.

Notice is hereby given that meetings of a Study Group to discuss the present state of and future prospects for learning in the humanities in higher education will be held at different times or dates than previously announced in the **Federal Register** on April 12, 1984 at Vol. 49, No. 72, pp. 14603–14604. The meeting originally scheduled for June 8, 1984 from 10:00 a.m. to 3:00 p.m. will now begin at 9:30 a.m. The meeting originally scheduled for July 25, 1984 will now be held on July 24, 1984. Both meetings will be in Room M–09 in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, D.C. These meetings will be open to the public.

The Study Group is composed of educators, scholars, and other persons knowledgeable about the humanities and higher education.

Further information about these meetings can be obtained from Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202–786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-14301 Filed 5-25-84; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Advisory Group on Continential Drilling; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Ad Hoc Advisory Group on Continental Drilling is necessary, appropriate, and in the public interst in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, pursuant to Section 9(a) of the Federal Advisory Committee Act and other applicable issuances.

Name of Committee: Ad Hoc Advisory Group on Continental Drilling.

Purpose: To advise the Director, NSF, on the roles and relative priorities of continental scientific drilling and other proposed studies of the continental lithosphere.

Effective Date of Establishment and Duration: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of Congress having legislative jurisdiction of the Foundation. The Group will operate on an ad hoc basis for three months.

Membership: The membership of this Group shall be fairly balanced in terms of the points of view represented and expertise in the appropriate scientific disciplines. Members will be individuals eminent in the related scientific fields. Due consideration will be given to achieving membership that reasonably represents the academic research community; not-for-profit and for-profit research organizations; and other balance, including women and minorities, the handicapped, and geographic regions of the country.

Operation: The Group will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), Foundation policy and procedures, GSA Interim Regulations on Advisory Committee Management, and other directives and instructions issued in implementation of the Act.

Edward A. Knapp,

Director.

May 23, 1984.

[FR Doc. 84-14256 Filed 5-25-84; 8:45 am]

BILLING CODE 7555-01-M

Representatives of the Industrial Community and NSF; Ad Hoc Meeting

The National Science Foundation announces an *ad hoc* meeting of representatives of the industrial community and the NSF Acting Assistant Director for Engineering and Directorate for Engineering staff regarding issues of concern to the National Science Foundation and to industry. The purpose of the meeting is to review and discuss available information and the National Science Foundation and Directorate for Engineering Budgets for FY 1984 and FY 1985, Engineering Research Center, and Directorate for Engineering long-range planning.

Although this *ad hoc* discussion does not constitute a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 92–463), the meeting will be open to public attendance and observation.

The meeting will be held in Room 1240, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, on Wednesday, June 6, 1984, from 9:00 a.m. to 4:00 p.m.

For additional information, please contact Mrs. Mary Poats, Special Assistant to the Assistant Director for Engineering, National Science Foundation, Room 537, 1800 G Street, NW., Washington, D.C. 20550, Telephone: 202–357–9571.

Dated: May 23, 1984.

Carl W. Hall,

Acting Assistant Director for Engineering.

[FR Doc. 84-14255 Filed 5-25-84; 8:45 am]

BILLING CODE 7555-01-M

Ad Hoc Oversight Subcommittee for Astronomy Centers Section; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Oversight Subcommittee for Astronomy Centers Section, Advisory Committee for Astronomical Sciences.

Date: June 14 and 15, 1984.

Time: 9:00 a.m.–5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Partially Closed.

Contact Person: Dr. Kurt W. Riegel, Head, Astronomy Centers Section, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357–9450.

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide NSF management with an advisory appraisal of the technical stewardship by the NSF. This review is in accordance with policies outlined in NSF Circular No. 147.

Agenda

Thursday, June 14, 1984

9 a.m.–3 p.m.: Subcommittee review of Division files and interviews with NSF staff.

3 p.m.–5 p.m.: Proposal peer review session (Closed)

Friday, June 15, 1984

9 a.m.–5 p.m.: Subcommittee preparation of conclusions and written report.

Reason for Closed Session: Review of proposals from the Centers will involve external peer reviews that are confidential. This is within exemption (4) and (6) of 5 U.S.C. 552b, 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, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

May 23, 1984.

[FR Doc. 84–14257 Filed 5–25–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Chemical and Process Engineering; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463 as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemical and Process Engineering.

Type of meeting: June 11, 9:00 a.m. to 12:00 noon, Open—June 11, 1:30 p.m. to 5:00 p.m., Partially Closed (See Agenda)—June 12, 8:30 a.m. to 4:00 p.m., Open.

Date: June 11 and 12, 1984.

Place: Room 540, 1800 G Street, NW, Washington, D.C. 20550.

Contact Person: Dr. Marshall M. Lih, Division Director, Chemical and Process Engineering, Room 1126, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–9606.

Summary Minutes: May be obtained from Dr. Marshall M. Lih, Director, Division Chemical and Process Engineering, Room 1126, National Science Foundation Washington, D.C. 20550. Telephone (202) 357–9606.

Purpose of Committee: To provide directions to Chemical and Process Engineering research.

Agenda

Monday, June 11—Open—9:00 a.m. to 12:00 Noon

9:00 a.m.—Introduction by Division Director and Status Report by NSF Management
10:00 a.m.—Questions and Answers
10:15 a.m.—Continued Briefing by NSF Management
11:45 a.m.—Questions and Answers
12:00 p.m.—Recess

Monday, June 11—1:30 p.m. to 5:00 p.m.

1:30 p.m. (Closed)—Review and comparison of declined proposals (and supporting documentation) with successful awards under the Chemical and Process Engineering Division, including review of peer review materials and other privileged materials.
1:30 p.m. (Open)—task Group Meetings

Tuesday, June 12—Open—8:30 a.m. to 4:00 p.m.

8:30 a.m.—Oral Reports from the Program auditing teams and task groups
9:30 a.m.—Discussion of Issues
11:45 a.m.—Recess
1:15 p.m.—Continued discussion of issues
4:00 p.m.—Adjourn

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any nonexempt materials that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the 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, National Science Foundation, on July 6, 1979.

Dated: May 22, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–14258 Filed 5–25–84; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Modifying Sugar Import Quota Allocations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice modifies the country allocation provisions which are presently applicable to sugar import quatoas to permit the importation of specialty sugars.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: Rollinde Prager, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, D.C. 20506, Telephone 202–3953077.

SUPPLEMENTARY INFORMATION: Presidnetial Proclamation 4941 of May 5, 1982 (47 FR 19661) modified the quotas on the importation into the United States of sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS) and allocated the quotas on a country-by-country basis. This sugar import quota system prevented the importation of certain refined sugars used for specialized purposes when they are the product of countries that did not have quota allocation. As the demand for these specialty sugars in the United States is extremely limited, users of these specialty sugars had been unable to obtain supplies from domestic sources.

Proclamation 4941 authorizes the U.S. Trade Representative or his designee and the Secretary of Agriculture, after appropriate consultations, to make certain modifications in the sugar import quota system if such modifications are appropriate to carry out U.S. obligations under the International Sugar Agreement, 1977 (ISA), and if such modifications give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade. After appropriate consultations between the Office of the U.S. Trade Representative and the Departments of State and Agriculture, the Deputy United States Trade Representative determined that the allocation provisions of the import quota system for sugars should be modified. Each country which exported sugars to the United States during the period 1974–81 and which was not currently allocated an import quota was initially granted a quota of 80 short tons, raw value, annually to be used only for the importation of sugar which satisfies the criteria set forth below for "specialty sugars" and which is accompanied at importation by a certificate issued by the Department of Agriculture. In order to quality as "specialty sugars", sugar must meet the following criteria: (1) Such or similar sugars are not currently commercially produced in the United States or reasonably available from domestic sources in the United States; (2) such sugars are the product of a country listed in headnote 3(c)(ii) of subpart A, part 10, schedule 1 of the Tariff Schedules of the United States; and (3) the sugars require no further refining, processing or preparation prior to consumption, other than incorporation as an ingredient in human food. Specialty sugars imported from a country already having an import quota

will continue to be counted against that country's quota. Sugars entered as specialty sugars pursuant to this notice are also subject to import restrictions imposed under Section 22 of the Agricultural Adjustment Act of 1933 or quotas imposed pursuant to U.S. obligations under the International Sugar Agreement, 1977.

The program allowing entry of specialty sugars began on June 23, 1983. Since that time it has become evident that certain countries will not fill the quota allocated to them.

Accordingly, in conformity with the above, and in order to facilitate the continued supply of specialty sugars to the United States the total amount of specialty sugars permitted to be imported under paragraphs (a) and (b) of this headnote for the remainder of this quota year shall be reallocated as follows:

Country	Reallocations[1]
Belgium and Luxembourg	160
Burma	80
Cameroon	40
China, People's Republic of	160
Denmark	80
France	80
Germany, West	80
Hong Kong	80
Indonesia	40
Ireland	80
Italy	160
Japan	80
Kenya	80
Netherlands Antilles	40
Netherlands	80
South Korea	80
Surinam	80
Sweden	80
Switzerland	80
United Kingdom	80
Venezuela	80
Yemen	40
Total	[2] 1,840

[1] In short tons raw value.
[2] Congo and Uruguay are now enrolled in the sugar import quota system for raw and refined sugar so that the total specialty sugar quota on 2,000 short tons is effectively reduced by 160 short tons (specialty sugar from the Congo and Uruguay can now enter under the quota for raw and refined sugar).

I have determined that the above allocations are appropriate to carryout the obligations of the United States under the International sugar agreement, 1977, and that the above allocations give due consideration to the interest in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Dated: May 11, 1984.

Robert E. Lighthizer,

Deputy U.S. Trade Representative.

[FR Doc. 84-14223 Filed 5-25-84; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23310; 70-6987]

Columbus and Southern Ohio Electric Company; Proposed Sale of Electric Utility Assets

May 22, 1984.

Columbus and Southern Ohio Electric Company ("C&SOE"), 215 North Front Street, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration with this Commission pursuant to section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

C&SOE proposes to sell to the Lone Star Cement Company ("Lone Star") the Marquette 69/2.3 Kv Station portion of C&SOE's Superior Substation, located in Pedro, Ohio, at the site of Lone Star's Superior Cement Plant, consisting of transformation and other related equipment, for a total price of $186,132, which includes all expenses expected to be incurred by C&SOE in the sale. The replacement cost, less observed depreciation, for the equipment is $182,736. The equipment proposed to be sold is physically isolated from other substation equipment currently used by C&SOE to serve other customers. The facilities involved are installed at the purchaser's plant site; are not now employed by C&SOE for providing service to any other customer other than Lone Star; and are not adaptable, at that location, for use in serving any customer other than Lone Star. Lone Star will pay the purchase price for the equipment, together with other expenses of the sale, in cash. Lone Star will realize a savings in the cost of electric service by converting to service at a primary voltage, and C&SOE will benefit from recovering its investment in the transformation equipment and, more importantly, by shifting the costs of maintaining and servicing that equipment to the new owner.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 18, 1984, 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 case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14307 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13954; 812-5836]

Pacific Funding Trust II; Application

May 21, 1984.

Notice is hereby given that Pacific Funding Trust II ("Applicant"), c/o The Bank of New York, 21 West Street, New York, New York, 10015, a New York trust, filed an application on April 26, 1984, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it is a New York trust, formed on April 26, 1984 and existing under the laws of the State of New York. Applicant represents that its sole business will consist of issuing and selling Applicant's commercial paper notes (the "Commercial Paper Notes") and making loans ("Loans") of the net proceeds from the sale thereof to industrial and commercial entities (the "Borrowers") for use in their respective businesses. Substantially all of Applicant's assets will consist of promissory notes issued to Applicant by the Borrowers to repay to Applicant the Loans. Payments at maturity of principal and interest due on each Commercial Paper Note issued by Applicant will be supported by an irrevocable standby letter of credit or some other form of credit support issued for the account of the Applicant for the benefit of the holders of the Commercial Paper Notes by Security Pacific National Bank ("SPNB") and deposited with a New York bank who will agree to serve a depositary and paying agent for the Commercial Paper Notes. SPNB may, at its option, provide credit support to the

Commercial Paper Notes either through revolving loans advanced to the Trust for that purpose or through a line of credit issued directly in favor of the depositary.

Applicant states that SPNB is a national banking association incorporated under the National Bank Act and is a wholly-owned subsidiary of Security Pacific Corporation ("SPC"), a Delaware corporation and a bank holding company registered under the Bank Holding Company Act of 1956. SPNB is among the ten largest commercial banks in the United States.

JTC Investments, Inc., a California corporation, is trustor and sole beneficiary of Applicant (the "Trustor") and has appointed a corporate trustee and will appoint, if necessary, an individual trustee (collectively, the "Trustees") to serve as Trustees pursuant ot the Trust Agreement dated as of April 26, 1984. The Trustor is the wholly-owned subsidiary of a charitable institution located in California which, as of August 31, 1983 (the end of its fiscal year), had total assets in excess of $6,000,000. Applicant represents that neither the Trustor nor either of the Trustees of Applicant is affiliated with SPNB or any of the Borrowers, or an affiliate of any of them.

Applicant states that the Borrowers will be industrial and commercial entities which, although creditworthy, have been unable to participate directly in the United State commerical paper market because of their inability either to obtain an appropriate credit rating or to generate sufficient ongoing borrowings to make possible a cost-effective commercial paper program.

Applicant proposes to enter into arrangements with each Borrower pursuant to which each Borrower may request Applicant to make Loans to such Borrower. These arrangements will be embodied in an agreement between each Borrower and Applicant regarding the Loans, and between Applicant and SPNB regarding the Letter of Credit and backup credit lines. Under the funding agreement, each Borrower will execute and deliver to Applicant a Note which will evidence both the Loans made by Applicant to the Borrower and the Borrower's obligation to repay the Loans. Principal and interest with respect to each Loan will be evidenced by an appropriate entry on the Note of such Borrower, and the maturities of the Loans will not exceed 270 days. Applicant is committed to fund a Loan only to the extent that it receives letters of credit for Applicant's Commercial Paper Notes or Applicant otherwise has funds available for the purpose.

Applicant states that it will receive assurances from each Borrower that the Borrower will use the proceeds of the Loans in the ordinary course of its business to finance "current transactions" within the meaning of paragraph 3(a)(3) of the Securities Act of 1933 (the "Securities Act"). In addition, Applicant will receive assurances from each Borrower, both at the time the credit relationship with the Borrower is entered into and for any period during which any Note of the Borrower is outstanding, that the Borrower either is not an investment company within the meaning of subsection 3(a) of the Act or is deemed to be excluded from the definition of an investment company by virtue of the provisions of either subsection 3(b) or subsection 3(c) of the Act.

Applicant states that from the proceeds of sales of the Commercial Paper Notes, Applicant will receive an amount which shall be net of commissions retained by Applicant's commercial paper dealer or dealers. This remaining amount will be remitted to the Borrowers. The Borrower's Loans will be in an amount sufficient to cover the principal amount of Commercial Paper Notes sold plus an additional agreed upon number of basis points per annum for the period of time that the Commercial Paper Notes are outstanding. These amounts are intended to be sufficient to cover interest on the Commercial Paper Notes as well as the expenses of Applicant, including fees to credit providers, rating agency fees, depositary fees, Trustees' fees and expenses, and auditing, tax and similar expenses. Applicant anticipates that expenses will be paid on a quarterly basis, after which payments of remaining amounts will be remitted to the Beneficiary. If Applicant is unable to issue Commercial Paper Notes to fund the Loan, Applicant may attempt to obtain a loan under a revolving credit line.

Pursuant to the credit agreement and letter of credit, SPNB will agree that, if on any day that Commercial Paper Notes mature, funds are not available to pay Commercial Paper Notes, SPNB will advance to Applicant funds sufficient to pay the aggregate amount of Commercial Paper Notes maturing on that day which Applicant is unable to pay. Applicant, in turn, will ensure that the aggregate amount of Commercial Paper Notes maturing on any day will not exceed that sum of the following amounts available to pay maturing Commercial Paper Notes: (i) The aggregate on that day of all maturing Loan proceeds due and payable from Borrowers pursuant to their respective Funding Agreements, and (ii) amounts in the collateral and note repayment accounts maintained by Applicant. The depositary may, if necessary, draw on the letter of credit or SPNB may, at its option, provide funds to the depositary through issuance of a revolving loan to the Trust for that purpose or through a line of credit directly in favor of the depositary. Applicant has covenanted under the credit agreement to reimburse SPNB for all drawings made by the depositary under the letter of credit.

To obtain funds to make the Loans, Applicant proposes to issue and sell short-term negotiable promissory notes of the type exempt from the registration requirements of the Securities Act by virtue of Section 3(a)(3) thereof and generally referred to as commercial paper. The Commercial Paper Notes will be offered and sold to the public in minimum denominations of $100,000, will have a maturity not exceeding 270 days and will neither be payable on demand prior to maturity nor be eligible for any extension, renewal or automatic "rollover" at the option of either the holder or the issuer.

Applicant undertakes not to market any Commercial Paper Notes without registration under the Securities Act unless there is an exemption available. It is believed that the proposed offering of Commercial Paper Notes will be exempt from the registration requirements of the Securities Act by virtue of Sections 3(a)(2) and 3(a)(3) and may be exempt under Section 4(2) thereof. The Trust Agreement prohibits the issuance of additional indebtedness by the Trust. In the event that this provision in the Trust Agreement is modified, Applicant undertakes that, in respect of any future offerings of Applicant's debt securities, it will obtain an opinion of counsel as to the availability of an exemption from the registration requirements of the Securities Act.

The application states that initially, the Commercial Paper Notes will be offered privately. Unless and until the exemptive order requested hereby is issued, Applicant's outstanding securities (other than short-term paper) will be beneficially owned by not more than one hundred persons and Applicant will not make a public offering of any of its securities. Consequently, Applicant asserts that it will be excluded from the definition of investment company by section 3(c)(1) of the Act. Applicant expects to offer the Commercial Paper Notes publicly through one or more major commercial paper dealers and/or through banks

(including SPNB) who would serve as agents for Commercial Paper Notes sales, but only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. Applicant states that while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to requires to require its commercial paper dealer(s) and/or agents to agree to provide each purchaser of a Commercial Paper Note prior to its purchase thereof with a memorandum which briefly describes the businesses of Applicant and SPNB or other institution providing credit. Such memorandum will be updated as promptly as practicable to reflect any material adverse changes which might take place in the financial status of Applicant or the credit provider and will be at least as comprehensive as memoranda customarily used in offering commercial paper. Applicant consents to having any order granting the relief requested under Section 6(c) expressly conditioned upon its compliance with the foregoing undertakings regarding disclosure documents. It understands, however, that an inadvertent failure by a dealer or agent to provide a purchaser with a memorandum of the type described in this paragraph would not be viewed as a violation of the undertaking with respect to the furnishing of the memorandum.

Applicant represents that, prior to their issuance, the Commercial Paper Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization. However, no such rating shall be required to be obtained with respect to an issue of Commercial Paper Notes if, in the opinion of counsel, an exemption is available for the issue pursuant to section 4(2) of the Securities Act.

Applicant believes that in the first twelve months in which Commercial Paper Notes are issued, the aggregate amount of Commercial Paper Notes outstanding will average approximately $150,000,000.

The Commercial Paper Notes will be repaid through funds received from Borrowers as repayment for loans or, if necessary, through one of the following, furnished by a credit provider: (i) Revolving loans in favor of the Trust, (ii) drawings on a line of credit in favor or the depositary or (iii) drawings by the depositary on the letter of credit.

As here pertinent, section 3(a)(3) of the Act defines "investment company" as an issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(a)(3) provides, with three exceptions not pertinent to the application, that any security is an "investment security". Under the Act's definition of security, the Notes, which would constitute virtually all Applicant's assets, could be considered to be investment securities and, pursuant to paragraph 3(a)(3) of the Act, Applicant could be deemed to be an investment company subject to the Act's registration requirements. Applicant does not, however, view itself as an investment company even though its major assets could be deemed to be investment securities. Accordingly, in order to eliminate any doubt that Applicant would be entitled, without registration under the Act, to issue and sell Commercial Paper Notes, it seeks an exemption from all provisions of the Act.

Applicant states that approval of this application is necessary and appropriate in the public interest under section 6(c) of the Act. Each Borrower with which Applicant will enter credit relations will be a company which could itself directly issue Commercial Paper Notes in the United States without compliance with the Act's registration provisions but, because of its inability to obtain an appropriate credit rating or because of the costs involved in entering the commercial paper market on its own has not entered the commercial paper market. Applicant believes that a program in which commercial paper is supported by a letter of credit or other comparable credit will serve the public interest by enabling the Borrowers to take advantage of the attractive rates available in the commercial paper market without obtaining a rating based on their credit or incurring the high cost which would accompany the Borrowers' entry into the commercial paper market on their own.

Applicant states that approval of this application would be consistent with the protection of investors. Applicant's limited business purpose and its obligation to invest only in the Notes, none of which will be an obligation of an investment company, obviates the need for the regulatory safeguards provided by the Act. Applicant's only "investment" activity would be the acquisition of the Notes of the Borrowers. In addition, because the initial credit support will consist of a letter of credit or other direct support of Commercial Paper Notes by SPNB, holders of the Commercial Paper Notes will be adequately protected by the credit of SPNB in the event the Borrowers fail to meet their repayment obligations to Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 15, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14308 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13953; 812-5837]

Pacific Funding Trust I; Application

May 21, 1984.

Notice is hereby given that Pacific Funding Trust I ("Applicant"), c/o The Bank of New York, 21 West Street, New York, New York 10015, a New York trust, filed an application on April 26, 1984, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant states that it is a New York trust, formed on April 26, 1984 and existing under the laws of the State of New York. Applicant represents that its sole business will consist of issuing and selling Applicant's commercial paper notes (the "Commercial Paper Notes") and making loans ("Loans") of the net proceeds from the sale thereof to industrial and commercial entities (the "Borrowers") for use in their respective businesses. Substantially all of

Applicant's assets will consist of promissory notes issued to Applicant by the Borrowers to repay to Applicant the Loans. Payments at maturity of principal and interest due on each Commercial Paper Note issued by Applicant will be supported by an irrevocable standby letter of credit or some other form of credit support issued for the account of the Applicant for the benefit of the holders of the Commercial Paper Notes by Security Pacific National Bank ("SPNB") and deposited with a New York bank who will agree to serve as depositary and paying agent for the Commercial Paper Notes. SPNB may, at its option, provide credit support to the Commercial Paper Notes either through revolving loans advanced to the Trust for that purpose or through a line of credit issued directly in favor of the depositary.

Applicant states that SPNB is a national banking association incorporated under the National Bank Act and is a wholly-owned subsidiary of Security Pacific Corporation ("SPC"), a Delaware corporation and a bank holding company registered under the Bank Holding Company Act of 1956. SPNB is among the ten largest commercial banks in the United States.

JTC Investments, Inc., a California corporation, is trustor and sole beneficiary of Applicant (the "Trustor") and has appointed a corporate trustee and will appoint, if necessary, an individual trustee (collectively, the "Trustees") to serve as Trustees pursuant to the Trust Agreement dated as of April 26, 1984. The Trustor is the wholly-owned subsidiary of a charitable institution located in California which, as of August 31, 1983 (the end of its fiscal year), had total assets of $6,000,000. Applicant represents that neither the Trustor nor either of the Trustees of Applicant is affiliated with SPNB or any of the Borrowers, or any affiliate of any of them.

Applicant states that the Borrowers will be industrial and commercial entities which, although creditworthy, have been unable to participate directly in the United States commercial paper market due to their inability either to obtain an appropriate credit rating or to generate sufficient ongoing borrowings to make possible a cost-effective commercial paper program.

Applicant proposes to enter into arrangements with each Borrower pursuant to which each Borrower may request Applicant to make Loans to such Borrower. These arrangements will be embodied in an agreement between each Borrower and Applicant regarding the Loans, and between Applicant and SPNB regarding the Letter of Credit and backup credit lines. Under the funding agreement, each Borrower will execute and deliver to Applicant a Note which will evidence both the Loans made by Applicant to the Borrower and the Borrower's obligation to repay the Loans. Principal and interest with respect to each Loan will be evidenced by an appropriate entry on the Note of such Borrower, and the maturities of the Loans will not exceed 270 days. Applicant is committed to fund a Loan only to the extent that it receives letters of credit for Applicant's Commercial Paper Notes or Applicant otherwise has funds available for the purpose.

Applicant states that it will receive assurances from each Borrower that the Borrower will use the proceeds of the Loans in the ordinary course of its business to finance "current transactions" within the meaning of paragraph 3(a)(3) of the Securities Act of 1933 (the "Securities Act"). In addition, Applicant will receive assurances from each Borrower, both at the time the credit relationship with the Borrower is entered into and for any period during which any Note of the Borrower is outstanding, that the Borrower either is not an investment company within the meaning of subsection 3(a) of the Act or is deemed to be excluded from the definition of an investment company by virtue of the provisions of either subsection 3(b) or subsection 3(c) of the Act.

Applicant states that from the proceeds from sales of the Commercial Paper Notes, Applicant will receive an amount which will be net of commissions retained by Applicant's commercial paper dealer or dealers. This remaining amount will be remitted to the Borrowers. The Borrowers' Loans will be in an amount sufficient to cover the principal amount of Commercial Paper Notes sold plus an additional agreed upon number of basis points per annum for the period of time that the Commercial Paper Notes are outstanding. These amounts are intended to be sufficient to cover interest on the Commercial Paper Notes as well as the expenses of Applicant, including fees to credit providers, rating agency fees, depository fees, Trustees' fees and expenses, and auditing, tax and similar expenses. Applicant anticipates that expenses will be paid on a quarterly basis, after which payments of remaining amounts will be remitted to the Beneficiary. If Applicant is unable to issue Commercial Paper Notes to fund the Loan, Applicant may attempt to obtain a loan under a revolving credit line.

Pursuant to the credit agreement and letter of credit, SPNB will agree that, if on any day that Commercial Paper Notes mature, funds are not available to pay Commercial Paper Notes, SPNB will advance to Applicant funds sufficient to pay the aggregate amount of Commercial Paper Notes maturing on that day which Applicant is unable to pay. Applicant, in turn, wil ensure that the aggregate amount of Commercial Paper Notes maturing on any day will not exceed that sum of the following amounts available to pay maturing Commercial Paper Notes: (i) The aggregate on that day of all maturing Loan proceeds due and payable from Borrowers pursuant to their respective Funding Agreements, and (ii) amounts in the collateral and note repayment accounts maintained by Applicant. The depository may, if necessary, draw on the letter of credit or SPNB may, at its option, provide funds to the depository through issuance of a revolving loan to the Trust for that purpose or through a line of credit directly in favor of the depository. Applicant has convenanted under the credit agreement to reimburse SPNB for all drawings made by the depositary under the letter of credit.

To obtain funds to make the Loans, Applicant proposes to issue and sell short-term negotiable promissory notes of the type exempt from the registration requirements of the Securities Act by virtue of Section 3(a)(3) thereof and generally referred to as commercial paper. The Commercial Paper Notes will be offered and sold to the public in minimum denominations of $100,000, will have a maturity not exceeding 270 days and will neither be payable on demand prior to maturity nor be eligible for any extension, renewal or automatic "rollover" at the option of either the holder or the issuer.

Applicant undertakes not to market any Commercial Paper Notes without registration under the Securities Act unless there is an exemption available. It is believed that the proposed offering of Commercial Paper Notes will be exempt from the registration requirements of the Securities Act by virtue of Sections 3(a)(2) and 3(a)(3) and may be exempt under Section 4(2) thereof. The Trust Agreement prohibits the issuance of additional indebtedness by the Trust. In the event that this provision in the Trust Agreement is modified, Applicant undertakes that, in respect of any future offerings of Applicant's debt securities it will obtain an opinion of counsel as to the availability of an exemption from the registration requirements of the Securities Act.

The application states that initially, the Commercial Paper Notes will be

offered privately. Unless and until the exemptive order requested hereby is issued, Applicant's outstanding securities (other than short-term paper) will be beneficially owned by not more than one hundred persons and Applicant will not make a public offering of any of its securities. Consequently, Applicant asserts that it will be excluded from the definition of investment company by section 3(c)(1) of the Act. Applicant expects to offer the Commercial Paper Notes publicly through one or more major commercial paper dealers and/or through banks (including SPNB) who would serve as agents for Commercial Paper Notes sales, but only to the types of sophisticated and largely institutional investors that ordinarily participate in the commercial paper market. Applicant states that while an announcement of the establishment of the commercial paper facility may be made as a matter of record, the offering will not be advertised. Applicant undertakes to require its commerical paper dealer(s) and/or agents to agree to provide each purchaser of a Commercial Paper Note prior to its purchase thereof with a memorandum which briefly describes the businesses of Applicant and SPNB or other institution providing credit. Such memorandum will be updated as promptly as practicable to reflect any material adverse changes which might take place in the financial status of Applicant or the credit provider and will be at least as comprehensive as memoranda customarily used in offering commercial paper. Applicant consents to having any order granting the relief requested under Section 6(c) expressly conditioned upon its compliance with the foregoing undertakings regarding disclosure documents. It understands, however, that an inadvertent failure by a dealer or agent to provide a purchaser with a memoradum of the type described in this paragraph would not be viewed as a violation of the undertaking with respect to the furnishing of the memorandum.

Applicant represents that, prior to their issuance, the Commercial Paper Notes will have received one the three highest investment grade ratings from at least one nationally recognized statistical rating organization. However, no such rating will be required to be obtained with respect to an issue of Commercial Paper Notes if, in the opinion of counsel, an exemption is available for the issue pursuant to Section 4(2) of the Securities Act.

Applicant believes that in the first twelve months in which Commercial Paper Notes are issued, the aggregate amount of Commercial Paper Notes outstanding will average approximately $150,000,000.

The Commercial Paper Notes will be repaid through funds received from Borrowers as repayment for Loans or, if necessary, through one of the following, furnished by a credit provider: (i) Revolving loans in favor of the Trust, (ii) drawings on aline of credit in favor of the depositary or (iii) drawings by the depositary on the letter of credit.

As here pertinent, section 3(a)(3) of the Act defines "investment company" as an issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exeeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(a)(3) provides, with three exceptions not pertinent to the application, that any security is an "investment security". Under the Act's definition of security, the Notes, which would constitute virtually all Applicant's assets, could be considered to be investment securities and, pursuant to paragraph 3(a)(3) of the Act, Applicant could be deemed to be an investment company subject to the Act's registration requirements. Applicant does not, however, view itself as an investment company even though its major assets could be deemed to be investment securities. Accordingly, in order to eliminate any doubt that Applicant would be entitled, without registration under the Act, to issue and sell Commercial Paper Notes, it seeks an exemption from all provisions of the Act.

Applicant states that approval of this application is necessary and appropriate in the public interest under section 6(c) of the Act. Each Borrower with which Applicant will enter credit relations will be a company which could itself directly issue commercial paper notes in the United States without compliance with the Act's registration provision but, because of its inability to obtain an appropriate credit rating or because of the costs involved in entering the commercial paper market on its own has not entered the commercial paper market. Applicant believes that a program in which commercial paper is supported by a letter of credit or other comparable credit will serve the public interest by enabling the Borrowers to take advantage of the attractive rates available in the commercial paper market without obtaining a rating based on their credit or incurring the high cost which would accompany the Borrowers' entry into the commercial paper market on their own.

Applicant states that approval of this application would be consistent with the protection of investors. Applicant's limited business purpose and its obligation to invest only in the Notes, none of which will be an obligation of an investment company, obviates the need for the regulatory safeguards provided by the Act. Applicants's only "investment" activity would be the acquisition of the Notes of the Borrowers. In addition, because the initial credit support will consist of a letter of credit or other direct support of Commercial Paper Notes by SPNB, holders of the Commercial Paper Notes will be adequately protected by the credit of SPNB in the event the Borrowers fail to meet their repayment obligations to Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 15, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14309 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13925A; 812-5819]

BMC Fund, Inc.; Correction

May 18, 1984.

This is to correct an error made in Investment Company Act Release No. 13925, issued May 4, 1984, In the Matter of BMC Fund, Inc., Broyhill Park, N.C. Highway 321, Lenoir, North Carolina 28633. In the above referenced notice of filing of application it was stated that interested persons may request a hearing until 5:30 p.m., May 25, 1984. The expiration of the notice period should have read 5:30 p.m., May 24, 1984.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14317 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 21, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Computer Consoles, Incorporated
Common Stock, $.10 Par Value (File No. 7-7449)
Helionetics, Inc.
Common Stock, $.10 Par Value (File No. 7-7450)
New Process Company
Common Stock, No Par Value (File No. 7-7451)
Riblet Products Corporation
Common Stock, $.01 Par Value (File No. 7-7452)
Telesphere International, Inc.
Common Stock, $.01 Par Value (File No. 7-7453)
ACF Industries, Incorporated
Common Stock, No Par Value (File No. 7-7454)
Alaska Airlines, Inc.
Common Stock, $1 Par Value (File No. 7-7455)
Beneficial Corporation
Common Stock, $1 Par Value (File No. 7-7456)
Burroughs Corporation (DE)
Common Stock, $5 Par Value (File No. 7-7457)
Callahan Mining Corporation
Common Stock, $1 Par Value (File No. 7-7458)
Cullinet Software Inc.
Common Stock, $.10 Par Value (File No. 7-7459)
Fedders Corporation
Common Stock, $1 Par Value (File No. 7-7460)
First Virginia Banks, Inc.
Common Stock, $1 Par Value (File No. 7-7461)
GenRad, Inc.
Common Stock, $1 Par Value (File No. 7-7462)
Genstar Corporation
Common Stock, No Par Value (File No. 7-7463)
Grolier Incorporated
Common Stock, $.50 Par Value (File No. 7-7464)
Homestake Mining Company (DE)
Common Stock, $1 Par Value (File No. 7-7465)
Horizon Corporation
Common Stock, $.01 Par Value (File No. 7-7466)
Integrated Resources, Inc.
Common Stock, $.10 Par Value (File No. 7-7467)
LL&E Royalty Trust
Units of Beneficial Interest (File No. 7-7468)
MGM/UA Home Entertainment Group, Inc.
Common Stock, $.10 Par Value (File No. 7-7469)
Milton Bradley Company
Common Stock, $1 Par Value (File No. 7-7470)
Mobile Home Industries, Inc.
Common Stock, $1 Par Value (File No. 7-7471)
Modular Computer Systems, Inc.
Common Stock, $.05 Par Value (File No. 7-7472)
National Homes Corporation
Common Stock, $.50 Par Value (File No. 7-7473)
NBI, Inc.
Common Stock, $.10 Par Value (File No. 7-7474)
Nutri/System, Inc.
Common Stock, $.01 Par Value (File No. 7-7475)
Products Research & Chemical Corp.
Common Stock, $2 Par Value (File No. 7-7476)
Teradyne, Inc.
Common Stock, $0.125 Par Value (File No. 7-7477)
Thrifty Corporation
Common Stock, No Par Value (File No. 7-7478)
Varo, Inc.
Common Stock, $.10 Par Value (File No. 7-7479)
Webb (Del E.) Corporation
Common Stock, No Par Value (File No. 7-7480)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 12, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14313 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13951; 811-3389, 811-3390]

Merrill Lynch Kecalp Growth Investments Limited Partnership 1982, et al.; Applications for Orders Pursuant to Section 8(f) of the Act Declaring That Applicants Have Ceased To Be Investment Companies

May 18, 1984.

Notice is hereby given that Merrill Lynch Kecalp Growth Investments Limited Partnership 1982 ("Growth"), and Merrill Lynch Kecalp Ventures Limited Partnership 1982 ("Ventures") (Growth and Ventures together, "Applicants"), One Liberty Plaza, 165 Broadway, New York, New York, 10080, registered under the Investment Company Act of 1940 ("Act") as closed-end, non-diversified, management investment companies, each filed an application on September 22, 1982, for an order pursuant to Section 8(f) of Act, and Rule 8f-1 thereunder, declaring that such Applicant 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 contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants are both limited partnerships organized under the laws of the State of Delaware. Both Applicants registered under the Act on January 25, 1982, and each filed registration statements under the Securities Act of 1933 ("Securities Act") pertaining to 15,000 units of limited partnership interest on said date. Each limited partnership unit represented a capital contribution to the respective Applicant of $1,000, and such units were offered in increments of $1,000 over a minimum investment of $5,000.

The registration statement of each Applicant was declared effective on April 30, 1982, and a public offering of units for each Applicant commenced thereafter. As of July 9, 1982, however, the offering termination date for both

offerings, the respective minimum subscription amounts for the offerings had not been received. Accordingly, Growth returned $1,433,000, constituting the total amount received from subscribers and theretofore held in escrow, together with $16,498.71 in interest, to its subscribers; and Ventures returned $993,000 in escrowed subscription proceeds, together with $9,689.92 in interest, to its subscribers. As of the date of its application for deregistration, each Applicant had retained $67.00 in assets, which funds represented, in the case of each Applicant, the balance of its initial capitalization, less operating expenses. These residual assets were in the case of each Applicant, being held in a money market fund as of the date of the applications summarized herein.

Applicants further represent that neither of them has, within the eighteen months preceding the filing of the present applications, transferred its assets to a separate trust; that neither of them has any debts or other liabilities outstanding; that neither is a party to any litigation or administrative proceeding; that neither has any security holders; and that neither is engaged, nor proposes to engage, in any business activities other than those necessary to the winding-up of its affairs.

On the basis of the foregoing, each Applicant submits that it has ceased to be an investment company as defined in the Act, and therefore requests that the Commission issue an order pursuant to section 8(f) of the Act declaring that it has ceased to be an investment company.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 12, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14316 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 21, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Student Loan Marketing Association
Nonvoting Common Stock, $.50 Par Value (File No. 7-7448)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 12, 1984 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14311 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20976; File No. SR-NSCC-84-5]

Order Approving on a Permanent Basis a Proposed Rule Change of National Securities Clearing Corp.

The National Securities Clearing Corporation ("NSCC") on March 19, 1984, submitted a proposed rule change to the Commission pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), that would enable NSCC to implement Phase IV of its Municipal Bond System.[1] The Commission, on March 28, 1984, issued an Order approving NSCC's proposal on an accelerated basis for a 45-day period ending May 20, 1984, and requesting comment on the proposal.[2] No comment has been received. For the reasons stated in its March 28, 1984 Temporary Approval Order, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that NSCC's proposed rule change be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14312 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20983; Filed No. SR-OCC-83-15]

Order Approving Proposed Rule Change of the Options Clearing Corp.

May 22, 1983.

On July 13, 1983, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), The Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change (SR-OCC-83-15) that would establish a fully-automated participant terminal system for communicating options clearance and settlement data between OCC and its clearing members. Notice of the filing was published on October 3, 1983, in Securities Exchange Act Release No. 20250 (October 3, 1983), 48 FR 46125 (October 11, 1983). In that notice, the Commission also authorized OCC to operate its terminal system on a limited pilot basis with two clearing members and two types of instructions, position adjustments and exercise notices. No comment has been received on OCC's proposal. The Commission is approving OCC's proposed rule change.

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[1] NSCC's Phase IV proposal is designed to enable municipal securities brokers and dealers to meet the Municipal Securities Rulemaking Board's ("MSRB") requirements under amended MSRB Rule G-12, as approved by the Commission. *See* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983), approving that MSRB rule amendment.

[2] *See* Securities Exchange Act Release No. 20795 (March 28, 1984), 49 FR 13614 (April 15, 1984), for a full description and discussion of NSCC's proposal.

The proposal adds several new provisions to OCC's Rules, including Interpretation and Policy .04 under OCC Rule 206. That Interpretation and Policy authorizes OCC to permit clearing members to submit to OCC reports, notices, instructions, data or other items by "on-line data entry." [1] OCC will require each clearing member using OCC's on-line data entry system to maintain an information display screen in its office. OCC will display data relating to each of the clearing member's transactions on this screen. The system then will enable the clearing member to review and to correct promptly any inaccuracies appearing on the screen. If the clearing member fails to correct the data before OCC's designated cut-off time, the clearing member will lose the opportunity to correct the information.[2] Subject to corrections by the clearing member during the designated period, the clearing member will be bound by all reports, notices, instructions, and other data submitted to OCC by on-line data entry. Furthermore, if a clearing member cannot complete its data entry before OCC's cut-off time, OCC will require the member to notify OCC, and OCC may either grant an extension of time or may require the members to submit the data in another form.

System Description

OCC's proposal establishes a communication system enabling each participating clearing member to communicate directly with OCC through an automated, on-line terminal system, thereby reducing reliance on paper documents. Each participant must purchase or lease hardware, or use currently owned qualifying equipment, consisting of two display terminals and one printer to produce hard-copy documents. Each terminal contains a locking mechanism and is connected to OCC by dedicated communications lines.[3]

Participants currently are able to perform three types of functions through their office terminals: "Audit Trail," "Data Entry," and "Inquiry/Correction." The Audit Trail application enables a clearing member to track all on-line activity. The Audit Trail application, among other things, produces a detailed report showing the current status of all transactions entered that day or reflecting the status of all contracts at a particular point of time. The Audit Trail application generates a complete list of each day's transactions for OCC and for participants electing to get the report. The Data Entry application currently allows participants to enter only Equity Option Position Adjustments and Equity Option Exercise Notices. The system's capabilities will be expanded as participant use increases. This application automatically screens entered transactions for data integrity such as whether alpha characters have been entered into a numeric field, and also accumulates transaction totals (*i.e.*, item count, contract quantity, exercise price) to aid the participant's terminal operator to balance and verify submitted data. The Inquiry/Correction application allows clearing members to display and correct transactions that have been entered during the day.[4]

"On-line" systems inevitably become inoperable for short periods of time because of system servicing, overloading or technical problems. OCC has developed procedures for participants to reduce service disruptions.[5] OCC also has included a system feature that minimizes the risk of data loss when the system becomes temporarily inoperable. That feature generally limits data loss to the single transaction being entered when the system temporarily ceases operating. After resolution of the problem, OCC has provided on-line participants with recovery procedures. For example, once the system becomes available again, participants must sign on and can use the Inquiry/Correction and Audit Trail applications to verify the last entered transaction. From that transaction, participants then will resume entering data. If a participant has a significant problem with the on-line system, OCC's Member Service Department will obtain permission to access the member's terminal to provide special assistance.

OCC is employing sophisticated security software, called Access Control Facility ("ACF2"), to control access to OCC's computer operation, including the proposed on-line system. ACF2 also restricts users to certain systems and applications.

With respect to the on-line system, ACF2 requires participants to use a two-part, sign-on process for initial access.[6] First, the system identifies users by a Log-on-I.D. number, which restricts the participant to a specific terminal and to certain data bases. For example, an employee of clearing member A cannot enter data from a terminal in the office of clearing member B. Second, each operator will have a confidential password, which is validated against the Log-on I.D. when the operator signs on. OCC's Security Administrator assigns the initial password but the system requires the operator to select a new private password upon initial access to the system.[7] Furthermore, to use each application, the operator needs to key-in its own identifier, which is unique for each participant. In this way, for example, only an operator knowing the identifier for clearing member A's data entry may affect clearing member A's positions.

ACF2 also follows detailed procedures in case of security violations and creates an audit trail of such violations. Attempts to access the system with an invalid password results in security violations being reported to OCC's central processing unit ("CPU"). The third such invalid entry terminates access and the fourth attempt causes the system to suspend the related Log-on I.D. number. Furthermore, ACF2 monitors the active use of each terminal. If the system is inactive for five minutes, the system will prompt the user for the password. If the operator does not provide the correct password, the system will terminate the session. ACF2

[1] "On-line data entry" is defined in new paragraph (o) of OCC Rule 101 to mean "the direct transmission by a clearing member to [OCC] via on-line computer terminals of reports, notices, instructions, data or other items."

[2] Currently, clearing members submitting data in hard-copy or on tape cannot correct data after OCC's cut-off times and are bound by the submitted data. Cut-off times for on-line data entry will be identical to those established cut-off times for submitting data in hard-copy or on tape.

[3] A dedicated line is a telephone line connecting the participant's terminal directly to the clearing agency on a continuous basis. It allows participants to receive information from, or send information to, the clearing agency throughout the business day without separately dialing-up the clearing agency. Because a dedicated line restricts access to two locations (the participant's office and OCC's main computer), the risk of unauthorized access from outside those two locations is greatly reduced.

[4] The Inquiry/Correction application allows the clearing member separately to review accurate entries, erroneous entries, or its options positions.

[5] If the system goes down, OCC will notify clearing members of the cause and expected duration of the outage. Clearing members then will log all data for the on-line system onto OCC input forms in the event the data must be submitted manually to OCC. Moreover, if unusual or unforeseen conditions (including but not limited to power failures or equipment malfunctions) prevent a clearing member from submitting data to OCC before the applicable cut-off time, OCC may in its discretion: (1) Require the clearing member to submit such data by other approved means, and/or (2) extend the applicable cut-off time by such period as OCC deems to be reasonable, practicable, and equitable under the circumstances.

[6] Under the proposal, system security is administered by the Security Administrator at OCC and two individuals authorized in writing by each participant clearing member to work with OCC on security matters. Those individuals will inform OCC of changes, additions, and deletions to the list of persons authorized to access the on-line system and also will advise OCC of changes regarding Log-on I.D. numbers and passwords.

[7] The operator must change the password at least every thirty days but not more ofter than every five days. The system only accepts a new password after verifying the old password.

logs these and other security violations and reports them to the OCC Security Administrator, thus providing an audit trail. In addition, an audit trail can be requested for a specific Log-on I.D., allowing OCC to monitor a specific user's activity.

OCC's Rationale

OCC believes that its proposed terminal system is consistent with Section 17A for the following reasons. First, new data processing and communications techniques result in more efficient, effective, and safe procedures for options processing. Direct automated communication through OCC's on-line system should enable participants to submit information to OCC more quickly and cheaply. Participants no longer will have to process numerous paper documents through a series of manual procedures. A single operator can process a transaction completely through the on-line system. Consequently, participants and OCC will save time and money currently spent to generate and process data using less efficient procedures. Furthermore, the system would save communication time because the participant no longer will need to deliver machine-readable documents to, and receive reports from, OCC. Rather, participants and OCC will be in continuous, on-line communication.

Second, OCC believes that the terminal system enhances the accuracy and reliability of participant data significantly. When data is submitted in machine-readable form (*i.e.*, key-punched cards, diskettes, or magnetic tapes), more processing steps and more people are needed to transfer that data to OCC's CPU. The extra steps and extra handling pose greater risk of human error, which is effectively eliminated by on-line entry of edited data directly from keyboard to OCC's CPU.[8]

Third, OCC believes that its proposed system has sufficient security measures to assure the safeguarding of funds and securities. As noted above, system safeguards include: (1) The use of multiple passwords; (2) limited access to particular functions; (3) system identification of each terminal before data is accepted; (4) use of dedicated lines; and (5) automated "red flags" that should reveal breaches of system integrity or system misuse.

[8] Because on-line entry reduces the time needed for OCC to edit data, use of the on-line system should enable participants to enter data for a longer period each day. This, in turn, should increase their ability to process and submit data to OCC.

Discussion

The Commission has carefully reviewed OCC's proposal, particularly its security measures. Based on that review, the Commission believes that OCC's proposed system should greatly increase the efficiency and safety of OCC's options clearance and settlement system.[9] First, the proposed system provides on-line communication between OCC and its clearing members. This should improve markedly the timeliness and efficiency of OCC's operations. Second, the automatic, on-line entry of data to OCC's system greatly reduces the time and cost of processing options transactions. Third, the proposed system includes sophisticated security measures that should effectively eliminate the risk of unauthorized access.[10] Finally, the system creates a detailed data bank that should assist clearing members to monitor members' transactions and to meet their regulatory responsibilities.

Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of section 17A of the Act in that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that OCC's proposed rule change be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-14310 Filed 5-28-84; 8:45 am]

BILLING CODE 8010-01-M

[9] The Commission has reviewed OCC's proposal in light of the excellent operational and safety records of OCC's pilot program and other clearing agency on-line systems over the past six years. These systems have caused substantial processing efficiencies. Furthermore, the Commission is unaware of any financial loss resulting from unauthorized use of these systems. *See* the Commission order approving the on-line terminal systems of two other clearing agencies: Depository Trust Company and Midwest Securities Depository Trust Company. Securities Exchange Act Release No. 20519 (December 30, 1983), 49 FR 966 (January 6, 1984).

[10] Use of a dedicated line also helps thwart unauthorized access to OCC's data systems and participants' accounts.

[Release No. 20978; File No. SR-PCC-84-6]

Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Clearing Corp.

May 18, 1984.

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 April 27, 1984, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposal sets some new fees for services previously provided at no cost to members and increases some of PCC's previously existing service fees. New fees have been established for training member personnel. While initial training continues to be free, additional training will be charged at $15.00 per hour in Los Angeles or San Francisco and at $120 per day, plus expenses, elsewhere. PCC also is charging new monthly fees for activity and position reports, ranging from $50 to $350 depending on the frequency of the report (*i.e.*, daily, weekly or monthly) and the type of reported information (*e.g.*, "net positions" and "trade activity"). New minimum fees for researching dividend claims after the payable date, if PCC finds the claim to be invalid, are charged in amounts increasing with the age of the request.[1] PCC hopes that this variable fee structure will help to reduce the incidence of invalid dividend claims and to ensure members' timely reporting of dividend claims to PCC.

Previous variable fees for rejected deliveries, transfers and paper inputs are made uniform by the proposal.[2] PCC represented that the previous formula for calculating reject fees, based on number of rejects as a percentage of prior month's activity, was cumbersome and difficult to understand.

Existing fees for physical delivery of drafts and securities are increased, as are existing fees for name changes in the signature card program.[3] In addition, a

[1] Research fees for aged invalid dividend claims are $15 per hour, with the following minimums: Up to three months past payable date—$10; Three to six months past payable date—$20; More than six months past payable date—$35; Research fees for transfer status are $5.

[2] New reject fees are $6 for book-entry items and $10 for manual items.

[3] Delivery fees are increased from $7 to $8.50. Fees for the first name change in the signature card program are increased from $30 to $50, and for subsequent changes from $15 to $25.

new maintenance fee of $50 per year is charged for the signature card program.

PCC believes that this proposal is consistent with Section 17A of the Act, in that it provides an equitable allocation of reasonable fees among its participants. Specifically, PCC states that its fee schedule as amended by this proposal allows PCC to recover the actual cost of providing services to its members and allocates the cost of services in accordance with each participant's use of services.

The foregoing 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 arguments 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, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File No. SR–PCC–84–6.

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, 450 Fifth 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. 84–14314 Filed 5–25–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20977; File No. SR–PCC–84–5]

Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Clearing Corp.

May 18, 1984.

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 April 27, 1984, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposal authorizes PCC to open a new branch office at 40 Broad Street, 19th Floor, New York, New York 10004, in May 1984. PCC's New York office will serve PCC members located in the eastern United States, primarily in New York. PCC states in its filing that the New York office will provide the same services, and use the same operating procedures, as PCC's other branch offices.[1]

PCC members will conduct daily money settlement with PCC in New York, based on pay/collect reports generated on PCC's California offices and transmitted to the New York office.[2] Payments received by PCC from members in New York will be deposited in PCC's New York settlement bank account and will be wired to PCC's California settlement bank account. For payments due members in New York, PCC will wire funds from its California settlement bank account to its New York settlement bank account and issue a draft in New York. PCC members using the New York office therefore will not need to maintain California settlement bank accounts.

PCC's New York office also will provide physical securities certificate delivery and receipt services, with certificates being shipped daily between New York and PCC's sister clearing agency, the Pacific Securities Depository Trust Company ("PSDTC"). This should eliminate the need for members to use overnight delivery services. PCC also will provide other administratrive services in New York for PSDTC members, including report printing.

Finally, PCC's New York office will enhance communications between PCC members and PCC's California facilities. For example, activity reports and member notices will be printed in New York using data transmissions from California. In addition, members will be able to make book-entry securities movements and other accounting entries by submitting written documents to PCC in New York. PCC's New York staff will transmit these entries to California.

PCC believes that the proposal is consistent with Section 17A of the Act because it promotes prompt and accurate clearance and settlement of securites transactions. Specifically, PCC states that its New York office will provide PCC members in the eastern United States with faster and more efficient service. These members no longer will need to communicate with PCC via long distance telephone calls or overnight delivery services. Instead, members located in New York or elsewhere in the eastern United States and having an agent in New York will communicate directly with PCC's New York office.

The foregoing 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 Commisison 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 arguments 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, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File No. SR–PCC–84–5.

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, 450 Fifth Street, NW., Washington, D.C.

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[1] PCC New York office, officially opened on May 10, 1984, is in addition to other branch offices in Denver, Portland, Seattle, and Salt Lake City. PCC's two main offices are in Los Angeles and San Francisco.

[2] New York Stock Exchange, American Stock Exchange, and over-the-counter trades will continue to be verified and compared by National Securities Clearing Corporation ("NSCC"). NSCC will continue to transmit compared trade data directly to PCC in California for PCC member trades.

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. 84-14315 Filed 5-25-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Extension of Preferred Lenders Program

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: The Small Business Administration (SBA) is operating a pilot Preferred Lenders Program (PLP). This program is explained in a notice published in the **Federal Register** on February 23, 1983 (48 FR 7667) and expanded in a notice published on June 15, 1983 (48 FR 27467). The termination date announced in the June 15, 1983 notice was May 31, 1984.

The SBA is extending the termination date of the PLP pilot until December 31, 1984. The extension is necessary to accommodate the time involved in proposing and publishing final regulations for program operation.

EFFECTIVE DATE: May 31, 1984.

FOR FURTHER INFORMATION CONTACT: Danny J. Gibb, Chief, Financial Institutions Branch, 1441 L St. NW, Room 503-F, Washington D.C. 202-653-6076.

(Catalog of Federal Domestic Programs 59.012 Small Business Loans)

Dated: May 18, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-14187 Filed 5-25-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-5094]

Independence Capital Formation, Inc.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1983)), Independence Capital Formation, Inc. (ICF), 1505 Woodward Avenue, Detroit, Michigan 48226 has surrendered its License No. 05/05-5094, which was issued by SBA on June 28, 1973.

ICF 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 ICF is hereby accepted effective June 6, 1983, and it is no longer licensed to operate as a small business investment company.

Dated: May 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-14195 Filed 5-25-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2127; Amdt No.1]

Mississippi; Declaration of Disaster Loan Area

The above numbered declaration (49 FR 18938) is amended in accordance with the amendment to the President's declaration of April 26, 1984, to include District 3 of Panola County and District 2 of Union County as adjacent areas in the State of Mississippi as a result of damage from tornadoes beginning on or about April 21, 1984.

Dated: May 18, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-14193 Filed 5-25-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2136]

Tennessee; Declaration of Disaster Loan Area

Hamilton County and the adjacent County of Marion in the State of Tennessee constitute a disaster area because of damage caused by flooding which occurred on May 7-8, 1984. Applications for loans for physical damage may be filed until the close of business on July 20, 1984, and for economic injury until the close of business on February 21, 1985, at the address listed belowe: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring Street, S.W., Suite 822, Atlanta, Georgia 30303, or other locally announced locations.

Interest rates are:

Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 213606 for physical damage and for economic injury the number is 617100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84-14194 Filed 5-25-84; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m. Monday June 4, 1984, at the Office of the Small Business Administration, 1441 L Street, NW., 10th Floor Conference Room, Washington, D.C. 20416, to discuss the writing of the Committee's year end report to the President and the Congress. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Milton Wilson, Jr., Office of Capital Ownership Development, Small Business Administration, Room 602, 1441 L Street, NW., Washington, D.C. 20416, in writing no later than May 31, 1984.

Dated: May 18, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-14192 Filed 5-25-84; 8:45 am]

BILLING CODE 8025-01-M

Action Subject To Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund 15 of our 31 Small Business Development Centers (SBDC's) for fiscal year 1985. It should be noted that fiscal year 1985 funding is contingent upon legislative reauthorization of the SBDC program. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been

furnished to each of the SBDC's to be refunded. This publication is being made to provide State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received for a period of 120 days from the date of publication of this notice.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published seven months in advance of the date of refunding of these existent SBDC's. Relevant information identifying these SBDC's and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC's and SBA for a period of four months (120 days) from the date of publication of this notice. The relevant SBDC's will make every effort to accommodate these comments during the 120 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In States where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed toward specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed

upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: May 18, 1984.

James C. Sanders,

Administrator.

Adresses of SBDC's Subject to this Notice

Mr. Paul McGinnis, SBDC Director, University of Arkansas, New Business Building, 33rd & University Avenue, Little Rock, Arkansas 72204 (501) 371–5381

Mr. Warren Van Hook, SBDC Director, Howard University, 2361 Sherman Avenue, NW., Washington, D.C. 20059 (202) 636–7187

Mr. Gregory Higgins, SBDC Director, University of West Florida, 627 University Office Boulevard, Pensacola, Florida 325040 (904) 478–2820

Mr. Adolph Sanders, Acting SBDC Director, University of Georgia, Brooks Hall, Room 348, Athens, Georgia 30602 (404) 542–5760

Mr. Eric Rinehart, SBDC Director, State of Illinois Department of Commerce and Community Affairs, 620 East Adams Street, Springfield, Illinois 62701 (217) 785–6131

Mr. Warren Purdy, SBDC Director, University of Southern Maine, 246 Deering Avenue, Portland, Maine 04102 (207) 780–4423

Mr. Tim Donahue, SBDC Director, St. Thomas College, 2115 Sumit Avenue, St. Paul, Minnesota 55105 (612) 647–5840

Mr. Robert Bernier, SBDC Director, University of Nebraska at Omaha, Peter Kiewit Center, Omaha, Nebraska 68182 (402) 554–2521

Ms. Adele Kaplan, SBDC Director, Rutgers University, Ackerson Hall, 3rd Floor, 180 University Street, Newark, New Jersey 07102 (201) 648–5950

Ms. Susan Garber, SBDC Director, University of Pennsylvania, The Wharton School, 3201 Steinberg Hall, Dietrich Hall/CC, Philadelphia, Pennsylvania 19104 (215) 898–1219

Mr. Douglas Jobling, SBDC Director, Byrant College, Smithfield, Rhode Island 02917 (401) 231–1200

Mr. W. F. Littlejohn, SBDC Director, University of South Caroline, College of Business Administration, Columbia, South Carolina 29208 (803) 777–5118

Mr. Richard Haglund, SBDC Director, University of Utah, Graduate School of Business, Salt Lake City, Utah 84112 (801) 581–7905

Mr. Ed Owens, SBDC Director, Washington State University, College of Business and Economics, Pullman, Washington 99164 (509) 335–1576

Dr. Robert Pricer, SBDC Director, University of Wisconsin, 602 State Street, Second Floor, Madison, Wisconsin 53703 (608) 263–7794

[FR Doc. 84-14191 Filed 5-25-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 907]

Agency Form Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a collection of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

1. Form number—Optional Form 174.

2. Title—Application for Employment in the Foreign Service of the United States.

3. Purpose—Used for applications and appointments of Foreign Nationals and Americans hired abroad.

4. Type of request—Extension.

5. Origin—Bureau of Personnel, Office of Foreign Service National Personnel.

6. Frequency—On occasion.

7. Respondents—Foreign Nationals and Americans seeking employment with Foreign Service posts.

8. Estimated number of responses—5,000.

9. Estimated number of hours needed to respond—2,500.

Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the forms and supporting documents may be obtained form Gail J. Cook, (202) 632–3602. Comments and questions should be directed to (OMB) Francine Picoult, (202) 365–7231.

Dated: May 15, 1984.

Robert E. Lamb,

Assistant Secretary for Administration.

[FR Doc. 84-14216 Filed 5-25-84; 8:45 am]

BILLING CODE 4710-24-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 104
Tuesday, May 29, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 1, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14382 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 8, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14383 Filed 5–24–84; 2:29 p.m.]

BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, June 12, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of proposed rulemaking concerning short sales of leverage transactions.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14384 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 15, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14385 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, June 19, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Application of the Chicago Bard of Trade for designation as a contract market to trade Amex Major Market Index and Amex Market Value Index futures.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14386 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 22, 1984.

PLACE: 2033 K Street, NW., Washington, DC., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14387 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

7

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 28, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14388 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

8

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 29, 1984.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84–14389 Filed 5–24–84; 2:29 pm]

BILLING CODE 6351–01–M

9

FEDERAL COMMUNICATIONS COMMISSION

May 23, 1984.

Deletion of agenda item from May 24th open meeting.

The following item has been deleted at the request of the office of the General Counsel from the list of agenda items scheduled for consideration at the May 24, 1984, Open Meeting and previously listed in the Commission's Notice of May 17, 1984.

Agenda, Item No., and Subject

General—1—*Title: Report and Order:* In the Matter of Inquiry into Enforcement of Prohibitions Against the Use of Common Carriers For the Transmission of Obscene Materials. *Summary:* The Commission will consider whether or not to adopt a *Report and Order* which proposes to restrict access by minors to obscene or indecent telephonic communications.

Issued: May 23, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-14322 Filed 5-24-84; 10:15 am]

BILLING CODE 6712-01-M

10

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Friday, June 1, 1984.

PLACE: Room 532, (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20508.

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 BAT Industires, Docket No. 9135.

Portions closed to the public:

(2) Executive Session to follow Oral Argument in BAT Industries, Docket No. 9135.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 523-1892; Recorded Message: (202) 523-3806.

Emily H. Rock,

Secretary.

[FR Doc. 84-14398 Filed 5-24-84; 3:07 am]

BILLING CODE 6750-01-M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, June 13, 1984.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mr. Earl R. Ohman, Jr., (202) 634-4015.

Dated: May 24, 1984.

Earl R. Ohman, Jr.,

Acting General Counsel.

[FR Doc. 84-14375 Filed 5-24-84; 12:55 pm]

BILLING CODE 7600-01-M

12

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters.)

DATE AND TIME: Wednesday, May 30, 1984—2:00 p.m.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 3 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commssion, (301) 492-5987.

Dated: May 23, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 84-14403 Filed 5-24-84; 3:57 pm]

BILLING CODE 4410-01-M

Federal Register

Tuesday
May 29, 1984

Part II

Federal Emergency Management Agency

44 CFR Parts 61 and 62

Offer To Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

Offer To Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency (FEMA).

ACTION: Notice of Offer to Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy.

SUMMARY: The Federal Insurance Administration is publishing in this Notice the Financial Assistance/Subsidy Arrangement for 1984–1985 governing the duties and obligations of insurers participating in the Write-Your-Own Program (WYO) of the National Flood Insurance Program (NFIP). In addition, this Notice sets forth the responsibilities of the Government to provide financial and technical assistance to the insurers.

This Notice relates to the final rule which was published in the **Federal Register** on October 14, 1983, at page 46789 regarding changes in the National Flood Insurance Program's regulations dealing with the issuance of flood insurance policies and the adjustment of claims and the establishment of a program of assistance to private sector property insurance companies in underwriting flood insurance using the Standard Flood Insurance Policy.

In fiscal year 1984 the insurers and the Government operated under the initial Financial Assistance/Subsidy Arrangement to: (1) Work with the initial group of insurers in their establishment of operational capabilities, (2) design the mechanisms to assure financial control, and (3) build a demand for expanded participation by the insurance industry in fiscal year 1985 and beyond.

The Federal Insurance Administration, working with insurance company executives, FEMA's Comptroller's Office and FEMA's Office of the Inspector General addressed and solved the operating and financial control questions. On April 16, 1984, the NFIP distributed the Statistical Plan, Accounting Procedures and the Financial Control Plan for WYO to become fully operational. These documents along with the Flood Insurance Manual, Flood Insurance Adjuster's Manual, Re-write Procedures and FEMA Letter of Credit Procedures comprise the operating framework for the WYO.

DATE: The offer is effective upon publication in the **Federal Register**. The Financial Assistance/Subsidy Arrangement is effective with respect to flood insurance policies written under the Arrangement with an effective date of October 1, 1984, and later.

SUPPLEMENTARY INFORMATION: The purposes of this Notice are:

(1) To offer, publicly, financial assistance to protect against underwriting losses resulting from floods on Standard Flood Insurance Policies written by private sector insurers;

(2) To provide a method by which the offer may be accepted; and

(3) To set forth the duties and obligations under the Financial Assistance/Subsidy Arrangement (1984–85).

Method of Acceptance of Offer

1. Acceptance of this offer shall be by telegraphed or mailed notice of acceptance or signed Arrangement to the Administrator prior to midnight EDT September 30, 1984.

2. The telegraphed or mailed notice of acceptance to the Administrator must be authorized by an official of the insurance company who has the authority to enter into such arrangements.

3. A duly signed original copy of the Arrangement must be on file with the Administrator by November 15, 1984.

4. If (1), (2) or (3) above are not satisfied, the acceptance will be considered by the Administrator as conditional and the commitment of NFIP resources to fulfill the "Undertaking of the Government" under Article IV of the Arrangement will take a lower priority than those needed to fulfill the requirement of the other participating insurance companies.

5. Send all acceptances of this offer to: FEMA, Attn: Federal Insurance Administrator, WYO Program, Washington, D.C. 20472.

Offer To Provide Financial Assistance

Pursuant to the provisions of the National Flood Insurance Act of 1968, as amended (title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp., p. 329), E.O. 12127, dated March 31, 1979 (3 CFR 1979 Comp., p. 376), Delegation of Authority to Federal Insurance Administrator, subject to all regulations promulgated thereunder and, to the duties, obligations and rights set forth in the Financial Assistance/Subsidy Arrangement as printed below, the Federal Insurance Administrator, hereinafter referred to as the "Administrator", offers to enter into the Financial Assistance/Subsidy Arrangement with any individual private sector property insurance company. This offer is effective only in a state in which such private sector insurance company is licensed to engage in the business of property insurance.

FEDERAL ENERGY MANAGEMENT AGENCY

Federal Insurance Administration

Financial Assistance/Subsidy Arrangement

Purpose: To assist the company in underwriting flood insurance using the standard flood insurance policy.

Accounting Data: Pursuant to Section 1310 of the Act, a Letter of Credit shall be issued under Treasury Department Circular No. 1075, Revised, for payment as provided for herein from the National Flood Insurance Fund.

Effective Date: October 1, 1984.

Issued by: Federal Emergency Management Agency, Federal Insurance Administration, Washington, D.C. 20472.

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its "Finding and Declaration of Purpose" in the National Flood Insurance Act of 1968, as amended ("the Act") recognized the benefit of having the National Flood Insurance Program (the Program) "carried out to the maximum extent practicable by the private insurance industry"; and

Whereas, the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of Section 1310 of the Act; and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act); and

Whereas, the Program, as presently constituted and implemented, is subsidized, and the insurer (hereinafter the "Company") under this Arrangement shall charge rates established by the Federal Insurance Administration; and

Whereas, this Arrangement will subsidize all flood policy losses by the Company; and

Whereas, this Financial Assistance/Subsidy Arrangement has been developed to involve individual Companies in the Program, the initial step of which is to explore ways in which any interested insurer may be able to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act; and

Whereas, over time, the Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public; and

Whereas, the direct beneficiaries of this Arrangement will be those Company policyholders and applicants for flood insurance who otherwise would not be covered against the peril of flood.

Now, therefore, the parties hereto mutually undertake the following:

Article II—Undertakings of the Company

A. In order to be eligible for assistance under this arrangement the Company shall be responsible for:

1.0 Policy Administration, including

1.1 Community Eligibility/Rating Criteria

1.2 Policyholder Eligibility Determination

1.3 Policy Issuance

1.4 Policy Endorsements

1.5 Policy Cancellations

1.6 Policy Correspondence

1.7 Payment of Agents Commissions

The receipt, recording, control, deposit and disbursement of funds in connection with all the foregoing, and correspondence relating to the above.

2.0 Claims processing in accordance with general Company standards.

The FIA Claims Manual and Adjuster Management Outline, and Adjuster handbook shall be used as guides by the Company, along with FIA's WYO Claims Questions and Answers, the Flood Insurance Claims Office (FICO) Manual and other instructional materials.

3.0 Reports.

3.1 Monthly Financial Reporting and Statistical Transaction Reporting shall be in accordance with the requirements of National Flood Insurance Program Statistical Plan for the Write-Your-Own (WYO) program and the Financial Control Plan for business written under the WYO Program. This data shall be validated/edited/audited in detail and shall be compared and balanced against Company financial reports.

3.2 Monthly financial reporting shall be prepared in accordance with the WYO Accounting Procedures.

3.3 The Company shall establish a program of self audit acceptable to FIA or comply with the self audit program contained in the Financial Control Plan for business written under the WYO Program. The Company shall report the results of this self-audit to FIA annually.

B. The Company shall use the following time standards of performance as a guide:

1.0 Application Processing—15 days (Note: If the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, a request for correction or added monies shall be mailed within 10 days);

1.1 Renewal Processing—7 days;

1.2 Endorsement Processing—7 days;

1.3 Cancellation Processing—15 days;

1.4 Correspondence, Simple and/or Status Inquiries—7 days;

1.5 Correspondence, Complex Inquiries—20 days;

1.6 Supply, Materials, and Manual Requests—7 days;

1.7 Claims Draft Processing—7 days from completion of file examination;

1.8 Claims Adjustment—45 days average from receipt of Notice of Loss (or equivalent) through completion of examination;

1.9 For the elements of work enumerated above, the elapsed time shown is from date of receipt through date of mail out. Days means working, *not* calendar days.

In addition to the standards for timely performance set forth above all functions performed by the Company shall be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing industries.

These standards are for guidance, and, therefore, there is no remedy for failure to meet them under this Arrangement. Nevertheless, performance under these standards can be a factor considered by FIA in determining the continuing participation of the Company in the Program.

C. The Company shall coordinate activities and provide information to FIA or its designee on those occasions when a Flood Insurance Catastrophe Office is established.

D. Policy Issuance.

1.0 The flood insurance subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act;

2.0 The Company shall issue policies under the regulations prescribed by the FIA Administrator in accordance with the Act;

3.0 All such policies of insurance shall conform to the regulations prescribed by the Administrator pursuant to the Act, and be issued on a form approved by the Administrator;

4.0 All policies shall be issued in consideration of such premiums and upon such terms and conditions and in such States or areas or subdivisions thereof as may be designated by FIA and only where the Company is licensed by State law to engage in the property insurance business;

5.0 The FIA may require the Company to immediately discontinue issuing policies subject to this Arrangement in the event Congressional authorization or appropriation for the National Flood Insurance Program is withdrawn.

E. The Company shall establish a bank account, separate and apart from all other Company accounts, at a bank of its choosing for the collection, retention and disbursement of funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV. (Reference: Article IV, Section A). The Company shall invest all funds held in the accounts established pursuant hereto, which funds are not necessary to meet current expenditures, in obligations of the United States Government. Such income as is derived from these investments shall be utilized to meet the obligations of the Company pursuant to flood insurance policies issued hereunder.

F. The Company shall investigate, adjust, settle and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company shall be binding upon the FIA.

G. The Company may market flood insurance policies in any manner consistent with its customary method of operation.

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company shall be liable for operating, administrative and agent expenses, including any taxes, dividends, commissions or any board, exchange or bureau assessments, or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement.

B. The Company shall be entitled to withhold as operating and administrative expenses, other than agents or brokers commissions, *17.0%* of the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's operating and administrative expenses, except for allocated and unallocated loss adjustment expenses described in C. below. The Company's operating and administrative expense allowance equals the average of industry expense ratios for "Other Acq." "Gen. Exp." and "Taxes" as published in the latest available (as of March 15 of the prior Arrangement year) "Best's Aggregates and Averages Property Casualty, Industry Underwriting—by Lines (1982) for Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril combined (weighted average using premiums earned as weights). Premium income net of reimbursement (net premium income) shall be deposited in a special account for the payment of losses and loss adjustment expenses (see Article II (E)).

The Company shall be entitled to withhold 15.0% of the Company's written premium on the policies covered by this arrangement as the commission allowance to meet commissions and/or salaries of their insurance agents, brokers, or other entities producing qualified flood insurance applications and other marketing expense.

With the agreement of the Federal Insurance Administrator the company may cede 3% of the company's written premium on the policies covered by this Arrangement for the right to obtain a reimbursement of state or municipal tax paid on the policies covered by this Arrangement.

C. Loss Adjustment Expenses shall be an reimbursed as follows:

1. Unallocated loss adjustment shall be an expense reimbursement of 3.3% of the incurred loss (except that it does not include "incurred but not reported").

2. Allocated loss adjustment expense shall be reimbursed to the Company pursuant to Exhibit A, entitled "Fee Schedule."

3. Special allocated loss expenses shall be reimbursed to the company for only those expenses the Company has obtained prior approval of the Federal Insurance Administrator to incur.

D. Loss payments under policies of flood insurance shall be made by the Company.

E. Premium refunds to applicants and policyholders required pursuant to rules contained in the NFIP "Flood Insurance Manual" shall be made by the Company.

Article IV—Undertakings of the Government

A. A Treasury Financial Communication System Letter(s) of Credit shall be established by the Federal Emergency Management Agency (FEMA) against which the company may withdraw funds daily, if needed, pursuant to prescribed Federal Reserve Letter of Credit procedures as implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the company under Article III (C), (D), and (E). Request for funds shall be only when net premium income and income derived from investments and disinvestments have been depleted. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for allowable Letter of Credit costs.

Request for payment on Letters of Credit shall not ordinarily be drawn more frequently than daily nor in amounts less than $5,000, and in no case more than $5,000,000 unless so stated on the Letter of Credit. This Letter of Credit may be drawn against the Company for any of the following reasons:

1. Payment of claim as described in article III, Section D; and

2. Refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund as described in Article III, Section E; and

3. Allocated and unallocated Loss Adjustment Expenses as described in Article III, Section C.

B. The FIA shall provide technical assistance to the Company as follows:

1. FIA's policy and history concerning underwriting and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

Article V—Commencement and Termination

A. Upon signature of authorized officials for both the Company and FIA, this Arrangement shall be effective for the period October 1 through September 30. FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. By June 1, of each year, the FIA shall publish in the **Federal Register** and make available to the Company the terms for the re-subscription of this Financial Assistance/Subsidy Arrangement. In the event the Company chooses not to re-subscribe, it shall notify the FIA to that effect by the following July 1.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, or the FIA chooses not to renew the Company's participation, the FIA, at its option, may (i) require the continued performance of this entire Arrangement for one (1) year following the effective expiration date only for those policies issued during the original term of this Arrangement, or any renewal thereof, or (ii) require the transfer to FIA of:

1. All data received, produced, and maintained through the life of the Company's participation in the Program; and

2. A plan for the orderly transfer to FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

3. All claims and policy files, including those pertaining to receipts and disbursements which have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

D. Financial assistance under this Arrangement may be cancelled by FIA in its entirety upon 30 days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (1) fraud or misrepresentation by the Company subsequent to the inception of the contract, or (2) nonpayment to FIA of any amount due FIA. Under these very specific conditions, FIA may require the transfer of data as shown in Section C. above. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA.

E. In the event the Act is amended, repealed, expires or FIA is otherwise without authority to continue the Program, financial assistance under this Arrangement may be cancelled for any new or renewal business, but the Arrangement shall continue for policies in force which shall be allowed to run their term under the Arrangement.

F. In the event that the Company is unable to, or otherwise fails to, carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any Jurisdiction to which the Company is subject, the Company

agrees to transfer, and the Government will accept, any and all Write-Your-Own policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities owed to policyholders under such policies arising before and after the date of transfer and the Company will immediately transfer to the Government all funds in its possession with respect to all such policies transferred and the unearned portion of the Company expenses for operating, administrative and loss adjustment on all such policies.

Article VI—Information and Annual Statements

The Company shall furnish to FIA such summaries and analyses of information in its records as may be necessary to carry out the purposes of the National Flood Insurance Act of 1968, as amended, in such form as FIA, in cooperation with the Company, shall prescribe. The Company shall be a property/casualty insurer domiciled in a State or territory of the United States. Upon request, the Company shall file with FIA a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof, as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII—Cash Management and Accounting

A. FEMA shall make available to the Company during the entire term of this Arrangement and any continuation period required by FIA pursuant to Article V(C.) the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System upon which the Company may draw for reimbursement of its expenses as set forth in Article IV which exceed net written premiums and interest income collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw.

B. At the end of each fiscal year, the Company shall remit to FIA any funds in excess of those required to meet expenses for loss and loss adjustment. Such liabilities shall be defined as liabilities established for case reserves and reserves established for losses incurred but not reported, plus $5,000.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, the Company and FIA shall make a provisional statement of all amounts due or owing within three months of the termination of this Arrangement. This settlement shall include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities which shall be listed by the Company. At the time of final settlement, the balance, if any, due FIA or the Company shall be remitted by the other immediately and the operating year under this Arrangement closed.

Article VIII—Arbitration

A. If any misunderstanding or dispute arises between the Company and FIA with reference to any factual issue under any provisions of this Arrangement or with respect to FIA's non-renewal of the Company's participation, other than as to legal liability under or interpretation of the standard flood insurance policy, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding upon approval by FIA. The Company and FIA may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make a determination. If the Company and FIA cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by FIA.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by FIA.

The Company and FIA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section shall, upon objection by FIA or the Company, be inadmissible as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX—Errors and Omissions

The parties shall not be liable to each other for damages caused by ordinary negligence arising out of any transaction or other performance under this Arrangement, nor for any inadvertent delay, error, or omission made in connection with any transaction under this Arrangement, provided that such delay, error, or omission is rectified by the responsible party as soon as possible after discovery.

Article X—Officials Not To Benefit

No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Arrangement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI—Offset

At the settlement of accounts the Company and the FIA shall have, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, its successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and the FIA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts of credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry or any order of conservation, receivership, or liquidation shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset. Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII—Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII—Restriction on Other Flood Insurance

As a condition of entering into this Arrangement the Company agrees that in any area in which FEMA authorizes the purchase of flood insurance pursuant to the Program, all flood insurance offered and sold by the Company to persons eligible to buy pursuant to the Program for coverages available under the Program shall be written pursuant to this Arrangement.

However, this restriction applies solely to policies providing only flood insurance. It does not apply to policies provided by the Company during the term of this Arrangement, of which flood is one of the several perils covered, or where the flood insurance coverage amount is over and above the limits of liability available to the insured under the Program.

Article XIV—Access to Books and Records

FIA and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination of any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records which fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records relating to premiums shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. FIA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV—Compliance With Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto shall be subject to the provisions of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, as amended, and Regulations issued pursuant thereto and all Regulations affecting the work that are issued pursuant thereto, during the term hereof.

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

The Company is not the agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any flood policy issued pursuant hereto.

In witness whereof, the parties hereto have accepted this Arrangement on this — day of ————, 1984.

Company
The United States of America Federal Emergency Management Agency
by _____

(Title)
by _____

(Title)

Exhibit A

FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous assignment	$40.00
CWP:	70.00
.01 to 200.00	$70.00
200.01 to 400.00	90.00
400.01 to 600.00	110.00
600.01 to 800.00	130.00
800.01 to 1,000.00	150.00
1,000.01 to 1,500.00	180.00

FEE SCHEDULE—Continued

Range (by covered loss)	Fee
1,500.01 to 2,000.00	200.00
2,000.01 to 2,500.00	220.00
2,500.01 to 3,000.00	240.00
3,000.01 to 3,500.00	260.00
3,500.01 to 4,000.00	280.00
4,000.01 to 4,500.00	300.00
4,500.01 to 5,000.00	320.00
5,000.01 to 6,000.00	350.00
6,000.01 to 7,000.00	370.00
7,000.01 to 8,000.00	380.00
8,000.01 to 9,000.00	400.00
9,000.01 to 10,000.00	420.00
10,000.01 to 15,000.00	460.00
15,000.01 to 20,000.00	490.00
20,000.01 to 25,000.00	520.00
25,000.01 to 30,000.00	550.00
30,000.01 to 35,000.00	580.00
35,000.01 to 40,000.00	610.00
40,000.01 to 45,000.00	640.00
45,000.01 to 50,000.00	670.00
50,000.01 to 75,000.00	800.00
75,000.01 to 100,000.00	950.00
100,000.01 to 125,000.00	1,100.00
125,000.01 to 150,000.00	1,250.00
150,000.01 to 175,000.00	1,400.00
175,000.01 to 200,000.00	1,550.00
200,000.01 to limits	1,700.00

Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles ($500 and $50) and limited to the amounts of insurance purchased.

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp., p 329), E.O. 12127 dated March 31, 1979 (3 CFR 1979 Comp., p 376), Delegation of Authority to Federal Insurance Administrator)

List of Subjects in 44 CFR Parts 61 and 62

Flood insurance.

Issued at Washington, D.C., May 22, 1984.

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 84-14156 Filed 5-25-84; 8:45 am]

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federal register

Tuesday
May 29, 1984

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Interior Least Tern Proposed as Endangered; Proposed Rule

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Interior Least Tern Proposed as Endangered

AGENCY: Fish and Wildlife Service, Interior

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the interior least tern (*Sterna antillarum athalassos*), a small bird. Formerly abundant in the Mississippi basin, the tern has been eliminated from most stretches of the Mississippi River and its tributaries. Nesting islands in rivers have been permanently inundated or destroyed by reservoirs and channelization projects. Alteration of natural river dynamics has caused unfavorable vegetational succession on many remaining islands, curtailing their use as nesting sites by terns. This proposal, if made final, will provide protection under the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 30, 1984. Public hearing requests must be received by July 13, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Engel, Endangered Species Coordinator (see ADDRESSES section), (612/725–3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

The interior least tern, described by Burleigh and Lowery in 1942, is one of four recognized subspecies of a New World bird, *Sterna antillarum*, three of which inhabit the United States. The interior least tern historically bred along the Colorado (in Texas), Red, Arkansas, Missouri, Ohio, and Mississippi River systems from central North Dakota through South Dakota, Nebraska, eastern Colorado, Iowa, Kansas, Missouri, Illinois, Indiana, Oklahoma, Arkansas, Tennessee, Kentucky, eastern New Mexico, Texas, Louisiana, and Mississippi (American Ornithologists Union, 1957). The actual wintering area for this population is unknown; however, least terns are found along the northern coast of South America and west along the coast of Central America in the winter.

The eastern least term (*Sterna antillarum antillarum*) breeds along the Atlantic Coast from Massachusetts to Georgia, along the Gulf Coast from Florida to Texas, and in the Bahamas and Caribbean Islands. The California least term (*Sterna antillarum browni*), which has been listed as an endangered species since 1970 (32 FR 16047), breeds along the Pacific Coast from central California to Baja California.

Massey (1976) reported no consistent morphological, behavioral, or vocal differences between *antillarum* and *browni*. In Texas where *antillarum* and *athalassos* are sympatric, the differentiation of skins of the two subspecies is not possible and the present taxonomy is probably tentative (Thompson, 1981). However, the subspecies status of the interior least tern does not affect the proposed listing because subspecies and distinct population segments of a vertebrate species may be listed under the Endangered Species Act.

Least terns are the smallest members of the subfamily Sterninae, measuring 20–22 cm long with a 50 cm wingspread. Sexes are alike, characterized by a black crown, white forehead, grayish back and dorsal wing surfaces, snowy white undersurfaces, orange legs, and a black-tipped yellow bill. Immature birds have darker plumage, a dark bill, and dark eye stripes on their white heads.

Hardy (1957) presents the only substantial field study of the interior least tern. Ducey (1981) provides the most current and comprehensive summary of available published and unpublished information on the interior least tern. The tern exhibits a localized pattern of distribution and its breeding biology centers around three ecological factors. These include: (1) The presence of bare or nearly bare alluvial islands or sand bars, (2) the existence of favorable water levels during the nesting season, and (3) the availability of food.

Under natural river conditions islands are created and destroyed by the river's erosion and deposition processes. Periodic innundation maintains some islands in the barren or sparsely vegetated condition required by terns for nesting. Although most nesting is in rivers, the interior least tern also nests on the barren flats of saline lakes and ponds such as on the Salt Plains National Wildlife Refuge, Oklahoma.

The nest is a simple unlined scrape containing 2 to 4 brown spotted buffy eggs. Breeding colonies or terneries are usually small (up to 20 nests) with nests spaced far apart. Egg/laying and incubation occur from late May to mid-July depending on the geographical location and availability of habitat. After a 20-day incubation period the chicks will fledge in another 20 days. Little is known about the tern's specific food preferences but small fish constitute its prey.

The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, requires determination of whether species of wildlife and plants are endangered or threatened, based on the best available scientific and commercial data. The Service was originally petitioned in 1975 by the Oklahoma Ornithological Society to list the interior least tern as an endangered species. The Service has indicated intent to propose the species for listing. On December 30, 1982, the Service published a notice of review in the **Federal Register** (47 FR 58454) identifying vertebrate taxa, native to the U.S., being considered for addition to the List of Endangered and Threatened Wildlife. The notice included the interior least tern. A review of existing data, including status surveys and consultation with biologists, forms the basis for the present proposed rule to list this subspecies as endangered.

Historical trends of the interior least tern population are poorly known. No reliable estimates of original numbers are available. However, it is widely accepted that populations have undergone significant declines because of a large documented loss of nesting habitat. Moreover, the obvious continued loss or degradation of nesting islands coupled with an estimated population of 1,250 interior least terns (Downing 1980) has led to considerable concern for this subspecies. This population level is almost the same as the endangered California least tern (currently numbers about 1,200 breeding pairs, but stood at 600 pairs when listed as endangered in 1970). Because of the scarcity of the interior least tern and its continuing decline and anticipated further loss of habitat, the Service is proposing endangered status for the subspecies.

Hardy (1957) reviewed the literature for breeding occurrences and mapped 29 breeding locations and 13 other locations where breeding of interior least terns was not confirmed. However, many breeding locations have probably gone unreported and Hardy's account of breeding distribution is therefore conservative. For example, he does not report any colonies in North Dakota or along the Niobrara River, Nebraska; the latter harbors one of the largest

populations today. There is, however, reference to the interior least tern being common on the Niobrara River and specimens collected in Montana and North Dakota in the early 1800's and 1870's. Lewis and Clark frequently observed the interior least tern along the length of the Missouri River and described the species in detail. They believed the tern "to be a native of this country and probably a constant resident." Clearly, the interior least tern was probably common before the construciton of dams on the Missouri River in the Dakotas and Montana, which changed over 90 percent of the river from a dynamic free-flowing state to a river containing numerous reservoirs. Thirty-five years ago, this once common bird was found at only 9 sites along the remainder of the Missouri River between Sioux City, Iowa and St. Louis, Missouri. Even those 9 breeding sites are no longer being used by terns. The tern has been extirpated along this stretch of the Missouri River.

In Nebraska, breeding locations have been located on the Platte River in recent years as a result of intensive searches. However, there is a reduced quantity of nesting habitat for the tern which historically nested on the entire stretch of the river. Recent research indicates that the tern may be in danger of further decline along the Platte River (Faanes, in press).

In Kansas, recent research on the interior least tern indicated low numbers (100 birds), low reproductive success, and continued threats to the tern's breeding habitat (Schulenberg and Schulenberg, 1983). The tern no longer breeds along the river systems in the northern part of the state.

The status of the interior least tern in Oklahoma and Texas is poorly known. The three current breeding locations in Oklahoma are fewer than the historic eight breeding sites. Only a few colonies remain on the Red River between Texas and Oklahoma.

Although once present in small numbers along the upper Mississippi River and its tributaries, the tern is now extirpated from this region (Thompson and Landin, 1978). Two to 3 small colonies exist on the lower Ohio River. The remaining and most substantial breeding population of terns occurs on the Mississippi River between the southern tip of Illinois and Osceola, Arkansas. Downing (1980) estimated 600 birds in 1975 based on the 300 observed. Recent surveys recorded 239 terns. Along the remainder of the Mississippi River the tern is now apparently absent. It was once very common near Vicksburg, Mississippi. There have been no recent records of terns on the rivers in Louisiana.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.)*, as amended, and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; proposed revision: 48 FR 36062–36069, August 8, 1983) set forth the procedures for adding species to the Federal lists. The Secretary of the Interior shall determine whether any species is an endangered species or a threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to the interior least tern *(Sterna antillarum athalassos)* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The construction of reservoirs has permanently eliminated islands and prevents their formation. Such reservoirs exist along hundreds of miles of rivers of the Mississippi basin. Stretches of river below dams are so regulated that a river's natural erosion and deposition processes, which are responsible for creating, destroying, and maintaining nesting islands, no longer occur. The controls on the river have reduced the violent spring floods, which would scour vegetation from islands, and has limited the amount of alluvium for island formation. Consequently, on most of the remaining islands, forbs and annuals are followed by shrub and tree species, which ultimately form the permanent vegetation of the island, a condition unsuitable for nesting interior least terns.

Johnson (1971) reported that in North Dakota, a lack of new alluvial deposits is leading to a floodplain forest of advanced successional stage along the Missouri River below Garrison Dam. Plant succession is believed to be the cause of the loss of the interior least tern colony at DeSota Bend National Wildlife Refuge in Iowa. The braided nature of the Platte River in most of Nebraska has been largely eliminated. Its historic flow has been reduced 60 to 80 percent by irrigation withdrawals. As a result, the width of the river has been reduced, and most of the islands are heavily vegetated. Downing (1980) concluded that along the Missouri and Platte River, almost complete loss of tern populations may occur in a few years because of vegetation encroachment. Plant succession on islands and riverbanks is occurring on other midwest rivers. Even dredge islands develop late serial stages of vegetation within a few years and have been subsequently avoided by terns. The vegetative character on natural and manmade islands in regulated rivers will continue to evolve to a point of unsuitability for nesting terns as observed by Wycoff (1960) during a period of 17 years on the Platte River. Along the still wild Niobrara River in Nebraska, vegetation encroachment is not presently a problem, and the tern is still common.

A series of locks and dams and channel maintenance activities on the Mississippi River has resulted in a river flow state which inundates islands, shrinks the river width, and restricts the amount of alluvium for island formation. Seventy years of construction, operation, and maintenance of navigation channels on the Mississippi River and lower Missouri River have led to losses of islands and other river habitat. By the end of this century, acreage in the natural river channel of the lower Missouri River, which consists of islands, channels, chutes, sand bars, and slack waters, will decrease from 300,000 to 112,000 acres (Ducey, 1981).

In summary, bare sand islands and other bare areas will continue to decline at a rapid rate and most of those islands that survive will undergo plant succession unfavorable to the interior least tern. Moreover, human use of river islands has been increasing. Vehicular and other recreational activities are widespread along the Platte, Missouri, and Mississippi Rivers and occur largely on the barren islands favored by terns. Terns nesting on Salt Plains National Wildlife Refuge and Edith Salt Plain in Oklahoma are threatened by chloride control projects, which will either flood their habitat or reduce their food resources and may fail to provide replacement habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable for the species.

C. *Disease or predation.* Disease has not been a problem known to occur in this species. Coyotes prey on interior least tern eggs, and evidence exists that such predation can have a serious impact on nest success. Dogs and other domestic animals accompanying human use of sand bars can disrupt tern nesting through disturbance or predation. Dogs and cats were blamed for disrupting some colonies of the endangered California least tern (U.S. Fish and Wildlife Service, 1980).

D. *The inadequacy of existing regulatory mechanisms.* The interior least tern is listed as threatened or endangered by the States of South Dakota, Nebraska, Iowa, Illinois,

Missouri, Kansas, New Mexico, and Texas. The Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) protects the bird and its parts, nests, and egg from taking and trade. However, this protection currently does not protect against habitat loss, which is the main threat to the tern, and, by itself, will not be adequate to prevent the species' further decline. The Endangered Species Act would offer additional protection for the species, largely through the recovery and consultation processes.

E. *Other natural or manmade factors affecting its continued existence.* None are known.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary shall specify any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent and determinable for this species. This decision was based on the ephemeral nature of the tern's nesting habitat and indications that this subspecies makes frequent changes in nesting colony locations. From year to year nesting islands appear, disappear, and reappear depending upon river conditions. As a result, it is not possible or feasible to single out any given area as an area which, if given protection, will be used for nesting or otherwise be necessary to the tern's conservation. In addition, the Service finds that no benefit would accrue to the subspecies by specifying critical habitat; the effect of a given action upon the tern will have to be assessed in terms of its effects on the tern at the time of the particular action in a given location. A current assessment of proposed actions to a given area which may or may not be suitable for the terns at any given time will be of little aid to conservation.

Available Conservation Measures

The Migratory Bird Treaty Act makes it illegal to take, possess, sell, deliver, carry, transport, or ship interior least terns, their parts, eggs, nests, and young. However, it currently affords no protection to their habitat. Subsection 7(a) of the Endangered Species Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as endangered or threatened. Agencies are required under Section 7(a)(4) to confer with the Service on any action that is likely to jeopardize a proposed species. If finalized, this action would require Federal agencies to consult with the Service concerning any action that may affect the species, to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the interior least tern. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR 402, and are now under revision (see proposal at 48 FR 29989; June 29, 1983).

It is not possible now to state with certainty which particular ongoing or planned projects or area of activity would require consultation and possible modification. The following represent some activities which, based upon past tern requirements, may be found to be subject to the consultation requirement to the extent Federal licensing, activity, or funding is involved:

Desalinization or chloride control projects on the Arkansas River and the Red River Basin;

Channelization, stabilization, and flood control projects on the Missouri River;

Construction, maintenance, and operation of navigation channels on the Mississppi and lower Missouri Rivers, particularly those which prevent formation of sand bars;

Operation of locks, dams, and energy diversions in the Mississippi basin;

Construction and operation of the bypass channel for Edith Salt Plains;

Water release operations from the Gavins Point Dam and the Lewis and Clark Reservoir, particularly during tern nesting season when releases may inundate nests;

Development of access sites on the recreational river portion of the Missouri River;

Recreational and vehicular activities along the Platte and Missouri Rivers;

Swimming, canoeing, boating, or hiking in areas where nesting terns may be seriously disturbed; and

Measures which attract coyotes and other predators to, or hinder their removal from, areas occupied by the tern.

This does not indicate that all such actions will, in fact, be found to require consultation and still fewer would require the termination of any such project. Modification of actions rather than termination has been the experience of the Service. Certain projects may actually aid tern recovery (e.g., the present Arcadia Diversion, which has caused formation of sandbars and brought about renewed tern nesting). Affirmative conservation plans may also be implemented to avoid causing jeopardy to the tern.

The proposed rule would also bring Sections 5 and 6 of the Endangered Species Act into effect with respect to the interior least tern. Section 5 authorizes the acquisition of lands for the purpose of conserving endangered and threatened species. Pursuant to Section 6, the Service would be able to grant funds to affected states for management actions aiding the protection and required recovery actions for the interior least tern.

Listing the interior least tern as endangered would provide for development of a recovery plan for this bird. Such a plan would bring together State and Federal efforts for the conservation of the tern. The plan would establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate the cost of the various tasks necessary to accomplish them. It would designate appropriate functions to each agency and a time frame within which to compete them. If the recovery plan action has the desired effect, then the threats to the tern might become lessened such that the bird could be considered for threatened status or for removal from the List of Endangered and Threatened Wildlife.

The Service will review the interior least tern to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service does not prepare Environmental Assessments for Section 4(a) actions. The recommendation from CEQ was based, in part, upon a decision in the sixth Circuit Court of Appeals, which held that the preparation of NEPA documentation was not required as a matter of law for Section 4(a) actions under the Endangered Species Act. *PLF v. Andrus* 657 F.2d 829 (6th Cir., 1981).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of each endangered or threatened species. Theefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed

rules are hereby solicited. Comments particularly are sought concerning:

1. Biological, commercial, trade, or other relevant data concerning any threat (or lack thereof) to the interior least tern;

2. The location of any additional populations of the interior least tern and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

3. Additional information concerning the range and distribution of the subspecies; and

4. Current or planned activities that may adversely modify the habitat of this bird.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of this proposal. Such requests should be made in writing to the Regional Director, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

Final promulgation of the regulations on *Sterna antillarum athalassos* will take into consideration the comments and any additional information received by the Service, and such communications may lead to the adoption of a final rule that differs from this proposal.

References

American Ornithologists' Union. 1957. Checklist of North American birds. Fifth edition. Baltimore, American Ornithol. Union. 691 pp.

Burleigh, T.D., and G.H. Lowery. 1942. An inland race of *Sterna albifrons*. Occ. Pap. Mus. Zool. No. 10, Louisiana State University.

Downing, R.L. 1980. Survey of interior least tern nesting populations. American Birds 34(2):209–211.

Ducey, J.E. 1981. Interior least tern (*Sterna albifrons athalassos*). U.S. Fish and Wildlife Service, Pierre, S.D. Unpubl. rep. 56 pp.

Faanes, C.A. (in press). Aspects of the nesting ecology of least terns and piping plovers in central Nebraska. Prairie Nat.

Hardy, J.W. 1957. The least tern in the Mississippi Valley. Publ. of Museum, Michigan State Univ., Biol. Ser. 1(1):1–60.

Johnson, W.C. 1971. The forest overstory vegetation on the Missouri River Floodplain in North Dakota. Ph.D. thesis, N.D. State Univ., Fargo.

Schulenberg, J.H., and M.B.Schulenberg. 1983. Status of the interior least tern in Kansas. Unpubl. ms. 70 pp.

Thompson, D.H., and M.C. Landin. 1978. An aerial survey of waterbird colonies along the upper Mississippi River and their relationship to dredged material deposits. U.S. Army Engineer Waterways Exp. Sta. Tech. Rpt. D–78–13.

U.S. Fish and Wildlife Service. 1980. California least tern recovery plan. 58 pp.

Wycoff, R.S. 1960. The least tern. Neb. Bird Rev. 38(3):39–42.

Author

The primary author of this proposed rule is Mr. John G. Sidle, Endangered Species Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agricutlure).

Proposed Regulation Promulgation

PART 17—[AMENDED]

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

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

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

2. It is proposed to amend § 17.11(h) by adding the following in alphabetical order to the List of Endangered and Threatened Wildlife, under "BIRDS:"

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
*	*	*	*	*	*	*	
Tern, interior least	*Sterna antillarum athalassos*	U.S.A. (MT, ND, SD, NE, IA, CO, KS, MO, IL, IN, OK, AR, KY, TN, MS, LA, TX, NM; except Gulf Coastal Plain in TX, LA, MS), Winters Central or northern South America.	Entire	E	NA	NA	NA
*	*	*	*	*	*	*	

Dated: May 14, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–14182 Filed 5–25–84; 8:45 am]

BILLING CODE 4310–55–M

federal register

Tuesday
May 29, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

NGPA Notices of Determination by Jurisdictional Agencies

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1134]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: May 23, 1984.

NOTE.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New res. on old OCS lease
Section 103: New onshore production well
Section 107-DP: 15,000 ft or deeper
107-GB: Geopressured brine
107-DV: Devonian shale
107-CS: Coal seam gas
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1134

ISSUED MAY 23, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-COMMONWEALTH ENERGY INC				RECEIVED:	05/03/84	JA: LA			
8431953	84-0171	1707322008		103		MRS G M HILL #3	MONROE	1022.0	MID LOUISIANA GAS
-GULF OIL CORPORATION				RECEIVED:	05/03/84	JA: LA			
8431955	84-0159	1708920336		103		DELTA SECURITIES CO INC #134	BAYOU COUBA	36.0	TRANSCONTINENTAL
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/03/84	JA: LA			
8431956	84-407	1705520238		103		S TRAHAN #5 DISC SUA	RIDGE FIELD	306.0	UNITED GAS PIPE L
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/03/84	JA: LA			
8431954	84-0161	1702321148		103		YOUNT LEE OIL CO #66	SWEET LAKE	28.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-ARKLA EXPLORATION COMPANY				RECEIVED:	05/03/84	JA: OK			
8432099	27726	3508720834		103		GRIFFITH #1	SHORT JUNCTION	36.0	
-B R POLK INC				RECEIVED:	05/03/84	JA: OK			
8432087	27659	3508322329		103		B M KIENHOLZ #3	E ORLANDO	20.0	EASON OIL CO
8432086	27660	3508322420		103		WILMER-ROXANA #2	ROXANA	50.0	EASON OIL CO
-BILL WADLEY & SON DRILLING CO				RECEIVED:	05/03/84	JA: OK			
8432080	27624	3511124717		103		PULLIAM 1-A	BALD HILL	248.2	PHILLIPS PETROLEU
-BLAIK OIL COMPANY				RECEIVED:	05/03/84	JA: OK			
8432097	27732	3507122781		103		ADOLPH-SKINNER #1	N W GARRETT	0.0	
-BOGERT OIL CO				RECEIVED:	05/03/84	JA: OK			
8432082	27621	3507323941		103		HICKMAN 1A-28	SOONER TREND	322.0	CONOCO INC
-C J CASSELMAN				RECEIVED:	05/03/84	JA: OK			
8432108	27678	3511124942		103		PINKSTON #5	MORRIS	11.5	PHILLIPS PETROLEU
-CANADIAN EXPLORATION CORP				RECEIVED:	05/03/84	JA: OK			
8432110	27471	3501722647		103		MCCOMAS NO 5-1	WEST MUSTANG	70.0	PHILLIPS PETROLEU
-CAYMAN EXPLORATION CORP				RECEIVED:	05/03/84	JA: OK			
8432140	16918	3507322953		103		YENZER #1	SOONER TREND	56.0	CONOCO INC
-CLARK OPERATING SERVICES INC				RECEIVED:	05/03/84	JA: OK			
8432098	27731	3511123280		103		YEAGER #1-A		36.0	PHILLIPS PETROLEU
-CLARK RESOURCES INC				RECEIVED:	05/03/84	JA: OK			
8432073	27162	3509321616		108		BIRCHALL-DIERKSEN 26-1	SOONER TREND	13.0	NORTHWEST CENTRAL
8432074	27161	3501121690		108		GERALD 31-1	SOONER TREND	5.0	NORTHWEST CENTRAL
8432075	27160	3507323274		108		HOMIER 27-1	SOONER TREND	12.0	NORTHWEST CENTRAL
8432070	27467	3504722061		108		MALY #21-1	SOONER TREND	11.0	
8432067	27466	3504722141		108		MOORE 16-1	SOONER TREND	45.0	PANHANDLE EASTERN
8432114	23961	3507323786		102-4		OMEGA 19-1 (CHESTER)	SOONER TREND	140.0	WARREN PETROLEUM
8432116	23963	3507323786		102-4		OMEGA 19-1 (HUNTON)	SOONER TREND	140.0	WARREN PETROLEUM
8432115	23962	3507323786		102-4		OMEGA 19-1 (MISSISSIPPI SOLID)	SOONER TREND	140.0	WARREN PETROLEUM
8432138	27157	3509322431		108		PITMAN 14-1	SOONER TREND	7.0	NORTHWEST CENTRAL
8432137	27156	3507323030		108		PRIM 13-1	SOONER TREND	10.0	NORTHWEST CENTRAL
8432069	27468	3507322688		108		STATE 36-1	SOONER TREND	32.0	EASON OIL CO
-COTTON PETROLEUM CORPORATION				RECEIVED:	05/03/84	JA: OK			
8432143	20892	3501121737		102-4	103	MARRIOTT #1	WATONGA WEST	0.0	
-CZAR RESOURCES INC				RECEIVED:	05/03/84	JA: OK			
8432103	27641	3510920870		103		CARL BODE #32-3	S WILL ROGERS AIRPORT	72.0	CONOCO INC

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DARNELL JIM				RECEIVED:	05/03/84	JA: OK			
8432145	25234	3511121504		108		LAWSON #1	MORRIS	10.0	PHILLIPS PETROLEU
-DILCO				RECEIVED:	05/03/84	JA: OK			
8432133	24955	3511100000		102-4		M S DOUGLAS #1-9		0.0	PHILLIPS PETROLEU
-DYCO PETROLEUM CORPORATION				RECEIVED:	05/03/84	JA: OK			
8432147	25272	3500920497		102-2		HESTER 1		180.0	
8432146	25271	3500920496		102-2		JARVIS 1-10		250.0	
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/03/84	JA: OK			
8432127	27422	3500935598		108-PB		OREN D #1	ERICK SOUTH	0.0	EL PASO NATURAL G
-ESSEX EXPLORATION INC				RECEIVED:	05/03/84	JA: OK			
8432134	26719	3500722624		103		BELL UNIT #1-4	IVANHO	0.0	
-FOSSIL OIL & GAS INC				RECEIVED:	05/03/84	JA: OK			
8432139	14227	3507322899		103		HILLIS #4-25	EAST HENNESSEY	0.0	CONOCO INC
-FUNK EXPLORATION INC				RECEIVED:	05/03/84	JA: OK			
8432132	24460	3500722472		102-4	103	LEROY #1	DOMBEY	0.0	GULF STATES UTILI
8432129	21467	3500722384		103		TRETBAR "A" #1	DOMBEY	45.0	PANHANDLE EASTERN
-GETTY OIL COMPANY				RECEIVED:	05/03/84	JA: OK			
8432118	25097	3513900000		108-PB		J E WISE #1		0.0	NORTHWEST CENTRAL
8432084	27666	3513921809		103		SCHLUCKEBIER #3	NORTHEAST GUYMON	54.8	NORTHWEST CENTRAL
-HUMPHREY JOE ED				RECEIVED:	05/03/84	JA: OK			
8432144	24415	3511122895		108		HUMPHREY #1	MORRIS	8.4	PHILLIPS PETROLEU
-HUNGERFORD OIL & GAS INC				RECEIVED:	05/03/84	JA: OK			
8432113	23783	3500321022		103		MELROSE #1	MCWILLIE	24.0	AMINOIL USA INC
-JET OIL COMPANY				RECEIVED:	05/03/84	JA: OK			
8432095	27508	3504723452		103		STEINERT #2	BROWN-EAST PROSPECT	5.0	AMINOIL USA INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	05/03/84	JA: OK			
8432136	27083	3509320291		108		BOEHS #1	NW OKEENE	65.7	PHILLIPS PETROLEU
8432119	25311	3505120717		108-PB		HURST #1		0.0	ARKANSAS LOUISIAN
-KENWORTHY OPERATING CO				RECEIVED:	05/03/84	JA: OK			
8432096	27676	3511124563		103		PINE #1	HASKELL	55.0	PHILLIPS PETROLEU
-KETAL OIL PRODUCING CO				RECEIVED:	05/03/84	JA: OK			
8432104	27653	3514724320		103		WORTHINGTON #2	RAMONA	0.0	
-LANCER ENERGY CORP				RECEIVED:	05/03/84	JA: OK			
8432088	27656	3504700000		103		DOWERS #1	HILLSDALE	100.0	UNION TEXAS PETRO
-LITTLE RIVER ENERGY CO				RECEIVED:	05/03/84	JA: OK			
8432077	27632	3503725372		103		CONNER #1	S BRISTOW	17.0	BOYNTON FIELD GAS
8432078	27633	3503722520		103		CONNER #2	S BRISTOW	26.0	BOYNTON FIELD GAS
8432076	27634	3503725582		103		CONNER #3	S BRISTOW	9.0	BOYNTON FIELD GAS
8432111	27635	3503725641		103		CONNER #4	S BRISTOW	6.0	BOYNTON FIELD GAS
-LOOMIS OIL & GAS INC				RECEIVED:	05/03/84	JA: OK			
8432093	27679	3511721955		103		BONANZA #3	CASEY	1.7	PHILLIPS PETROLEU
-M M RESOURCES INC				RECEIVED:	05/03/84	JA: OK			
8432126	27155	3503773425		103		TRAVIS #3		36.5	EMPIRE PIPELINE C
-MASSO ELIAS				RECEIVED:	05/03/84	JA: OK			
8432148	25854	3514700000		102-2		ATOR #1A	VERA	25.0	DIAMOND S GAS SYS
-MILLER & STANLEY OPERATING CO				RECEIVED:	05/03/84	JA: OK			
8432072	27448	3500900000		108		MILLS #1	SOUTH ERICK	1.4	EL PASO NATURAL G
-MORAN EXPLORATION INC				RECEIVED:	05/03/84	JA: OK			
8432107	27667	3501722133		108		STEJSKAL #1	SOUTHWEST YUKON	10.5	PHILLIPS PETROLEU
-OFS-TULSA CORP				RECEIVED:	05/03/84	JA: OK			
8432125	27064	3507323848		103		GAYE #1-6	SOONER TREND	20.0	EXXON CO U S A
-OKTEX OIL & GAS INC				RECEIVED:	05/03/84	JA: OK			
8432105	27657	3511124893		103		WALKER ESTATE #1	HECTORVILLE	250.0	PHILLIPS PETROLEU
-PALN-COOK PRODUCTION CO				RECEIVED:	05/03/84	JA: OK			
8432068	27574	3504723516		103		GLENN #17	SOONER TREND FIELD	0.0	UNION TEXAS PETRO
-PAN WESTERN ENERGY CORP				RECEIVED:	05/03/84	JA: OK			
8432081	27623	3508122177		103		MCFARLIN #1	PARKLAND	300.0	SUN EXPLORATION &
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/03/84	JA: OK			
8432121	25974	3504721307		108-PB		KOSTED A #1	SOONER TREND	16.0	TRANSOK PIPELINE
8432122	26051	3504722947		108-PB		SCHNEIDER B #2		13.0	TRANSOK PIPELINE
8432123	26346	3504721319		108-PB		WHEELER T #1	SOONER TREND	15.0	TRANSOK PIPELINE
8432120	25107	3504721622		108-PB		WHEELER U #2	SOONER TREND	15.0	TRANSOK PIPELINE
-PLACER ENERGY CORP				RECEIVED:	05/03/84	JA: OK			
8432101	27701	3508720875		103		GOODRICH #1	BROMIDE	146.0	SUN EXPLORATION &
-PROSPECTIVE INVESTMENT & TRADING CO				RECEIVED:	05/03/84	JA: OK			
8432112	19560	3504321370		102-4		COOK #1-29		0.0	DELHI GAS PIPELIN
-RATLIFF EXPLORATION CO				RECEIVED:	05/03/84	JA: OK			
8432124	25605	3510920816		102-4	103	AIRPORT TRUST 34 #1		0.0	
8432142	20676	3510920651		102-4	103	LOTTIE #7-1		0.0	MOBIL GAS CO
-RED EAGLE OIL CO				RECEIVED:	05/03/84	JA: OK			
8432085	27664	3509322826		103		METZLER #1	N W OKEENE	182.0	PHILLIPS PETROLEU
-RIC PETROLEUM				RECEIVED:	05/03/84	JA: OK			
8432083	27680	3511721790		103		GRIESEL #2		18.3	HJD GAS CO
-SABINE PRODUCTION COMPANY				RECEIVED:	05/03/84	JA: OK			
8432130	24312	3501121816		103		WISDOM #1-5		0.0	ARKANSAS LOUISIAN
8432131	24312	3501121816		102-4		WISDOM #1-5		0.3	ARKANSAS LOUISIAN
-SEARCH DRILLING CO				RECEIVED:	05/03/84	JA: OK			
8432094	27488	3500721896		108		BARTEL #1-18	WEST ELMWOOD	0.0	PHILLIPS PETROLEU
-SOHIO PETROLEUM CO				RECEIVED:	05/03/84	JA: OK			
8432100	28063	3512921034		107-DP		GREEN #1-9	BERLIN	0.0	
-STATE OPERATING CO				RECEIVED:	05/03/84	JA: OK			
8432079	27625	3503725761		103		EVANS #1	MIDLEAY	0.0	KERR MCGEE CORP
-STEVE PIERCE OIL PROPERTIES INC				RECEIVED:	05/03/84	JA: OK			
8432109	27696	3508122187		103		ROE #1	EAST PRAGUE NE-SE-SW	1.2	SWAB CORP
-STRICKER RESOURCES				RECEIVED:	05/03/84	JA: OK			
8432071	27265	3511124843		103		ENDRES #1-A	BALD HILL	36.5	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/03/84	JA: OK			
8432149	27459	3501521563		103		G W LASLEY #2	N FORT COBB	192.0	MUSTANG FUEL CORP
-T MAYFIELD				RECEIVED:	05/03/84	JA: OK			
8432089	27645	3512120489		108		HOLT #1		16.5	
8432092	27642	3512120471		108		SOUSEA #3		15.1	
8432091	27643	3512100000		108		STATE #1		9.1	
8432090	27644	3512120057		108		THEEL #1		18.3	
-TENNECO OIL COMPANY				RECEIVED:	05/03/84	JA: OK			
8432141	20438	3512120956		102-4	103	ELLIS #1-8	S E MCALESTER	810.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	05/03/84	JA: OK			
8432128	23901	3513700000		108-PB		W G BARNARD #1		0.0	ARKANSAS-LOUISIAN
-TXO PRODUCTION CORP				RECEIVED:	05/03/84	JA: OK			
8432117	24070	3512120717		102-4		MURRIN #1 - OPERATED BY L O WARD	N W REAMS	150.0	ARKANSAS LOUISIAN
-VIERSEN R W JR				RECEIVED:	05/03/84	JA: OK			
8432106	27663	3511100000		108		SUNNY #1	HONEY CREEK	10.0	PHILLIPS PETROLEU
-W C PAYNE				RECEIVED:	05/03/84	JA: OK			
8432135	27052	3507323880		103		GARRETT "A" #2	SOONER TREND	0.0	CONOCO INC
-WARD PETROLEUM CORP				RECEIVED:	05/03/84	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432102	27702	3505121473		103		EDNA #1		292.0	
		PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES							
-ADOBE OIL & GAS CORPORATION				RECEIVED:		05/03/84 JA: PA			
8431959	22870	3706327700		103		C O WEISS #1	CLYMER "E"	21.0	PEOPLES NATURAL G
8431957	22114	3700522818		103		DONALD GOLDSTROHM "A" #1	RURAL VALLEY "D"	25.0	T W PHILLIPS GAS
8431958	22238	3700522802		103		LAURA WILSON #1	RURAL VALLEY "E"	25.0	PEOPLES NATURAL G
-BARON CREST ENERGY CO				RECEIVED:		05/03/84 JA: PA			
8431960	22361	3700522870		103		PENN PARK DEV & CREST LAND #12	VANDERGRIFT	25.0	PEOPLES NATURAL G
-BOSKE THOMAS F				RECEIVED:		05/03/84 JA: PA			
8431961	22999	3706323785		108		R D MCNAUGHTON #1	WHITE	0.0	MCCREARY TIRE & R
-CONSOLIDATED GAS TRANSMISSION CORP				RECEIVED:		05/03/84 JA: PA			
8431964	22965	3703321139		108		A & O STEWART WN-1859	BURNSIDE	16.0	GENERAL SYSTEM PU
8431963	22964	3703321167		108		LUKE BROWN WN-1868	BURNSIDE	14.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC				RECEIVED:		05/03/84 JA: PA			
8431966	22893	3712922159		103		ANNA MARY STEEL #3 KK-8	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8431965	22892	3712922312		103		JOHN SAFLIN #1 KZ-33	UPEER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
-ENVIROGAS INC				RECEIVED:		05/03/84 JA: PA			
8431967	20671	3704922713		103		N SHERMAN #1	ELK CREEK	18.0	
-FAIRMAN DRILLING CO				RECEIVED:		05/03/84 JA: PA			
8431968	22997	3706327668		103		ORA GASTON #1 S/N F-3766	CANOE	35.0	CONSOLIDATED GAS
-FELMONT OIL CORPORATION				RECEIVED:		05/03/84 JA: PA			
8431969	21972	3706327558		102-4		MELISSA DUNLAP #1 F-345	PINETON	20.0	COLUMBIA GAS TRAN
-HANLEY & BIRD				RECEIVED:		05/03/84 JA: PA			
8431970	22546	3700522899		103		R MCKISSICK #3 SN1714 SHB-12	GASTOWN	32.9	
-HAROLD E BROWN				RECEIVED:		05/03/84 JA: PA			
8431962	22899	3712922059		107-PE		DORSEY #2 ONSIDE WELL #7676402	HEMPHILL	0.0	PEOPLES NATURAL G
-J & J ENTERPRISES INC				RECEIVED:		05/03/84 JA: PA			
8431972	21056	3706324588		108		JOHN C BURNS #1	WASHINGTON	0.0	T W PHILLIPS GAS
8431975	21094	3706324363		108		R PENROSE #1	YOUNG	0.0	T W PHILLIPS GAS
8431974	21093	3703320663		108		ROBERT KESTER #5	BELL	0.0	T W PHILLIPS GAS
8431973	21057	3706322546		108		THEODORE VERN RAKE #1 (98A)	HENDERSON	5.0	T W PHILLIPS GAS
8431971	21053	3706323818		108		WAYNE BAUN #4	CANOE	0.0	T W PHILLIPS GAS
-KRIEBEL GAS CO INC				RECEIVED:		05/03/84 JA: PA			
8431977	22517	3706327678		103		LUNGER #1	JOHNSONBURG	30.0	
-KRIEBEL WELLS #3				RECEIVED:		05/03/84 JA: PA			
8431976	22380	3706327663		103		JOBE #2	NASHVILLE	30.0	
-MERIDIAN EXPLORATION CORP				RECEIVED:		05/03/84 JA: PA			
8431979	22887	3703921959		102-2		CLIFFORD TROYER #670-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8431981	22888	3703921959		107-TF		CLIFFORD TROYER #670-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8431983	20607	3705324736		108		G-1-658-GUNNISON	WHIG HILL	1.0	NATIONAL FUEL GAS
8431982	20606	3705324736		108		G-2-659	WHIG HILL	1.0	NATIONAL FUEL GAS
8431978	22885	3704923269		102-2		WILLIAMS #718-1	NORTH EDINBORO	0.0	COLUMBIA GAS TRAN
8431980	22886	3704923269		107-TF		WILLIAMS #718-1	NORTH EDINBORO	0.0	COLUMBIA GAS TRAN
-MID-EAST OIL CO				RECEIVED:		05/03/84 JA: PA			
8431984	22930	3706522482		103		LEON B ELDER #1	PUNXSUTAWNEY	18.1	
-MITCHELL ENERGY CORPORATION				RECEIVED:		05/03/84 JA: PA			
8431985	22896	3703922068		103		A BONK UNIT #1 CRA-22068	MOSIERTOWN (MEDINA/WH	20.5	COLUMBIA GAS TRAN
8431986	22897	3703922068		107-TF		A BONK UNIT #1 CRA-22068	MOSIERTOWN (MEDINA/WH	20.5	COLUMBIA GAS TRAN
-PC EXPLORATION INC				RECEIVED:		05/03/84 JA: PA			
8431987	22774	3700522897		103		HARRY S MARSHALL #1	COWANSHANNOCK	25.0	
-PETRO EVALUATION SERVICES INC				RECEIVED:		05/03/84 JA: PA			
8431990	22923	3704922537		103		SZYMANOWICZ #3	ALBION	30.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:		05/03/84 JA: PA			
8431996	21591	3703321158		108		HAROLD W ASHCRAFT #1	BURNSIDE	2.0	COLUMBIA GAS TRAN
8431994	21589	3706326735		108		HOPE HEBERT #1	MONTGOMERY	12.0	COLUMBIA GAS TRAN
8431993	21588	3706327007		108		JOSEPH J PELES #1	MONTGOMERY	7.0	COLUMBIA GAS TRAN
8431995	21590	3706326953		108		VICTOR E CARLUCCI #1	MONTGOMERY	10.0	COLUMBIA GAS TRAN
8431991	20655	3712921728		108		W EDWARD CULP #1	DERRY	3.0	J & L SPECIALTY S
8431992	20718	3706324917		108		W S BLACK #2 - 100A	EAST MAHONING	7.0	COLUMBIA GAS TRAN
-PIONEER WESTERN 83-1				RECEIVED:		05/03/84 JA: PA			
8431998	22962	3712922271		103		MCQUAIDE #1	EAST HUNTINGDON	25.0	
8431997	22961	3712922270		103		MCQUAIDE #2	EAST HUNTINGDON	25.0	
-PNB PETROLEUM CORP				RECEIVED:		05/03/84 JA: PA			
8431988	22904	3708520555		103		CLARENCE MORRISON UNIT #2	FRENCH CREEK	28.0	TENNESSEE GAS PIP
8431989	22905	3708520555		107-TF		CLARENCE MORRISON UNIT #2	FRENCH CREEK	28.0	TENNESSEE GAS PIP
-POMINEX INC				RECEIVED:		05/03/84 JA: PA			
8432000	22890	3712521501		103		CROW #1	BELLE VERNON	1.0	
8432001	22921	3712521045		108		PHILLIPS #1	CALIFORNIA	1.0	
8431999	22889	3712521499		103		ROSCOE SPORTSMENS ASSOCIATION #1	BELLE VERNON	1.8	
8432002	22922	3712521435		108		WINNETT #1	LONG BRANCH BOROUGH	12.0	
-R & L DEVELOPMENT CO				RECEIVED:		05/03/84 JA: PA			
8432003	22919	3712922328		103		R & L DEVELOPMENT CO #7	SALTSBURG	0.0	T W PHILLIPS GAS
-S T JOINT VENTURE 82E				RECEIVED:		05/03/84 JA: PA			
8432004	22918	3703306521		103		THOMAS #1	PENN	25.0	CONSOLIDATED GAS
-SENECA RESOURCES CORP				RECEIVED:		05/03/84 JA: PA			
8432005	22943	3712328045		103		X-215	ALLEGHENY NATIONAL FO	2.0	NATIONAL FUEL GAS
-SNYDER BROTHERS INC				RECEIVED:		05/03/84 JA: PA			
8432006	22906	3706522865		103		ADRIAN REALTY CO #2-160AC	BELL	10.0	T W PHILLIPS GAS
8432007	22944	3706522878		103		HOWARD FUGATE JR #1 - 82AC	BELL	10.0	T W PHILLIPS GAS
-TURM OIL INC				RECEIVED:		05/03/84 JA: PA			
8432008	22900	3700522904		103		J FRANK & KATHRYN L SCHRECENGOST #2	BRYAN	39.0	APOLLO GAS CO
8432009	22914	3700522903		103		MORRIS B & SYLVIA J KIRSHENBAUM #3	RURAL VALLEY	48.0	T W PHILLIPS GAS
-VAR-GAS EXPLORATION INC				RECEIVED:		05/03/84 JA: PA			
8432010	21097	3706326783		108		J DEWAYNE DILLS #1	BURRELL	8.7	T W PHILLIPS GAS
-WITCO CHEMICAL CORP				RECEIVED:		05/03/84 JA: PA			
8432014	20805	3708335713		108		TALLY HO #101	TALLY HO	1.7	NATIONAL FUEL GAS
8432013	20804	3708335714		108		TALLY HO #102	TALLY HO	1.7	NATIONAL FUEL GAS
8432012	20803	3708335715		108		TALLY HO #103	TALLY HO	1.7	NATIONAL FUEL GAS
8432011	20802	3708335716		108		TALLY HO #104	TALLY HO	1.7	NATIONAL FUEL GAS
8432061	20852	3708335717		108		TALLY HO #105	TALLY HO	1.7	NATIONAL FUEL GAS
8432060	20851	3708335718		108		TALLY HO #106	TALLY HO	1.7	NATIONAL FUEL GAS
8432059	20850	3708335719		108		TALLY HO #107	TALLY HO	1.7	NATIONAL FUEL GAS
8432058	20849	3708335720		108		TALLY HO #108	TALLY HO	1.7	NATIONAL FUEL GAS
8432057	20848	3708335721		108		TALLY HO #109	TALLY HO	1.7	NATIONAL FUEL GAS
8432056	20847	3708335722		108		TALLY HO #110	TALLY HO	1.7	NATIONAL FUEL GAS
8432055	20846	3708335723		108		TALLY HO #111	TALLY HO	1.7	NATIONAL FUEL GAS
8432054	20845	3708335724		108		TALLY HO #112	TALLY HO	1.7	NATIONAL FUEL GAS
8432053	20844	3708335725		108		TALLY HO #113	TALLY HO	1.7	NATIONAL FUEL GAS
8432052	20843	3708335726		108		TALLY HO #114	TALLY HO	1.7	NATIONAL FUEL GAS
8432020	20811	3708335727		108		TALLY HO #115	TALLY HO	1.7	NATIONAL FUEL GAS
8432019	20810	3708337236		108		TALLY HO #201	TALLY HO	1.7	NATIONAL FUEL GAS
8432018	20809	3708337238		108		TALLY HO #203	TALLY HO	1.7	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432051	20842	3708337240		108		TALLY HO #205	TALLY HO	1.7	NATIONAL FUEL GAS
8432049	20840	3708337209		108		TALLY HO #211	TALLY HO	1.7	NATIONAL FUEL GAS
8432017	20808	3708337210		108		TALLY HO #212	TALLY HO	1.7	NATIONAL FUEL GAS
8432016	20807	3708337211		108		TALLY HO #213	TALLY HO	1.7	NATIONAL FUEL GAS
8432015	20806	3708337212		108		TALLY HO #214	TALLY HO	1.7	NATIONAL FUEL GAS
8432023	20814	3708337217		108		TALLY HO #219	TALLY HO	1.7	NATIONAL FUEL GAS
8432022	20813	3708337218		108		TALLY HO #220	TALLY HO	1.7	NATIONAL FUEL GAS
8432021	20812	3708337219		108		TALLY HO #221	TALLY HO	1.7	NATIONAL FUEL GAS
8432042	20833	3708337220		108		TALLY HO #222	TALLY HO	1.7	NATIONAL FUEL GAS
8432041	20832	3708339615		108		TALLY HO #223	TALLY HO	1.7	NATIONAL FUEL GAS
8432040	20831	3708339616		108		TALLY HO #224	TALLY HO	1.7	NATIONAL FUEL GAS
8432039	20830	3708339618		108		TALLY HO #226	TALLY HO	1.7	NATIONAL FUEL GAS
8432044	20835	3708339619		108		TALLY HO #227	TALLY HO	1.7	NATIONAL FUEL GAS
8432043	20834	3708339622		108		TALLY HO #230	TALLY HO	1.7	NATIONAL FUEL GAS
8432050	20841	3708337244		108		TALLY HO 209	TALLY HO	1.7	NATIONAL FUEL GAS
8432038	20829	3708338972		108		WESTLINE #B-1	WT 3402	1.7	NATIONAL FUEL GAS
8432036	20827	3708339746		108		WESTLINE #B-14	WT 3402	1.7	NATIONAL FUEL GAS
8432037	20828	3708339175		108		WESTLINE #B-4	WT 3402	1.7	NATIONAL FUEL GAS
8432045	20836	3708340062		108		WESTLINE #20	WT 3402	1.7	NATIONAL FUEL GAS
8432046	20837	3708340063		108		WESTLINE #21	WT 3402	1.7	NATIONAL FUEL GAS
8432048	20839	3708340065		108		WESTLINE #23	WT 3402	1.7	NATIONAL FUEL GAS
8432029	20820	3708340067		108		WESTLINE #25	WT 3402	1.7	NATIONAL FUEL GAS
8432034	20825	3708340068		108		WESTLINE #26	WT 3402	1.7	NATIONAL FUEL GAS
8432033	20824	3708340069		108		WESTLINE #27	WT 3402	1.7	NATIONAL FUEL GAS
8432032	20823	3708340070		108		WESTLINE #28	WT 3402	1.7	NATIONAL FUEL GAS
8432047	20838	3708340074		108		WESTLINE #32	WT 3402	1.7	NATIONAL FUEL GAS
8432030	20821	3708340075		108		WESTLINE #33	WT 3402	1.7	NATIONAL FUEL GAS
8432031	20822	3708340076		108		WESTLINE #34	WT 3402	1.7	NATIONAL FUEL GAS
8432035	20826	3708340077		108		WESTLINE #35	WT 3402	1.7	NATIONAL FUEL GAS
8432028	20819	3708340078		108		WESTLINE #36	WT 3402	1.7	NATIONAL FUEL GAS
8432027	20818	3708340079		108		WESTLINE #37	WT 3402	1.7	NATIONAL FUEL GAS
8432026	20817	3708340088		108		WESTLINE #46	WT 3402	1.7	NATIONAL FUEL GAS
8432025	20816	3708340089		108		WESTLINE #47	WT 3402	1.7	NATIONAL FUEL GAS
8432024	20815	3708340090		108		WESTLINE #48	WT 3402	1.7	NATIONAL FUEL GAS

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** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, SALT LAKE CITY, UT

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-AMERA OIL & GAS CO				RECEIVED:	05/03/84	JA: UT P			
8432066	141-83	4301931050		102-4		CISCO SS 23-10	GREATER CISCO AREA	130.0	NORTHWEST PIPELIN
-BEARTOOTH OIL & GAS CO				RECEIVED:	05/03/84	JA: UT P			
8432062	140-83	4301931012		-103		HANCOCK FEDERAL #4-11	STATE LINE	30.0	NORTHWEST PIPELIN
-DELCO DEVELOPMENT CORP				RECEIVED:	05/03/84	JA: UT P			
8432065	142-83	4304731309		103	107-TF	CWU 232-15	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP
-DIAMOND CHEMICALS CO				RECEIVED:	05/03/84	JA: UT P			
8432064	138-83	4301330581		103		ALLEN FEDERAL 41-6	MONUMENT BUTTE	0.0	
-MERRION OIL & GAS CORP				RECEIVED:	05/03/84	JA: UT P			
8432063	144-83	4303715538		108		HICKMAN BLUFF #1	BLUFF	0.0	EL PASO NATURAL G

[FR Doc. 84-14305 Filed 5-25-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1135]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: May 23, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83–50–000, 49 FR 7109–13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* Federal Register. Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Nagative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 1002–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New res. on old OCS lease

Section 103: New onshore production well

Section 107–DP: 15,000 ft or deeper
- 107–GB: Geopressured brine
- 107–DV: Devonian shale
- 107–CS: Coal seam gas
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1135

ISSUED MAY 23, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/03/84	JA: KS			
8432169	K-82-1091	1509300000		108-ER		MILLER J #1	HUGOTON	0.0	COLORADO INTERSTA
-D R LAUCK OIL CO INC				RECEIVED:	05/03/84	JA: KS			
8432171	K-79-1299	1504700000		108-SA		JULIAN #1		0.0	NORTHERN NATURAL
8432170	K-79-1298	1504700000		108-SA		SMITH D #1		0.0	NORTHERN NATURAL
-LEBEN OIL CORP				RECEIVED:	05/03/84	JA: KS			
8432168	K-80-0572	1514500000		108-PB		ROW #1		0.0	KN ENERGY INC
-SOUTHLAND ROYALTY CO				RECEIVED:	05/03/84	JA: KS			
8432172	K-82-0844	1511900000		108-PB		ADAMS #6-11		0.0	COLORADO INTERSTA
MONTANA BOARD OF OIL & GAS CONSERVATION									
-J BURNS BROWN OPERATING CO				RECEIVED:	05/07/84	JA: MT			
8432320	2-84-43	2500522091		102-4		MARSH 26-32-18	WILDCAT	92.0	NORTHERN NATURAL
8432321	3-84-67	2504121343		108		MARTINSON #1	WILDCAT	12.0	NORTHERN NATURAL
-TEXAS GAS EXPLORATION CORP				RECEIVED:	05/07/84	JA: MT			
8432314	2-84-46	2502721046		102-4		A S OSBURNSEN #2	WOODHAWK CREEK	0.0	FUEL RESOURCES DE
-TRICENTROL UNITED STATES INC				RECEIVED:	05/07/84	JA: MT			
8432319	2-84-45	2501521456		103		HUEBSCHWERLEN 4-16 (25N-17E)	SHERARD	4.0	NORTHERN NATURAL
8432318	2-84-40	2501521521		108		PHILLIPS 4-4 (26N-17E)	SHERARD	159.0	NORTHERN NATURAL
8432315	2-84-42	2500521256		108		ROBINSON 11-34 (26N-19E)	SHERARD	89.0	NORTHERN NATURAL
8432317	2-84-41	2500521983		108		WEAVER 7-3 (26N-17E)	SHERARD	10.0	NORTHERN NATURAL
8432316	2-84-44	2500522282		102-4		WILLIAMSON 5-14	SHERARD	5.4	NORTHERN NATURAL
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PIPELINE CO (IL)				RECEIVED:	05/07/84	JA: NM			
8432363		3004520984		108-PB		CANEPLE GAS COM C #1	BLANCO	0.0	EL PASO NATURAL G
8432362		3004507786		108-PB		MADDOX GAS COM A #1	AZTEC	0.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	05/07/84	JA: NM			
8432351		3004508131		108-PB		GALLEGOS CANYON UNIT #107	BASIN	0.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/07/84	JA: NM			
8432340		3002503451		108		ENDURA DE STATE #3	EUMONT (YATES SEVEN R	17.0	PHILLIPS PETROLEU
8432339		3002527588		108		SEVEN RIVERS QUEEN UNIT #57	EUNICE - 7 RIVERS QUE	2.5	1)PHILLIPS PETROL
-CAULKINS OIL COMPANY				RECEIVED:	05/07/84	JA: NM			
8432331		3003922952		103		STATE "B" COMM 233E	BLANCO MESA VERDE & O	3.0	GAS CO OF NEW MEX
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	05/07/84	JA: NM			
8432322		3002528470		103		BYERS B #2	NADINE DRINKARD WEST	6.0	
-COSTA RESOURCES INC				RECEIVED:	05/07/84	JA: NM			
8432353		3001524655		103		TWO FORKS STATE #1	EMPIRE SOUTH	615.0	CABOT PIPELINE CO
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	05/07/84	JA: NM			
8432361		3002528024		103		STATE "28" #1	EUMONT (GAS)	73.0	NORTHERN NATURAL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/07/84	JA: NM			
8432342		3004506070		108-PB		HUERFANITO UNIT #15	BALLARD	0.0	EL PASO NATURAL G
8432341		3002524596		108-PB		RHODES GSU #20	RHODES	0.0	EL PASO NATURAL G
8432343		3003906828		108-PB		SAN JUAN 27-5 UNIT 36 PC & MV	TAPACITO & BLANCO	0.0	EL PASO NATURAL G

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432364		3004505853		108-PB		THREE STATES A COM #1	BALLARD	0.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	05/07/84	JA: NM			
8432344		3002527788		102-4		NEW MEXICO CX STATE #2	UNDESIG SHOEBAR	173.0	
-GENERAL OPERATING COMPANY				RECEIVED:	05/07/84	JA: NM			
8432360		3002528285		103		AMOCO STATE #1	E-K YATES-SR-QUEEN	16.0	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	05/07/84	JA: NM			
8432324		3001523757		102-4		MALAGA HARROUN "6" COM #1	UNDESIGNATED ATOKA	365.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	05/07/84	JA: NM			
8432348		3002509941		108		ALICE PADDOCK #5	BLINEBRY GAS & TUBB G	2.4	NORTHERN NATURAL
8432349		3002526449		108		CENTRAL DRINKARD UNIT #430	DRINKARD	24.3	EL PASO NATURAL G
8432338		3002504513		108		HEASLEY STATE #3	EUNICE MONUMENT	0.5	PHILLIPS PETROLEU
8432328		3002528496		103		J F JANDA (NCT-D) #3	EUNICE MONUMENT	0.0	PHILLIPS PETROLEU
-LYNX PETROLEUM CONSULTANTS INC				RECEIVED:	05/07/84	JA: NM			
8432347		3002528550		103		STATE 15 #1	EUMONT - QUEEN	13.0	WARREN PETROLEUM
-MERRION OIL & GAS CORP				RECEIVED:	05/07/84	JA: NM			
8432359		3003923388		103		CANYON LARGO UNIT #335	DEVILS FORK GALLUP	251.9	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	05/07/84	JA: NM			
8432332		3002502887		108		BRIDGES STATE 1-12-14(86) #4	VACUUM GRAYBURG SAN A	0.2	PHILLIPS PETROLEU
8432333		3002502132		108		BRIDGES STATE 1-12-14(86) #49	VACUUM GRAYBURG SAN A	0.2	PHILLIPS PETROLEU
8432334		3002501987		108		BRIDGES STATE 1-12-14(86) #90	VACUUM GRAYBURG SAN A	0.2	PHILLIPS PETROLEU
8432335		3002501964		108		BRIDGES STATE 1-12-14(86) #91	VACUUM GRAYBURG SAN A	0.2	PHILLIPS PETROLEU
8432336		3002501965		108		BRIDGES STATE 1-12-14(86) #92	VACUUM GRAYBURG SAN A	0.2	PHILLIPS PETROLEU
8432357		3002511430		108		HUMPHREY QUEEN UNIT #22	LANGLIE MATTIX/7 RIVE	0.2	EL PASO NATURAL G
8432356		3002523769		108		LANGLIE MATTIX QUEEN UNIT #39	LANGLIE MATTIX/7 RIVE	0.3	EL PASO NATURAL G
8432329		3002511522		108		LANGLIE MATTIX QUEEN UNIT #4	LANGLIE MATTIX/7 RIVE	0.3	EL PASO NATURAL G
8432355		3025116880		108		LANGLIE MATTIX QUEEN UNIT #40	LANGLIE MATTIX/7 RIVE	0.3	EL PASO NATURAL G
8432330		3002511539		108		LANGLIE MATTIX QUEEN UNIT #8	LANGLIE MATTIX/7 RIVE	0.0	EL PASO NATURAL G
8432337		3002502069		108		STATE J #6	VACUUM GRAYBURG SAN A	0.2	PHILLIPS PETROLEU
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	05/07/84	JA: NM			
8432350		3003907472		108-PB		SAN JUAN 29-5 UNIT 38	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8432326		3003923121		103		SAN JUAN 31-6 UNIT #47	BASIN DAKOTA	85.5	NORTHWEST PIPELIN
-PHILLIPS OIL CO				RECEIVED:	05/07/84	JA: NM			
8432353		3001524646		103		B-4458 STATE #3	GRAYBURG JACKSON (5R-	1.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/07/84	JA: NM			
8432354		3002526580		108		EAST VAC GB/SA UNIT TR 2980 #002	VACUUM GB/SA	2.0	EL PASO NATURAL G
-SOHIO PETROLEUM CO				RECEIVED:	05/07/84	JA: NM			
8432345		3002500000		103		MONTIETH #1	N E LOVINGTON (PENN)	119.0	PHILLIPS PETROLEU
-STEVENS OPERATING CORP				RECEIVED:	05/07/84	JA: NM			
8432327		3000562069		103		O'BRIEN "D" #6	TWIN LAKES - SAN ANDR	1.0	LIQUID ENERGY COR
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/07/84	JA: NM			
8432323		3002500000		103		EVA OWENS #3	DRINKARD	34.0	GETTY OIL CO
8432325		3002527946		103		WATKINS #3	JALMAT	25.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	05/07/84	JA: NM			
8432346		3002528174		102-4		STATE LF-32 #1	SOUTH KEMNITZ ATOKA-M	0.0	TRANSWESTERN PIPE
-UNICON PRODUCING CO				RECEIVED:	05/07/84	JA: NM			
8432352		3004511201		108-PB		WRIGHT STATE COM #1	BLANCO	0.0	SOUTHERN UNION GA
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********									
-ENVIROGAS INC				RECEIVED:	05/04/84	JA: NY			
8432308 5112		3101316216		107-TF		H SORENSON #1	CLYMER - MEDINA	18.0	COLUMBIA GAS TRAN
-SCG GAS QUEST INC				RECEIVED:	05/04/84	JA: NY			
8432311 7373		3112118208		107-TF		BAINBRIDGE #1	ARCADE-MEDINA	12.0	SOUTHERN CONNECTI
8432310 7374		3112118515		107-TF		BOJARCZUK #2	ARCADE - MEDINA	12.0	SOUTHERN CONNECTI
8432313 7371		3112118209		107-TF		GREENWALD #1	ARCADE-MEDINA	12.0	SOUTHERN CONNECTI
8432312 7372		3112118210		107-TF		HEWSON #1	ARCADE-MEDINA	12.0	SOUTHERN CONNECTI
8432309 7370		3112118211		107-TF		HILTS #1	ARCADE - MEDINA	12.0	SOUTHERN CONNECTI
8432305 7375		3112118372		107-TF		JACKIM #1	ARCADE-MEDINA	12.0	SOUTHERN CONNECTI
8432306 7376		3112118516		107-TF		JACKIM #2	ARCADE-MEDINA	12.0	SOUTHERN CONNECTI
8432307 7377		3112118548		107-TF		KROLICK #1	ARCADE-MEDINA	12.0	SOUTHERN CONNECTI
********** WEST VIRGINIA DEPARTMENT OF MINES **********									
-ALAMCO INC				RECEIVED:	05/03/84	JA: WV			
8432278		4708300554		108		A-1081	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8432210		4704103177		108		A-1092	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8432252		4704103332		103		A-1318	FREEMANS CREEK	0.0	CONSOLIDATED GAS
8432250		4704103376		103		A-1398	FREEMANS CREEK	0.0	CONSOLIDATED GAS
8432279		4708300355		108		A-917	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8432209		4704103163		108		A-957	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8432277		4708300408		108		A-985	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	05/03/84	JA: WV			
8432212		4701100771		107-DV		D JOHNSON #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432226		4701100771		103		D JOHNSON #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432211		4701100774		107-DV		G S STEPHENS #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432227		4701100774		103		G S STEPHENS #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432213		4701100770		107-DV		L N BOWEN #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432228		4701100770		103		L N BOWEN #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432203		4701100775		107-DV		O DAVIS HEIRS #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432225		4701100775		103		O DAVIS HEIRS #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
8432204		4701100776		107-DV		S JONES #1	BARBOURSVILLE DISTRIC	36.0	CONSOLIDATED GAS
8432224		4701100776		103		S JONES #1	BARBOURSVILLE DISTRIC	36.0	COLUMBIA GAS TRAN
-ALLSTATE ENERGY CORP				RECEIVED:	05/03/84	JA: WV			
8432268		4701303583		103		BAKER BAUGHMAN #44	SHERIDAN DIST	0.0	CONSOLIDATED GAS
8432264		4701303616		103		BAKER-BAUGHMAN 45	SHERIDAN DIST	0.0	CONSOLIDATED GAS
8432263		4708506473		103		GIEBELL #3	UNION DIST	0.0	CONSOLIDATED GAS
8432270		4701303572		103		WATSON #11	SHERIDAN DISTRICT	0.0	CONSOLIDATED GAS
8432269		4701303579		103		WATSON #12	SHERIDAN DIST	0.0	CONSOLIDATED GAS
8432267		4701303597		103		WATSON #13-103	SHERIDAN DIST	0.0	CONSOLIDATED GAS
8432266		4701303599		103		WATSON 15	SHERIDAN	0.0	CONSOLIDATED GAS
8432265		4701303605		103		WATSON 19	SHERIDAN	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:	05/03/84	JA: WV			
8432276		4700501419		103		TASA COAL CO #1 - 097211	TASA	12.0	
8432294		4700501419		107-DV		TASA COAL COMPANY #1 - 097211	TASA	12.0	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	05/03/84	JA: WV			
8432174		4700121896		103		K EVANS #2	BARKER DISTRICT	34.0	BROOKLYN UNION GA
8432293		4700121896		107-DV		K EVANS #2	BARKER DISTRICT	34.0	BROOKLYN UNION GA
8432295		4700121896		102-3		K EVANS #2	BARKER DISTRICT	34.0	BROOKLYN UNION GA
-BRAXTON OIL AND GAS CORP				RECEIVED:	05/03/84	JA: WV			
8432303		4708300759		107-DV		MALM #2	ELLAMORE	60.0	COLUMBIA GAS TRAN
8432302		4708300760		107-DV		MALM #3	ELLAMORE	60.0	COLUMBIA GAS TRAN
-CENTRAL PACIFIC GROUP				RECEIVED:	05/03/84	JA: WV			
8432289		4708506558		107-DV		BARTON #1	GRANT DISTRICT	25.0	CONSOLIDATED GAS
8432288		4708506664		107-DV		BARTON #2	GRANT DISTRICT	25.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432298		4708506682		107-DV		BARTON #3	GRANT DISTRICT	25.0	CONSOLIDATED GAS
8432304		4708506682		102-3		BARTON #3	GRANT DISTRICT	25.0	CONSOLIDATED GAS
8432297		4708703710		107-DV		GRIFFITH #2	SPENCER DISTRICT	28.0	COLUMBIA GAS TRAN
8432283		4708506260		103		MORRIS #2	GRANT DISTRICT	18.0	CONSOLIDATED GAS
8432287		4708506638		107-DV		MORRIS #3	GRANT DISTRICT	25.0	CONSOLIDATED GAS
8432286		4708703850		107-DV		SNYDER #2	WALTON DISTRICT	28.0	COLUMBIA GAS TRAN
-CLINT HURT & ASSOCIATES INC				RECEIVED:	05/03/84	JA: WV			
8432200		4708505942		107-DV		HARDBARGER #1	WOLFPEN RUN	18.0	COLUMBIA GAS TRAN
8432201		4708505957		107-DV		RADCLIFF #1	SMITHFIELD	18.5	COLUMBIA GAS TRAN
8432202		4708505958		107-DV		RADCLIFF #2	SMITHFIELD	18.0	COLUMBIA GAS TRAN
8432199		4708703482		107-DV		SIMMONS #1	SMITHFIELD	24.0	COLUMBIA GAS TRAN
-CNG DEVELOPMENT CO				RECEIVED:	05/03/84	JA: WV			
8432299		4708506659		107-DV		L T LAMBERT CNGD #10	GRANT DISTRICT	15.0	
8432300		4708506659		102-3		L T LAMBERT CNGD #10	GRANT DISTRICT	15.0	
8432301		4708506706		102-3		MARY RICHARDS CNGD #364	GRANT DISTRICT	13.0	
-CONTINENTAL PETROLEUM CO				RECEIVED:	05/03/84	JA: WV			
8432260		4700701873		103		COY PRITT #1	FINSTER-ASPINALL	12.0	CONSOLIDATED GAS
8432261		4704103401		103		MILDRED BROWN #1	FINSTER-ASPINALL	14.0	CONSOLIDATED GAS
-D C MALCOLM INC				RECEIVED:	05/03/84	JA: WV			
8432178		4707900957		108		B C TORMEY HRS #1	ST ALBANS - BURDETTE	4.0	COLUMBIA GAS TRAN
8432177		4707900947		108		H A THOMAS #1	ST ALBANS - BURDETTE	1.0	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:	05/03/84	JA: WV			
8432284		4708506450		103		MARY WELCH H-1405	MURPHY DISTRICT	10.0	
8432285		4708506435		103		MARY WELCH H-1407	MURPHY	10.0	
-INTERSTATE DRILLING INC				RECEIVED:	05/03/84	JA: WV			
8432244		4704103387		103		HELMICK #1	VANDALIA	0.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	05/03/84	JA: WV			
8432249		4700101038		108		B-214	VALLEY	0.0	EASTERN AMERICAN
8432185		4703302067		108		B-270	EAGLE	0.0	CONSOLIDATED GAS
8432184		4703302128		108		B-274	EAGLE	0.0	CONSOLIDATED GAS
8432182		4703302171		108		B-291	EAGLE	0.0	CONSOLIDATED GAS
8432183		4703302166		108		B-293	UNION	0.0	CONSOLIDATED GAS
8432181		4703302272		108		B-297	EAGLE	0.0	CONSOLIDATED GAS
8432247		4700101305		108		B-310	VALLEY	0.0	EASTERN AMERICAN
8432179		4703302322		108		B-314	EAGLE	0.0	CONSOLIDATED GAS
8432176		4703302274		108		B-324	UNION	0.0	CONSOLIDATED GAS
8432246		4709702118		108		B-398	BUCKHANNON	0.0	COLUMBIA GAS TRAN
8432245		4709702119		108		B-399	BUCKHANNON	0.0	COLUMBIA GAS TRAN
8432248		4703302601		108		B-430	SIMPSON	0.0	EASTERN AMERICAN
8432175		4703302645		108		B-432	SIMPSON	0.0	CONSOLIDATED GAS
8432180		4703302743		108		B-474	EAGLE	0.0	CONSOLIDATED GAS
8432173		4708505117		103		J-475	UNION	0.0	CARNEGIE NATURAL
8432230		4700101690		103		J-616	COVE	0.0	CONSOLIDATED GAS
8432232		4700101692		103		J-619	COVE	0.0	CONSOLIDATED GAS
8432229		4707700238		103		J-650	RENO	0.0	CONSOLIDATED GAS
8432231		4707700233		103		J-661	RENO	0.0	CONSOLIDATED GAS
8432233		4707700234		103		J-662	RENO	0.0	CONSOLIDATED GAS
8432234		4708505999		103		J-734	CLAY	0.0	CONSOLIDATED GAS
8432254		4709702546		103		J-750	UNION	0.0	EASTERN AMERICAN
8432253		4709702557		103		J-763	UNION	0.0	EASTERN AMERICAN
8432235		4701703243		103		J-789	WEST UNION	0.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	05/03/84	JA: WV			
8432223		4705901070		103		ODBERT ADKINS S-479	STAFFORD	0.2	COLUMBIA GAS TRAN
-JAY BEE OIL & GAS				RECEIVED:	05/03/84	JA: WV			
8432205		4702103894		107-DV		HARDMAN #1	HARDMAN	18.0	CONSOLIDATED GAS
8432219		4702103894		102-4		HARDMAN #1	HARDMAN	18.0	CONSOLIDATED GAS
8432206		4702103889		107-DV		HARDMAN #2	HARDMAN	0.0	CONSOLIDATED GAS
8432218		4721038890		102-4		HARDMAN #2	HARDMAN	18.0	CONSOLIDATED GAS
8432208		4708506417		107-DV		MOORE 1A	MOORE	18.0	
8432217		4708506417		102-4		MOORE 1A	MOORE	18.0	
8432207		4702103989		107-DV		REYNOLDS #1A	REYNOLDS	18.0	CONSOLIDATED GAS
8432220		4702103989		102-4		REYNOLDS #1A	REYNOLDS	18.0	CONSOLIDATED GAS
-KAISER ENERGY INC				RECEIVED:	05/03/84	JA: WV			
8432275		4710701180		107-DV		JAMES BLAIR KEM #134	NEW ENGLAND	25.5	BORG-WARNER CHEMI
8432274		4703501587		107-DV		WILLIAM BOGGS KEM #97	MURRAYSVILLE	18.0	KAISER ALUMINUM &
-KAISER EXPLORATION & MINING CO				RECEIVED:	05/03/84	JA: WV			
8432273		4703501893		107-DV		C E GOODWIN KEM #422	ELK/POCA	43.0	KAISER ALUMINUM &
8432272		4703501794		107-DV		W W SHINN KEM #299	ELK/POCA	15.0	KAISER ALUMINUM &
-L & B OIL CO INC				RECEIVED:	05/03/84	JA: WV			
8432239		4707301242		107-DV		FLEMING #1	ST MARYS	11.0	COLUMBIA GAS TRAN
8432240		4707301243		107-DV		FLEMING #2	ST MARYS	29.0	COLUMBIA GAS TRAN
8432241		4707301105		107-DV		HOLDREN #2	UNION	18.0	
8432238		4707301187		107-DV		WETZ #1	ST MARYS	25.0	COLUMBIA GAS TRAN
-MICHELS DONALD G				RECEIVED:	05/03/84	JA: WV			
8432197		4709500291		108		L KINNEY #1	SHIRLEY	2.0	EQUITABLE GAS CO
8432198		4701700283		108		LEGGETT #1	GREENWOOD	0.0	EQUITABLE GAS CO
8432196		4701700373		108		W GASKINS #1	SMITHTON-FLINT-SEDILI	0.0	EQUITABLE GAS CO
-NESLER'S WELL SERVICE INC				RECEIVED:	05/03/84	JA: WV			
8432195		4708504135		108		ATKINSON H-626	HUGHES RIVER	4.5	CONSOLIDATED GAS
8432193		4708504050		108		ATKINSON H-627	HUGHES RIVER	4.5	CONSOLIDATED GAS
8432194		4708504119		108		ATKINSON H-628	HUGHES RIVER	4.5	CONSOLIDATED GAS
8432236		4708504115		108		BORDER H-642	HUGHES RIVER	4.5	CONSOLIDATED GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	05/03/84	JA: WV			
8432222		4708100372		102-4		ROWLAND LAND CO A-3	MARSH FORK	0.0	COLUMBIA GAS TRAN
8432221		4708100341		102-4		ROWLAND LAND CO B-1	MARSH FORK	0.0	COLUMBIA GAS TRAN
8432216		4700501327		102-4		WESTERN POCAHONTAS CORP #11	MARSH FORK	0.0	COLUMBIA GAS TRAN
8432215		4700501326		102-4		WESTERN POCAHONTAS CORPORATION #10	MARSH FORK	0.0	COLUMBIA GAS TRAN
8432214		4700501324		102-4		WESTERN POCAHONTAS CORPORATION #7	MARSH FORK	0.0	COLUMBIA GAS TRAN
-ROGERS & SCULL				RECEIVED:	05/03/84	JA: WV			
8432262		4701303424		103		FOWLER #2	SHERMAN DISTRICT	20.0	ROARING FORK GAS
-SPARTAN GAS COMPANY				RECEIVED:	05/03/84	JA: WV			
8432189		4707900599		108		DIAMOND KIESLING #1-S-101	MIDWAY	11.0	DEVON PIPELINE CO
8432192		4707900638		108		DIAMOND KIESLING #2-S-104	SCOTT DEPOT	0.0	DEVON PIPELINE CO
8432188		4707900495		108		HANLEY A NULL ET AL 1-S-92	MIDWAY - EXTRA	11.0	DEVON PIPELINE CO
8432187		4707900482		108		LEWIS CASEY #1-S-91	MIDWAY - EXTRA	7.0	DEVON PIPELINE CO
8432191		4707900626		108		MARY E WALLACE #2-S-103	SCOTT DEPOT	8.0	DEVON PIPELINE CO
8432190		4707900609		108		MARY WALLACE #1-S-102	SCOTT DEPOT	8.0	DEVON PIPELINE CO
8432186		4707900472		108		O O JIVIDEN #1-S-90	MIDWAY - EXTRA	3.6	DEVON PIPELINE CO
-STONEWALL GAS CO INC				RECEIVED:	05/03/84	JA: WV			
8432243		4701703087		108		COX #1 125-S	NEW MILTON	107.0	CONSOLIDATED GAS
8432237		4703302590		108		CUMBERLEDGE #1B 78-SH	UNION DISTRICT	190.0	CONSOLIDATED GAS
-SWIFT ENERGY CO				RECEIVED:	05/03/84	JA: WV			
8432242		4709100333		107-DV		L NEWCOME #1	FETTERMAN DISTRICT	0.0	TENNESSEE GAS PIP
-VISTA OIL & GAS CORP				RECEIVED:	05/03/84	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8432281		4708506667		103		HARPER #1	UNION	15.0	OHIO L&M CO INC
8432280		4708506711		103		RINEHART #6	UNION	20.0	OHIO L&M CO INC
8432282		4708506743		103		SMITH #1	UNION	19.0	OHIO L&M CO INC
-MACO OIL AND GAS CO INC				RECEIVED:	05/03/84	JA: WV			
8432257		4702104115		103		COLE #1	HORN CREEK	30.0	
8432290		4702104115		107-DV		COLE #1	HORN CREEK	30.0	
8432258		4702104081		103		GARRETT #1	COXCAMP FORK	30.0	
8432271		4702104081		107-DV		GARRETT #1	COXCAMP FORK	30.0	
8432251		4702104096		103		HALL #1	STONE LICK	40.0	
8432296		4702109098		107-DV		HALL #1	STONE LICK	40.0	
8432255		4702104082		103		N BAILEY #1A	COX CAMP FORK	25.0	
8432292		4702104082		107-DV		N BAILEY #1A	COX CAMP FORK	25.0	
8432259		4702104040		103		WARE #1	PIKE CAMP RUN	1.0	
8432256		4702104099		103		ZINN #1C	PIKE CAMP RUN	25.0	
8432291		4702104099		107-DV		ZINN #1C	PIKE CAMP RUN	25.0	
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** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ROSWELL, NM									
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-C E LARUE AND B N MUNCY JR				RECEIVED:	05/03/84	JA: NM L			
8432158	RNM 0164-84	3001524265		103		AMOCO FEDERAL #1	BUNKER HILL PENROSE	0.0	
8432155	RNM 0165-84	3001524443		103		AMOCO FEDERAL #2	HENSHAW (Q GB SA)	0.0	
8432154	RNM 0166-84	3001523551		103		WELCH FED #1	HENSHAW (Q GB SA)	7.6	PHILLIPS PETROLEU
8432153	RNM 0167-84	3001530015		103		WELCH FED #2	HENSHAW (Q GB SA)	6.8	PHILLIPS PETROLEU
-HNG OIL COMPANY				RECEIVED:	05/03/84	JA: NM L			
8432151	RNM 0080-84	3002524404		103		MCKITTRICK "30" FEDERAL #1	HAPPY VALLEY	0.0	
-MESA PETROLEUM CO				RECEIVED:	05/03/84	JA: NM L			
8432156	RNM 0003-84	3001524630		103		DEPCO FEDERAL #2	DIAMOND MOUND ATOKA-M	421.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/03/84	JA: NM L			
8432152	RNM 0174-84	3002500000		103		MEYERS "B" #5	JALMAT TANSIL YATES S	99.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	05/03/84	JA: NM L			
8432150	RNM 0253-83	3001524191		102-4		ENG "TX" FED #1	UND MORROW	0.0	TRANSWESTERN PIPE
8432157	RNM 0158-84	3001524747		103		LITTLE BOX CANYON UNIT #5	UNDES BOX CANYON	0.0	
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA, OK									
**********									
-DANCE OIL CO				RECEIVED:	05/03/84	JA: OK Y			
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8432161		3511300000		102-2		RAINEY #3-9	NORTH ARKANSAS	144.0	PHILLIPS PETROLEU
-GOLDEN OIL CO				RECEIVED:	05/03/84	JA: OK Y			
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-INCLINE PRODUCTION CO				RECEIVED:	05/03/84	JA: OK Y			
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8432164		3511300000		102-2		BARNARD 23-7		4.0	PHILLIPS PETROLEU
-STANTON LEO H & GLADYS				RECEIVED:	05/03/84	JA: OK Y			
8432163		3511300000		103		DRUMMOND WELL #2 SW 1/4 36-24-9	WYNONA	14.0	PHILLIPS PETROLEU
-TPEX EXPLORATION INC				RECEIVED:	05/03/84	JA: OK Y			
8432162		3511300000		102-4		KILBIE #1		90.0	AJAX GAS CORP

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140-199	7.00	Jan. 1, 1984
200-1199	7.00	Jan. 1, 1983
1200-End	7.50	Jan. 1, 1984
15 Parts:		
0-299	7.00	Jan. 1, 1984
300-399	7.00	Jan. 1, 1983
400-End	12.00	Jan. 1, 1984

Title	Price	Revision Date
16 Parts:		
0-149	9.00	Jan. 1, 1984
150-999	9.50	Jan. 1, 1984
1000-End	7.00	Jan. 1, 1983
17 Parts:		
1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
1-149	7.00	Apr. 1, 1983
150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1-399	5.50	Apr. 1, 1983
400-499	7.00	Apr. 1, 1983
500-End	7.50	Apr. 1, 1983
21 Parts:		
1-99	6.00	Apr. 1, 1983
100-169	6.50	Apr. 1, 1983
170-199	6.50	Apr. 1, 1983
200-299	4.75	Apr. 1, 1983
300-499	8.00	Apr. 1, 1983
500-599	6.50	Apr. 1, 1983
600-799	5.00	Apr. 1, 1983
800-1299	6.00	Apr. 1, 1983
1300-End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0-199	6.00	Apr. 1, 1983
200-499	8.00	Apr. 1, 1983
500-799	5.00	Apr. 1, 1983
800-1699	6.50	Apr. 1, 1983
1700-End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0-1.169	8.00	Apr. 1, 1983
§§ 1.170-1.300	7.50	[1] Apr. 1, 1982
§§ 1.301-1.400	6.00	Apr. 1, 1983
§§ 1.401-1.500	7.00	Apr. 1, 1983
§§ 1.501-1.640	6.50	Apr. 1, 1983
§§ 1.641-1.850	7.50	[1] Apr. 1, 1982
§§ 1.851-1.1200	8.00	Apr. 1, 1983
§§ 1.1201-End	8.50	Apr. 1, 1983
2-29	7.00	Apr. 1, 1983
30-39	6.00	Apr. 1, 1983
40-299	7.50	Apr. 1, 1983
300-499	6.00	Apr. 1, 1983
500-599	8.00	[2] Apr. 1, 1980
600-End	5.00	Apr. 1, 1983
27 Parts:		
1-199	6.50	Apr. 1, 1983
200-End	6.50	Apr. 1, 1983
28	7.00	July 1, 1983
29 Parts:		
0-99	8.00	July 1, 1983
100-499	5.50	July 1, 1983
500-899	8.00	July 1, 1983
900-1899	5.50	July 1, 1983
1900-1910	8.50	July 1, 1983
1911-1919	4.50	July 1, 1983
1920-End	8.00	July 1, 1983
30 Parts:		
0-199	7.00	July 1, 1983
200-699	5.50	Oct. 1, 1983
700-End	13.00	Oct. 1, 1983
31 Parts:		
0-199	6.00	July 1, 1983
200-End	6.50	July 1, 1983

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	8.50	July 1, 1983
1–39, Vol. II	13.00	July 1, 1983
1–39, Vol. III	9.00	July 1, 1983
40–189	6.50	July 1, 1983
190–399	13.00	July 1, 1983
400–699	12.00	July 1, 1983
700–799	7.50	July 1, 1983
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	14.00	July 1, 1983
200–End	7.00	July 1, 1983
34 Parts:		
1–299	13.00	July 1, 1983
300–399	6.00	July 1, 1983
400–End	15.00	July 1, 1983
35	5.50	July 1, 1983
36 Parts:		
1–199	6.50	July 1, 1983
200–End	12.00	July 1, 1983
37	6.00	July 1, 1983
38 Parts:		
0–17	7.00	July 1, 1983
18–End	6.50	July 1, 1983
39	7.50	July 1, 1983
40 Parts:		
0–51	7.50	July 1, 1983
52	14.00	July 1, 1983
53–80	14.00	July 1, 1983
81–99	7.50	July 1, 1983
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	6.50	July 1, 1983
425–End	13.00	July 1, 1983
41 Chapters:		
1, 1–1 to 1–10	7.00	July 1, 1983
1, 1–11 to Appendix, 2 (2 Reserved)	6.50	July 1, 1983
3–6	7.00	July 1, 1983
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	7.00	July 1, 1983
10–17	6.50	July 1, 1983
18, Vol. I, Parts 1–5	6.50	July 1, 1983
18, Vol. II, Parts 6–19	7.00	July 1, 1983
18, Vol. III, Parts 20–52	6.50	July 1, 1983
19–100	7.00	July 1, 1983
101	14.00	July 1, 1983
102–End	6.50	July 1, 1983
42 Parts:		
1–60	12.00	Oct. 1, 1983
61–399	7.50	Oct. 1, 1983
400–End	17.00	Oct. 1, 1983
43 Parts:		
1–999	9.00	Oct. 1, 1983
1000–3999	14.00	Oct. 1, 1983
4000–End	7.50	Oct. 1, 1983
44	12.00	Oct. 1, 1983
45 Parts:		
1–199	9.00	Oct. 1, 1983
200–499	6.00	Oct. 1, 1983
500–1199	12.00	Oct. 1, 1983
1200–End	9.00	Oct. 1, 1983
46 Parts:		
1–40	9.00	Oct. 1, 1983
41–69	9.00	Oct. 1, 1983
70–89	5.00	Oct. 1, 1983
90–139	9.00	Oct. 1, 1983
140–155	8.00	Oct. 1, 1983
156–165	9.00	Oct. 1, 1983
166–199	7.00	Oct. 1, 1983
200–399	12.00	Oct. 1, 1983
400–End	7.00	Oct. 1, 1983
47 Parts:		
0–19	12.00	Oct. 1, 1983
20–69	14.00	Oct. 1, 1983
70–79	13.00	Oct. 1, 1983
80–End	13.00	Oct. 1, 1983
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	7.00	Oct. 1, 1983
100–177	14.00	Nov. 1, 1983
178–199	13.00	Nov. 1, 1983
200–399	12.00	Oct. 1, 1983
400–999	13.00	Oct. 1, 1983
1000–1199	12.00	Oct. 1, 1983
1200–1299	12.00	Oct. 1, 1983
1300–End	7.50	Oct. 1, 1983
50 Parts:		
1–199	9.00	Oct. 1, 1983
200–End	13.00	Oct. 1, 1983
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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).