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Wednesday
November 7, 1984

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Environmental Protection Agency

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

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 429

[Amdt. No. 2; Doc. No. 1328S]

Rye Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Rye Crop Insurance Regulations (7 CFR 429), effective for the 1985 and succeeding crop years by: (1) Adding failure of irrigation water supply after planting due to unavoidable causes as an insured cause of loss; (2) eliminating the 7-day residue provision; (3) clarifying specific quality standards stated in the policy; and (4) changing the term "mature production" back to "harvested production." In addition, FCIC hereby issues a new subsection in the Rye 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 rye, clarify terminology, add another insured cause of loss, and comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: December 7, 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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1984.

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), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Friday, June 8, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 23856, in which it was proposed to make the following changes in the Rye Crop Insurance Regulations (7 CFR Part 429):

1. *Section 1*—add "failure of water supply after planting due to unavoidable causes" as an insurable cause of loss.

2. Section 8—eliminate the "7-day residue" provision.

3. *Section 9e(2)*—state the specific quality standards replacing the grade designation (e.g.; U.S. No. 4) contained in current policies.

4. *Section 9e(3)*—change "mature production" back to "harvested production" because of procedural problems in loss adjustment.

The public was invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the **Federal Register**, but none were received. It has been determined that the provisions of the proposed rule as published on June 8, 1984, should be adopted as a final rule.

List of Subjects in 7 CFR Part 429

Crop insurance, Rye.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Rye Crop Insurance Regulations (7 CFR Part 429) are amended, effective for the 1985 and succeeding crop years, as set forth below:

1. The Authority Citation for 7 CFR Part 429 is:

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

2. 7 CFR 429.3 is added to read as follows:

§ 429.3 OMB control numbers.

The information collection requirements in these regulations (7 CFR Part 429) 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 429.7(d) is revised to read as set forth below:

§ 429.7 The applications 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), and may be amended from time to time for subsequent crop years. The provisions of the Rye Crop Insurance Policy for the 1985 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Rye—Crop Insurance Policy

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

Agreement to Insure: We will 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) Failure of irrigation water supply after planting due to unavoidable causes; unless those causes are expected, excluded, or limited by the actuarial table or section 9e(7).

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

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

(2) The failure to follow recognized good rye 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 will be rye planted for harvest as grain, 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 will be rye 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 elect.

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

d. We do not insure any acreage:

(1) Where rye was seeded with vetch or flax or other small grains;

(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 rye, but such acreage is not replanted;

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

(6) Of volunteer rye;

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

(8) Planted with a crop other than rye.

e. Where insurance is provided for an irrigated practice:

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

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

You must report on our form:

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

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any rye planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined 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 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 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

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
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 will 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 will 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 will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will 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 rye is planted and ends at the earliest of:

a. Total destruction of the rye;

b. Combining, threshing, or removal from the field;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which rye is normally harvested.

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 rye 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 rye and 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) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined. A representative sample of the unharvested rye (at least 10 feet wide and the entire length of the field) will be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(3) 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 rye on the unit;

(b) Harvest of the unit; or

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

b. You must obtain written consent from us before you destroy any of the rye 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 must be submitted to us on our form not later than 60 days after the earliest of:

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

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

(1) Establish the total production of rye 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 will be determined on each unit by:

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

(2) Subtracting therefrom the total production of rye 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 will be reduced proportionately.

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

(1) Mature rye production which otherwise is not eligible for quality adjustment will be reduced. 12 percent for each .1 percentage point of moisture in excess of 16.0 percent; or

(2) mature rye production which, due to insurable causes, has a test weight of less than 52 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains more than 7 percent damaged kernels; more than 25 percent thin rye; or is smutty, garlicky, or ergoty, will be adjusted by:

(a) Dividing the value per bushel of such rye by the price per bushel of U.S. No. 2 rye; and

(b) Multiplying the result by the number of bushels of insured rye.

The applicable price for No. 2 rye will be the local market price on the earlier of the day the loss is adjusted or the day the insured rye was sold.

(3) Any harvested production from other crops growing in the rye will be counted as rye on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good rye 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 unharvested production.

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

(a) Is not put to another use before harvest of rye 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 rye 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 rye is damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

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

f. You must 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 will 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 the rye is planted 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, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 will 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. Such voidance will 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 will 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 will 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 will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

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

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will 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 will 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 will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both the payment under such other program and set off were approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Minnesota, Nebraska, North Dakota and South Dakota.	September 15.
All other states	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 will 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 will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

f. The contract will 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 will provide the price election which you are deemed to have elected. all contract changes will be available at your service office by May 31 preceding the cancellation date.

Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of rye 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 rye 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 rye is normally grown and is designated by the calendar year in which the rye is normally harvested.

d. "Harvest" means the completion of combining or threshing of the rye on the unit.

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. "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 rye or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of rye 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 rye on such land will 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 will be determined when the acreage is reported. Errors in reporting 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 hearings 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 will 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 July 11, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by: Merritt W. Sprague, *Manager.*

Dated: October 31, 1984.

[FR Doc. 84-29246 Filed 11-6-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 915

Avocados Grown in South Florida; Container Regulation Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rule.

SUMMARY: The Department of Agriculture (USDA) has decided to leave in effect an interim final rule which revised the dimensions of a currently authorized container used solely for export shipments of avocados. The rule is necessary to assure that exported avocados are in containers suitable for shipment to foreign markets.

EFFECTIVE DATE: December 7, 1984.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The interim final rules was issued on September 12, 1984, and published in the **Federal Register** (49 FR 36359) on September 17, 1984. The rule amended § 915.305 (49 FR 36359) on September 17, 1984. The rule amended § 915.305 (Florida Avocado Container Regulation) under Marketing Order 915 effective September 12, 1984, by revising the dimensions of a currently authorized container used solely for export shipments of avocados to add more flexibility in the packing of fruit of larger sizes and varieties.

The rule provided that interested persons could file public comments through October 17, 1984, none of which were received.

The amendment of the Florida avocado container regulation was based upon the recommendation of the Avocado Administrative Committee comprised of Florida avocado producers and handlers, and a public representative, and was issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Secretary finds that this action will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule published in the **Federal Register** (49 FR 36359) amending § 915.305 is adopted as a final rule.

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

Dated: November 2, 1984.

Thomas R. Clark,

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

[FR Doc. 84-29284 Filed 11-6-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 932 and 944

Olives Grown in California; Amendment of Subpart—Rules and Regulations; and Fruits: Import Regulations, Ripe Olives

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rule.

SUMMARY: This final rule provides for the establishment of grade and size requirements for 1984-85 crop year olives for limited use, amends defect tolerances in grade requirements, and revises the olive import regulation. These actions are necessary to promote orderly marketing of olives in the interest of producers and consumers. This document adopts the August 31, 1984 interim final rule as final.

EFFECTIVE DATE: December 7, 1984.

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

SUPPLEMENTARY INFORMATION: This action has been designated a "non-major" rule. Eddie F. Kimbrell, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This interim final rule established the grade and size requirements for the 1984-85 crop year olives for limited use. Specifically, § 932.52(a)(3) provides that use of processed olives smaller than the sizes prescribed for whole and pitted styles may be established annually for limited use and the subparagraph further provides that such minimum sizes also may include a size tolerance as recommended by the committee and approved by the Secretary. Thus, § 932.153 was revised to provide for the establishment of minimum sizes contained in § 932.52(a)(3) and specific tolerances for olives from the 1984-85 crop. These requirements are the same as have been established in 12 of the past 13 crop years.

Section 932.149(b) was revised to reflect the current U.S. Standards for Grades of Canned Ripe Olives and conform certain tolerances for defects to current industry practice. Section 932.149(c) was deleted because these provisions are outdated.

Section 944.401 (Olive Import Regulation 1) was amended to exempt imports of canned green ripe olives from color and blemish requirements. This change was made to conform to an amendment of regulations applicable to California canned green ripe olives.

Other minor changes were made in the rules and regulations for purposes of clarification and correction of obsolete references. These changes include amending §§ 932.151, 932.154, and 932.161 to reference the current committee name California Olive Committee (COC), current administrative report names, and current Branch title.

The interim final rule was published in the **Federal Register** on August 31, 1984 (49 FR 34439) and it provided that interested persons could file comments through September 30, 1984. No comments were received.

This action was based upon the recommendation of the California Olive Committee established under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The olive import regulation (7 CFR Part 944) was issued under section 8e (7 U.S.C. 608e-1) of the act. The Secretary finds that this section will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Parts 932 and 944

Food grades and standards, Imports, Olives.

PART 932—OLIVES GROWN IN CALIFORNIA

PART 944—FRUITS; IMPORT REGULATIONS

Accordingly, the interim final rule published in the **Federal Register** (49 FR 34439) is adopted as a final rule.

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

Dated: November 2, 1984.

Thomas R. Clark,

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

[FR Doc. 84-29286 Filed 11-6-84; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0530]

Regulation D—Reserve Requirements of Depository Institutions; Reserve Requirement Ratios

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending 12 CFR Part 204 (Regulation D—Reserve Requirements of Depository Institutions) (1) to increase the amount of transaction accounts subject to a reserve requirement ratio of three percent, as required by the Monetary Control Act of 1980 (Title I of Pub. L. 96–221; 12 U.S.C. 461(b)(2)(C)) from $28.9 million to $29.8 million and (2) to increase the amount of reservable liabilities of each depository institution that is subject to a reserve requirement of zero percent, as required by the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 12 U.S.C. 461(b)(11)(B)) from $2.2 million to $2.4 million.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625) or John Harry Jorgenson, Senior Attorney (202/452–3778), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("MCA") requires each depository institution to maintain with the Federal Reserve System reserves against its transaction accounts and nonpersonal time deposits, as prescribed by Board regulations. The initial reserve requirements imposed under the MCA were set at three percent for each depository institution's transaction accounts of $25 million or less and at 12 percent on transaction accounts above $25 million. The MCA further provides that the Board shall issue a regulation before December 31 of each year, adjusting for the next calendar year the total dollar amount of the transaction account tranche against which reserves must be maintained at a ratio of three percent. The increase in the tranche is to be 80 percent of the percentage increase in total transaction accounts for all depository institutions determined as of June 30 of each year.

At present, the amount of the low reserve tranche on transaction accounts is $28.9 million. The growth in the total net transaction accounts of all depository institutions from June 30, 1983, to June 30, 1984, was 3.8 percent (from $378.3 billion to $392.7 billion). In accordance with this provision of the MCA, the Board is amending Regulation D to increase the amount of the low reserve tranche for transaction accounts for 1985 by $0.9 million to $29.8 million.

Section 411 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act"), provides that $2 million of reservable liabilities[1] of each depository institution shall be subject to a zero percent reserve requirement. The Garn-St Germain Act permits each depository institution, in accordance with the rules and regulations of the Board, to designate the reservable liabilities to which this reserve requirement exemption is to apply. However, if transaction accounts are designated, only those that would otherwise be subject to a three percent reserve requirement (*i.e.*, transaction accounts within the low reserve requirement tranche) may be so designated. As a result, the effect of this amendment is to modify the low reserve tranche (which is $29.8 million, effective January 1, 1985) to apply a zero percent reserve requirement on the first $2 million of transaction accounts and a three percent reserve requirement on the remainder of the low reserve tranche, or to provide a zero percent reserve requirement tranche on nonpersonal time deposits with maturities of less than 1½ years or Eurocurrency liabilities, both of which are subject to a reserve requirement ratio of three percent.

The Garn-St Germain Act also provides that the Board shall issue a regulation before December 31 of each year, adjusting for the next calendar year the dollar amount of reservable liabilities exempt from reserve requirements. The change in the amount is to be made only if the total reservable liabilities held at all depository institutions increases from one year to the next. The percentage increase in the exemption is to be 80 percent of the percentage increase in total reservable liabilities of all depository institutions determined as of June 30 each year. The growth in total reservable liabilities of all depository institutions from June 30, 1983, to June 30, 1984, was 9.1 percent (from $777.7 billion to $848.0 billion). In accordance with this provision of the Garn-St Germain Act, the Board is also amending Regulation D to increase the amount of the reserve requirement exemption for 1985 by $0.2 million to $2.4 million.

The tranche adjustment and the reservable liabilities exemption adjustment for weekly reporting institutions will be effective starting with the reserve computation period beginning on January 1, 1985, and with the corresponding reserve maintenance periods beginning January 3, 1985, for net transaction accounts, and on January 31, 1985, for other reservable liabilities. For institutions that report quarterly, the tranche adjustment and the exemption will be effective with the computation period beginning on December 18, 1984, and with the reserve maintenance period beginning January 17, 1985. In addition, all entities currently submitting Form FR 2900 will continue to submit reports to the Federal Reserve under current reporting procedures.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the amendments involve adjustments prescribed by statute. Accordingly, the Board believes that notice and public participation is unnecessary and contrary to the public interest.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

PART 204—[AMENDED]

Effective January 1, 1985, pursuant to the Board's authority under section 19 of the Federal Reserve Act, 12 U.S.C. 461 *et seq.*, 12 CFR Part 204 is amended by revising paragraph (a) of § 204.9 to read as follows:

[1] The Garn-St Germain Act defines reservable liabilities as transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities, as defined in section 19(b)(5) of the Federal Reserve Act.

§ 204.9 Reserve requirement ratios.

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts:	
$0 to $29.8 million	3 percent of amount.
Over $29.8 million	$894,000 plus 12 percent of amount over $29.8 million.
Nonpersonal time deposits—	
By original maturity (or notice period):	
Less than 1½ years	3 percent.
1½ years or more	0 percent.
Eurocurrency liabilities	3 percent.

(2) *Exemption from reserve requirements.* Each depository institution, Edge or Agreement Corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a)(1), nonpersonal time deposits, or Eurocurrency liabilities or any combination thereof not in excess of $2.4 million determined in accordance with § 204.3(a)(3) of this Part.

* * * * *

By order of the Board of Governors, November 1, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-29215 Filed 11-6-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ANE-8; Amdt. 39-4935]

Airworthiness Directives; EIRIAVION OY (Formerly MOLINO OY) Model PIK-20, PIK-20B and PIK-20D

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain EIRIAVION OY (Formerly MOLINO OY) Model PIK-20, PIK-20B, and PIK-20D gliders by individual letters. The AD requires an initial and, thereafter, repetitive inspection of the rudder bottom hinge brackets for cracks. The AD also provides for a repair which, when incorporated, will no longer require the repetitive inspections. The AD is needed to preclude the glider from having the bottom hinge "peel off" and jam the rudder control.

DATES: Effective November 23, 1984, as to all persons except those persons to whom it was made immediately effective by priority letter AD 84-15-07, issued July 26, 1984, which contained this amendment.

Incorporation by Reference—Approved by the Director of the Federal Register on November 23, 1984.

Compliance Schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable technical note may be obtained from EIRIAVION OY, Kisallinkatu 8, SF-15170 Lahti, Finland. A copy of the technical note is contained in the Rules Docket at the Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30, or Cheryl McCabe, ANE-152, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7112.

SUPPLEMENTARY INFORMATION: On July 26, 1984, priority letter AD 84-15-07 was issued and made effective immediately as to all known U.S. owners and operators of EIRIAVION OY (Formerly MOLINO OY) Model PIK-20, PIK-20B, and PIK-20D gliders. The AD required an initial and, thereafter, repetitive inspection of the rudder bottom hinge bracket for checks. The AD also provided for a repair which, when incorporated, will no longer require the repetitive inspections. AD action was necessary to prevent the gliders from having the bottom hinge "peel off" and jam the rudder control.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued July 26, 1984, to all known U.S. owners and operators of certain EIRIAVION OY (Formerly MOLINO OY) Model PIK-20, PIK-20B, and PIK-20D gliders. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by Reference.

Adoption of the Amendment

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

EIRIAVION OY (Formerly MOLINO OY). Applies to Model PIK-20, PIK-20B, and PIK-20D gliders, all serial numbers certificated in any category.

Compliance required prior to next flight and thereafter at every 150 hours time in service, after the effective date of this AD, unless already accomplished.

To prevent possible in-flight hazards because of possible jamming of the rudder caused by the failure of the bottom rudder hinge bracket, accomplish the following:

1. Visually inspect the corners of the suspension flange of the rudder bottom hinge bracket for cracks (fractures) with at least a 5X magnifying glass in accordance with Procedure 1 of EIRI KY Service Bulletin M20-26 dated December 9, 1982.

2. If cracks (fractures) are found, repair them in accordance with Procedure 2 of EIRI KY Service Bulletin M20-26, dated December 9, 1982.

3. Compliance with this AD is not required when the repair described in EIRI KY Service Bulletin M20-26, dated December 9, 1982, is incorporated.

4. Alternate inspections, adjustment of the inspection interval, or other actions which provide an equivalent level of safety must be approved by the Manager, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 x2710.

The EIRIAVION OY EIRI KY Service Bulletin No. M20-26, dated December 9, 1982, identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552 (a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to EIRIAVION OY, Kisallinkatu 8, SF-15170 Lahti, Finland. These documents may also be examined at the Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective November 23, 1984, as to all persons except those persons to whom it was made immediately effective by priority letter AD 84-15-07, issued July 26, 1984, which contained this amendment.

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

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

Note.—The incorporation by reference provisions of this document were approved by the Director of the Federal Register, on November 23, 1984. The referenced service bulletins are available at the Federal Register.

Issued in Burlington, Massachusetts, on October 5, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-29206 Filed 11-6-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASO-18]

Designation of Transition Area, Palatka, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Palatka, Florida, transition area to accommodate Instrument Flight Rule (IFR) operations at Kay Larkin Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the proposed Palatka Nondirectional Radio Beacon (RBN), has been developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical activities.

EFFECTIVE DATE: 0901 GMT, December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, September 11, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Palatka, Florida, transition area to provide controlled airspace for aircraft executing a new instrument approach procedure to Kay Larkin Airport (49 FR 35654). The operating status of the airport is changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written coments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Palatka, Florida, transition area to accommodate IFR aeronautical operations in the vicinity of Kay Larkin Airport.

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

List of Subjects in 14 CFR Part 71

Aviation Safety, Airspace, Transition area.

Adoption of the Amendment

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

Palatka, FL—[New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Kay Larkin Airport (Lat. 20°39'30" N., Long. 81°41'20" W.).

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

Issued in East Point, Georgia, on October 25, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-29209 Filed 11-6-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASO-19]

Alteration of Transition Area, Rome, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Rome, Georgia, transition area by revising the coordinates of two airports and designating a transition area arrival extension. The coordinates of the Richard B. Russell and Tom B. David Airports are inaccurate and this action will correct the errors. The McDaniels radio beacon (RBN), which was previously located on Tom B. David Field, has been relocated to a new site three miles south of the airport. This relocation necessitates a change in instrument approach procedures which requires the designation of a transition area arrival extension. Thus, the floor of controlled airspace south of Tom B. David Field is lowered from 1,200 to 700 feet above the surface for protection of Instrument Flight Rule (IFR) aeronautical activities.

EFFECTIVE DATE: 0901 G.m.t., December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, September 11, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by correcting the coordinates of two airports and designating additional controlled airspace south of Tom B. David Field (49 FR 35655). The additional 700-foot transition area will provide controlled airspace for aircraft executing new instrument approach procedures to David Field. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the

FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations corrects the coordinates of two airports and designates additional controlled airspace.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

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

Rome, GA—[Revised]

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Richard B. Russell Airport (Lat. 34°21'03" N., Long. 85°09'30" W.); within 5 miles each side of Rome VORTAC 350° radial, extending from the 12-mile radius area to the VORTAC; within a 9.5-mile radius of Tom B. David Field (Lat. 34°27'26" N., Long. 84°56'23" W.); within 3 miles each side of the 169° bearing from Calhoun RBN (Lat. 34°24'05" N., Long. 84°55'36" W.), extending from the 9.5-mile radius area to 11.5 miles south of the RBN; excluding those portions which coincide with the Dalton and Cartersville, GA, transition areas.

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

Issued in East Point, Georgia, on October 25, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-29213 Filed 11-6-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 84-AWA-21]

Subdivision of Restricted Area R-5103A, McGregor, NM

Correction

In FR Doc. 84-28167, beginning on page 42919 in the issue of Thursday, October 25, 1984, make the following correction:

On page 42920, second column, the first and second lines of the description of restricted area **R-5103A McGregor, NM [Revised]** should have read:

Boundaries. Beginning at lat. 32°15'0" N., long. 106°10'00" W.; to lat. 30°15'00" N., long.

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 255

[Economic Regs. Amdt. No. 2 to Part 255; ER-1395; Docket No. 41686]

Carrier-Owned Computer Reservations Systems

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is adopting an amendment to its rules governing operation of computer reservation systems by airlines to require such reservations systems to maintain the capacity to display connecting flights over a minimum of nine connect points in city-pair markets. This action is a result of the Board's ongoing effort to eliminate unfair practices in the computerized reservations system industry.

DATES: Adopted: October 30, 1984.

Effective: November 14, 1984.

FOR FURTHER INFORMATION CONTACT: Robert D. Young (202) 673-6060, Samuel E. Whitehorn (202) 673-5450, Paul Samuel Smith (202) 673-5450, Barry L. Molar (202) 673-5205 or George S. Baranko (202) 673-6011, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In ER-1385, 49 FR 32540, August 15, 1984, the Board adopted comprehensive rules governing operation of computerized reservation systems by airlines. Among other things, the rule requires airline owners (system vendors) to use objective criteria in selecting connecting points used in the display of connecting flights, and in selecting the order in which connecting flights are displayed. These criteria are to be applied uniformly to all carriers, including the system vendor, in all markets. This requirement complements the requirement that system vendors use objective criteria in determining the order in which direct flights are displayed in their systems. We adopted these requirements to assure that system vendors did not structure the display of information in their systems to give themselves or favored carriers an unfair advantage in the sale of air transportation. This practice is commonly referred to as display bias.

In EDR-475, 49 FR 31436, August 7, 1984, we proposed an additional requirement for the display of connecting points. Carrier-owned systems would be required to have the capacity to construct connecting flights over at least nine connecting points in any market. System vendors would not have been required to use the full capacity in a market if less than nine connecting points met their criteria. In such instances, however, other carriers could request that additional connect points be used. If carriers requested a total of more than nine, the system vendor would be entitled to select the nine points that most closely satisfied its objective criteria.

As explained in EDR-475, bias in connecting flight displays may be more harmful to air transportation competition and consumers than bias in direct flight displays. Connecting flight bias may cause flights to be excluded from CRS displays altogether, while in most cases direct flight bias causes flights to be listed later than they would be absent bias. Moreover, connecting flight bias may be harder to detect. Vendors must select connecting points, and they must "edit" data to eliminate duplicative and useless connections. These additional selection processes make it possible for system vendors to use seemingly objective criteria in constructing connecting flight displays that in fact favor the vendors' own air transportation services.

We proposed the nine connect point requirement as a minimally intrusive solution to deal with this problem. To the extent that system vendors are required to use more connecting points in their display, their ability to manipulate seemingly objective criteria to favor their own connecting hubs in reduced. On the other hand, the rule

would leave vendors with complete freedom to choose criteria for constructing connecting flight displays, subject to the requirement that they use objective criteria. Our proposal also would not apply to a vendor's secondary CRS displays.

Midway Airlines, Inc., Northeastern International Airways, Inc., Ozark Air Lines, Inc., Pacific Southwest Airlines, Piedmont Airlines, Southwest Airlines Company (the Joint Carriers), American Airlines, Inc., the American Society of Travel Agents (ASTA), Eastern Air Lines, Inc., Republic Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., USAir, Inc., and Western Air Lines, Inc. filed comments in support of the proposal. Delta Air Lines filed comments in opposition. American, Continental Air Lines, Inc., Delta, Eastern, TWA, United, and USAir also filed reply comments. Of the commentors supporting the proposed rule, the Joint Carriers, ASTA, Eastern, Republic, United, USAir, and Western request modifications.

Objections

We have decided to adopt the minimum connect point requirement, as proposed. In the NPRM, we indicated that requiring CRS vendors to use at least nine connect points in constructing connecting flights offers a viable solution to the connect point bias problem without imposing unacceptable costs or inefficiencies on vendors or others. Delta, the proposal's major opponent, has not presented evidence to convince us otherwise.

Our proposed rule is based upon the view that the general proscription of display bias and the obligation to disclose information about connecting displays—which are already a part of our CRS rules—will be inadequate to ensure that connect point bias is eliminated. We were, and are, concerned that information on attractive flight alternatives could be denied the public through the use of ostensibly objective criteria that lead to the selection of a vendor's own hubs for constructing connections. This rule lessens that risk, by reducing CRS vendor's ability to manipulate its hub selection criteria to eliminate logical competing hubs. In this regard, American has submitted data showing that roughly 60 percent of all connecting passengers travel in markets with more than five connect points.

Delta asserts that this figure overstates the possible benefits of our rule. It argues that the critical factor here is what percentage of total passengers travel on—and therefore are concerned about—routings involving more than five connect points. Delta's data show that 0.8% of the passengers that flew during the year ended March 31, 1983 used routings which involved the sixth through the ninth connecting points. Stated another way, connecting passengers by and large use a very few connecting cities. According to Delta, if we created a table of the most popular connecting hubs for each city pair, less than 1.0 percent—roughly 1.5 million passengers—would use the sixth through the ninth most popular hubs. Almost 96 percent would use direct flights or the first through the fifth most popular hubs.

There are several problems with Delta's analysis. First, because 40 percent of all passengers travel in markets where five or fewer hubs were available, Delta's figures understate the importance of additional connect points in the remaining markets. Second, in focusing on the most heavily used routings, Delta loses sight of the possibility that the less popular routings may have been more convenient, faster or cheaper for some passengers but were not used because the passengers were not aware of their availability. Most importantly, Delta's arguments lose sight of the fundamental concern underlying our proposal—that vendors will have the incentive and ability to develop "objective" criteria that nonetheless eliminate the best hubs and select less convenient routings over the vendors' hubs. In addition, the quality of information can only be improved if objective ranking criteria are applied to a larger body of connecting flight information. The benefits of our rule, therefore, are far greater than Delta suggests.

Nor does the fact that only a few connecting flights appear on any given screen demonstrates that the public will not benefit from our rule, as Delta argues. While only a few connections are displayed on any single CRS screen, the quality of the information displayed is dependent upon the criteria used to rank flights and the size of the pool of information to which the criteria are applied. By ensuring that the pool of connecting information is large enough to encompass most convenient connections, when objective criteria are applied the best flights should appear on the first screen.

Turning to the burdens of complying with our rule, Delta argues that we have underestimated the effect of the proposed rule on vendor operations and competition in the CRS industry.

Delta claims that the rule would effectively preclude use of dynamic construction in CRS's. In a dynamic construction operation like Delta's DATAS II, the CRS constructs connecting flight displays when a request is made from a CRS terminal. Preselected hubs are automatically used unless a specific hub is requested. Delta estimates that expanding its capacity from five to nine points would require over $3 million in hardware costs, and would produce recurring increases in programming costs. In addition, expansion to nine bulbs would double the response time for connecting flight displays. Delta argues that the practical effect of all of this would be to force all systems to resort to a pre-stored connections system. In a pre-stored system, connecting flights are constucted in advance and loaded into the data base of the CRS. This would allegedly stifle competition and innovation, and raise entry barriers. Elimination of dynamic construction would also have the perverse result of elimination of a superior system. According to Delta, a dynamic construction system has greater flexibility to incorporate schedule changes immediately, and to search for new connecting possibilities when others are unavailable.

We recognize that our rules will impose a burden on the smaller CRS vendors, particularly Delta. It is not the dollar cost of our rule that is troublesome. Delta could probably avoid a substantial portion of its estimated $3 million cost by switching to a prestored connecting system. However, Delta could only avoid this expense by eliminating what it feels is an attractive feature of its system. In this regard, we are not in a position to determine whether dynamic construction systems are technologically superior or inferior to pre-stored systems. What is important is that Delta feels that it is superior and that, by adopting our rule, we are impairing its ability to design and market a system of its own choosing. Potential entrants will face the same constraints. As a result, our rule may have a chilling effect on new entry and innovation in the CRS industry.

However, this fact is not determinative. Other aspects of our CRS rules may have had this effect to some degree. We have nevertheless gone forward with them because of the potential for CRS practices to harm consumers and undermine air transportation competition. Information filed in this proceeding demonstrates that CRS vendors have given themselves and preferred competitors a competitive advantage over other carriers by restricting the number of hubs over which connecting flights are constructed. Regardless of whether they

have the capacity to construct connecting flights over five or nine hubs, they can and do limit constructed connections to a few hubs when it is to their advantage. *See* American Comments, at Appendix B, December 16, 1983, Docket 41686. This practice undermines air transportation competition on the merits.

Our rule reduces a CRS vendor's ability to injure consumers and competition by ensuring that a minimum quantity of information is made available on connecting flights. More importantly, it does so less intrusively than other options available to us, such as the specification of hub selection criteria. We will, therefore, go forward with the rule as proposed.

Requests for Modification

Increase in Number of Points

The Joint Carriers and USAir request the Board to increase the minimum hub number to 15 points. In addition, United requests that the Board require systems to display up to 11 double connect routings, i.e. routings that require two aircraft changes between origin and destination. Western asks that we require vendors to honor any carrier's request for inclusion of an additional connecting point without regard to the minimum number required in the rule.

Generally these parties argue that the use of nine as a minimum number will not always guarantee that routings will not be suppressed for competitive reasons. The joint carriers and USAir point out that as the competitive air transportation system evolves, carriers are likely to rely more heavily on hub and spoke operations, and to resort increasingly to new hubs to avoid congestion. As this occurs, these carriers claim that a nine hub minimum will be inadequate, if it is not already. United claims that in many markets, double connections are viable options, and if the Board does not require vendors to maintain a capability to display these connections, they too may be suppressed for competitive reasons.

We will not increase the minimum connect point requirements at this time. As discussed above, we are attempting to balance the benefits of additional rules on connecting flight display bias against the burdens imposed. As we have done throughout this proceeding, we are attempting here to develop the least intrusive and burdensome solution that will substantially solve the problem. Our review of the record, including comparison of carrier displays, demonstrates that a nine point minimum will improve the quality and objectivity of connecting point displays. The evidence on the benefits of a further expansion to 15 is less compelling, but it would surely increase the burden on system vendors. The commenters have not dissuaded us from our tentative conclusion in EDR–475 that a nine hub minimum would solve the problem we see in the overwhelming majority of cases, and that the burden of increasing the minimum would outweigh the benefits from such action.

Western's request may in essence require vendors to maintain unlimited connect point capability. Given our reluctance to raise the minimum requirement above nine hubs, we must reject Western's request as well. We likewise rejected United's request for double connect capacity in the notice of proposed rulemaking. United has not demonstrated that substantial numbers of passengers actually use double connections when single connections are available. Indeed logic would suggest that the number would be small because of the additional inconvenience. Moreover, United has not estimated the cost of increasing capacity to handle 11 double connection routings. As a practical matter, this would more than double the capacity that we proposed in EDR–475. We are not prepared to impose such a requirement in these circumstances. However, we have already indicated the need to monitor the rule after it is implemented. We expect that modifications will be made if the nine point rule proves inadequate.

Specification of Objective Standards

Republic has requested that we require system vendors to integrate direct and connecting flights in CRS displays. It argues that connecting flights can often provide superior service to direct, multi-stop flights. If all direct flights are listed before any connecting flights, however, Republic predicts that travel agents, and consumers, will rarely find out about the superior connecting flights listed on later screens.

ASTA has requested that the Board require that hubs be selected on the basis of the most direct routing or the least elapsed time. ASTA argues that an arbitrary limit of nine connecting points will cause some connecting flights to be deleted from CRS displays. In this circumstance, ASTA believes that connecting flights that do get listed should be based on the most important passenger preference, *i.e.*, direct routing or elapsed time.

We will not make either of the modifications. These requests are similar, if not identical, to requests that we considered and rejected at earlier stages of our review of CRS operations. See ER–1375 at 26, EDR–475 at 5. Republic and ASTA have offered no new arguments or evidence on the subject. We remain convinced that a necessarily arbitrary prescription of display criteria or formats would create more problems than it solved. For example, requiring vendors to use elapsed time or circuity as the only factors in choosing connecting flights might eliminate hubs that had more frequent and convenient connecting service. In addition, such a proposal could as a practical matter require systems to search all connecting flights over all possible routings before choosing any for display. This is precisely the type of burden we intended to avoid by allowing system vendors to continue to preselect hubs.

Carrier Requests for Additional Hubs

In EDR–475, we proposed to allow each system vendor to use fewer than nine hubs if fewer than nine met its objective criteria. However, in that circumstance, a vendor would be required to add hubs at the request of participating carriers, up to the nine required by the rule. A number of carriers have suggested modifications to the treatment of carrier requests for additional connect points.

Republic and the Joint Carriers suggest that we require system vendors to list unused connect points requested by carriers on the first display screen. They argue that such a listing will increase the chance that travel agents will consider connecting flights not listed in the CRS display, and will reduce the impact of subtle connecting flight display bias.

We will not adopt this modification. In most markets, it is likely that nine connecting points will be sufficient to include all reasonable connections. In the remaining markets, while a listing of additional hubs might result in a marginal improvement in the information available to agents, we are not convinced that this benefit outweighs the burden. In this as in other areas, we are extremely reluctant to prescribe particular display formats or criteria and are willing to do so only where the need for such action is clear-cut.

Eastern has requested that system vendors be permitted to charge for using connect points requested by participating carriers in addition to those derived from its objective service criteria. It would also like to impose a charge for processing a request even if no flights are displayed over the requested point because of the editing

process. Eastern alleges that including points that do not meet a vendor's objective criteria imposes recurring expenses on vendors, and it argues that the carriers responsible for those expenses should be expected to pay for them. In addition, it argues that the prospect of paying for the privilege of requesting additional hubs will reduce the risk of frivolous requests. Carriers simply will not pay to have requests processed if those requests do not actually result in flights being included in the CRS display.

Eastern's request is in essence a request to charge for listing connections. As a number of commenters have pointed out, system vendors have substantial discretion in selecting objective criteria. They can be as narrow or as flexible as a vendor chooses. There is a substantial risk that if vendors are allowed to charge to list connections, they will have strong incentives to adopt narrow criteria that produce very few connecting flights. The majority of flights would be listed on the basis of fees paid. Such a situation invites reintroduction of bias through manipulation of the fees required.

In the Supplementary Information in EDR–475, we explained that if a system vendor received requests to list more than nine hubs in a market from participating carriers, it should choose the nine that most closely met its objective hub selection criteria. USAir requests that this expectation be incorporated into the rule itself as a requirement. It argues that inclusion in the rule is important to clarify that system vendors cannot pick and choose among connecting point requests from carriers based on considerations of air transportation competition.

USAir's requested modification is unnecessary. Selection of all connecting points remains subject to the requirement that system vendors use objective criteria in selecting connecting points. § 255.4(c). This requirement applies to selection among points requested by participating carriers as well as the vendor's initial selection of points and applies to all points, even if the vendor's system uses more than nine. Section 255.4(c) already assures that system vendors will not pick and choose among connecting point requests on the basis of air transportation competition considerations.

In her concurring statement, Member Morales expressed concern that by requiring vendors to accept hubs suggested by participants, we might be creating incentives for carriers to force a vendor to construct connections over circuitous or inconvenient hubs, resulting in needless costs. She requested comments on whether the rule should be limited to requests that result in connecting flights that survive the vendor's editing process, or to reasonable requests, or whether we should eliminate the request mechanism altogether.

The comments generally support retaining some kind of request mechanism. Delta and United support the requirement that requests produce flights that survive the edit process. Such a requirement would assertedly eliminate unnecessary expenses for the CRS vendor. However, American claims that an evaluation requirement would have no practical effect. It alleges that the cost of evaluating whether a connect point request is frivolous would be greater than the cost of maintaining the frivolous connect point in its system.

We will not modify the request mechanism at this time. As we understand CRS operations, American is correct in its view that limiting the right of participating carriers to request only hubs that produce connections that survive the editing process would produce few, if any, cost savings for vendors. There should be little cost to including other requested points in the CRS vendor's program logic because the flights produced would not survive the vendor's edit process. Moreover, we do not consider it likely that participating carriers will abuse their privilege to designate additional hubs. If that conclusion proves incorrect, we will of course consider applications to modify the rule.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96–354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

In EDR–475, we undertook an initial regulatory flexibility analysis, and we tentatively concluded that the rule if adopted would not have a significant economic impact on a substantial number of small entities. No one has challenged the analysis or our tentative conclusions. We are adopting the rule proposed in EDR–475 without modification. We therefore certify that this rule will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Review

Executive Order 12291, dated February 17, 1981, requires every executive agency to prepare a Regulatory Impact Analysis for every "major rule," as defined in the Executive Order.

As an independent agency, the Civil Aeronautics Board is not required to comply with E.O. 12291. Because of the importance of this rule and its expected transfer to the Department of Transportation in connection with the sunset of the Board, we have voluntarily examined whether the proposed rule constitutes a major rule, and we have determined that it does not.

In EDR–475, we tentatively concluded that this rule would not likely meet the definition of a major rule within the meaning of the Executive Order. No one has challenged this tentative conclusion, and we adopt it as final.

Effective Date

In EDR–475, we stated our intention of putting this rule into effect at the same time as the comprehensive rule. We concluded that this would be desirable so as to minimize disruption for CRS vendors; and to prevent duplicative reprogramming. No one has objected to this time schedule if the Board goes forward with the rule. We accordingly find that there is good cause to make the rule effective on less than 30 days' notice. Therefore, we will make the rule effective on November 14, 1984, the effective date of ER–1385.

List of Subjects

Advertising, Air carriers, Air transportation-foreign, Antitrust, Consumer protection, Essential air service, Travel agents.

Statement of Vice Chairman McConnell

McConnell, Vice Chairman, Dissenting

I do not agree with the majority that this rule is needed. The comments show that there are only marginal possible benefits from this rule and there are certain detriments.

The comprehensive Computer Reservations Systems rule adopted by the Board (ER–1385) addresses the same issue—elimination of bias in construction of connections by requiring objective criteria in selecting hubs. It is likely that the requirement for objective criteria will solve most of the problems alleged here. Only if the objective criteria standard is proven ineffective should further arbitrary regulations be added.

By acting now, the majority causes both short term and long term problems. In the short term, smaller CRS vendors will be required to spend millions of dollars to conform their systems to the arbitrary nine points rule.

In the long term, the majority is building an obstruction for existing small vendor competitors and for potential new entrants to confront the giant vendors.

The Board should be making it easier for vendor competition, by encouraging improved

types of vendor systems rather than mandating increased uniformity.

The Board has already addressed the bias concern by requiring objective criteria in selecting hubs. That Board rule has not even gone into effect. Before we pile on additional regulatory restrictions we should give past regulations a chance. If that solution works, than an arbitrary number of required hubs is simply a rule for a rule's sake—a gesture. If the solution does not work, we should examine why before imposing a costly, more burdensome regulation.

Barbara E. McConnell.

PART 255—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 255, *Carrier Owned Computer Reservations Systems*, as follows:

1. The authority for Part 255 is:

Authority: Secs. 102, 204, 404, 411, 419, 1102 Pub. L. 85-726 as amended, 72 Stat. 740, 743, 760, 769, 797; Stat. 1732; 49 U.S.C. 1302, 1324, 1374, 1381, 1389, 1502.

2. A new § 255.4(c)(4) is added, to read:

§ 255.4 Display of information.

* * * * *

(c) * * *

(4) If system vendors select connecting points for use in constructing connecting flights they shall use at least nine points for each city-pair, except that vendors may select fewer than nine such connecting points for a city-pair where—

(i) Fewer than nine connecting points meet the service criteria described in paragraph (c)(1) of this section; and

(ii) The vendor has used all the points that meet those criteria, along with all additional connecting points requested by participating carriers.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-29340 Filed 11-6-84; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Final Exemption of Oral Contraceptives From Child-Resistant Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final exemption.

SUMMARY: The Commission is exempting certain oral contraceptives from the child-resistant packaging requirements of the Poison Prevention Packaging Act of 1970. The exemption applies to mnemonic (memory-aid) dispenser packages of cyclically administered oral contraceptives containing estrogens and progestogens. Since the packaging requirements have been suspended with respect to these oral contraceptives since 1974, the final exemption will not affect their marketing.

DATES: The exemption will become effective on November 7, 1984.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Framework

The Poison Prevention Packaging Act of 1970 (PPPA, 15 U.S.C. 1471-1476) authorizes the Commission to establish standards for the "special packaging" of any household substance if: (1) The degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance.

Special packaging is often referred to as "child-resistant packaging" and is defined as packaging that is: (1) Designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, there are effectiveness standards for special packaging (16 CFR 1700.15), as well as a procedure for evaluating effectiveness (16 CFR 1700.20). Regulations have been issued requiring special packaging for a number of household products (16 CFR 1700.14).

2. 1974 Proposed Exemption

In April 1973 the Food and Drug Administration (FDA), which then administered the PPPA, issued a regulation requiring child-resistant packaging for human prescription drugs in oral dosage forms (38 FR 9431; April 16, 1973). That regulation became effective in April 1974.

In February 1974 the Consumer Product Safety Commission (CPSC), which had taken over responsibility for administering the PPPA in May 1973, proposed an exemption from the regulation for mnemonic (memory-aid) dispenser packages of cyclically administered oral contraceptives that contain no more than specified amounts of certain hormones (39 FR 5197; Feb. 11, 1974) [1].[1] The Commission cited "... a low toxicity for oral contraceptives, considerable human experience data showing no related serious personal injury or serious illness in young children, and the importance of the present form of mnemonic (memory-aid) packaging to successful hormone therapy." 39 FR 5198.

In proposing the exemption, the Commission also suspended the April 1974 effective date the oral contraceptives covered by the proposal [1]. That suspension has remained in effect since then, so child-resistant packaging has never been required for the oral contraceptives. The suspension will remain in effect until this proceeding has been concluded.

3. 1984 Reproposed Exemption

The Commission received 15 comments from the public on the proposed exemption [2-16]. In addition, members of the Commission's Technical Advisory Committee (TAC) commented on the proposal [17]. The major comments addressed the potential adverse health effects—both acute and chronic—of oral contraceptives.

After considering the issues raised by the 15 commenters, the TAC commenters, and the Commission staff, the Commission decided to repropose for public comment an exemption of certain oral contraceptives. The Commission wanted to give all interested parties the opportunity to comment on all relevant and currently-available data; ten years had passed since the original proposal. The reproposal, published on April 9, 1984 (49 FR 13888) [32], had a broader scope than the one proposed in 1974. It was based on the Commission's belief that particular estrogens and progestogens and particular amounts do not need to be specified. Therefore, the April 1984 proposal applied to all cyclically administered oral contraceptives in mnemonic packaging that rely on the activity of any estrogen or progestogen substance in any amount.

[1] The numbers in brackets refer to the reference documents listed at the end of this notice.

B. Public Comments

The Commission received two public comments on its April 1984 proposal. One was submitted by the Searle Research and Development Division of G.D. Searle & Co., a manufacturer and distributor of pharmaceuticals including oral contraceptives [33]. Searle commented that it fully supported the proposed exemption. The second public comment was submitted by Wyeth Laboratories, Inc., another manufacturer of oral contraceptives [34]. Based on its sixteen years of market experience with these products, Wyeth stated its belief that the proposed exemption is appropriate and that there is little or no risk to children who ingest oral contraceptives. Further, this comment supported the approach of not specifying any particular amounts of estrogen or progestogen because the industry trend had been toward the introduction of oral contraceptives containing lesser quantities of these hormones.

C. Data on Health Effects

Over 20 years of human experience data are available on oral contraceptives, and the pharmacological, physiological, and toxicological effects of these drugs, including those from long-term therapeutic dosage, are well established [20]. The Commission believes that these data provide no evidence of either acute or chronic health effects associated with accidental ingestion of oral contraceptives by young children. The public comment from Wyeth supports this belief [34].

This Commission position is also supported by the Food and Drug Administration [21,22,23]. In discussing the question with Commission staff, FDA officials have observed that ample time has elapsed since the introduction of oral contraceptives into the market for any long-term health effects associated with accidental childhood ingestions to have manifested themselves. Such problems, were they to have occurred, would not have gone undetected by the medical profession. The FDA officials have emphasized the fact that current oral contraceptive products contain only a fraction of the hormone doses which were used in the early years of oral contraception. If problems were to be seen, they would have occurred with the former, higher dosage strengths.

The FDA officials have further indicated that, in spite of a high frequency of ingestion of oral contraceptives, frequency of either acute or long-term injury is one of the lowest of any class of drugs. Fewer than three percent of oral contraceptive cases reported by poison control centers in 1980 were associated with signs and symptoms, usually mild gastrointestinal effects, compared with 27 percent of all drug ingestion cases. No reports of serious acute toxic effects have been reported in the literature in more than 20 years of clinical experience. Long-terms effects following acute overdose are unknown and highly unlikely.

Finally, the FDA officials have made these additional observations:

1. Health effects which have been associated with long-term oral contraceptive therapy are not related to effects likely to be seen following accidental ingestions in children.

2. Chronic toxicity data, either for animals or humans, cannot be extrapolated to an acute overdose situation occurring with the oral contraceptives.

3. Oral contraceptives could probably be classified as akin to non-toxic. It would be virtually impossible for a child to ingest anywhere near what might be considered a median lethal dose. Children would become physically ill long before reaching a dose which would be considered injurious or lethal.

4. There is no reason to expect thrombotic effects to occur following acute ingestions, even of relatively high doses.

Before issuing its April 1984 proposed exemption, the Commission considered some specific comments concerning the potential health risks posed by oral contraceptives to young children. As contained in the preamble to the April 1984 proposal, these comments and the Commission's responses are:

1. Commenters who concede that one-time ingestions of the oral contraceptives may not seriously harm children nevertheless assert that such ingestions may produce nausea and/or vomiting [13].

The Commission recognizes that oral contraceptives, like many products found in the home, can produce nausea and vomiting in young children who ingest them. However, in most cases of accidental ingestion, vomiting is regarded as a benefical reflex since it helps to remove the substance from the body and thus reduces the risk of serious toxic effects [18].

Although unpleasant for both the child and adult involved, nausea and vomiting resulting from the accidental ingestion of oral contraceptives are generally not severe. Nausea and vomiting are undoubtedly among the most frequently observed symptoms associated with the accidental ingestion of products by young children. Such symptoms rarely involve serious consequences requiring professional medical attention [18].

2. Commenters have pointed out that warnings in package inserts for two oral contraceptives include the statement: "A small fraction of the hormonal agents in oral contraceptives have been indentified in the milk of mothers receiving these drugs. The long-term effects to the nursing infant cannot be determined at this time" [2,6,12].

The Commission believes that, in the case of nursing mothers who take oral contraceptives, any danger to the infant would arise from the daily ingestion of the medication via the milk supply for a period of several weeks to several months and would be related to long-term hormonal effects. [18]. Therefore, it is inappropriate to relate the possible dangers involved in this situation to one in which a single ingestion takes place.

3. Commenters have also pointed out that there has been an association of cancer of the vagina and cervix of young women whose mothers were treated with diethylstilbestrol (DES) during pregnancy [2,3,6]. DES is an estrogen compound used during the 1960's to treat threatened or habitual miscarriages. It was later shown that female children of mothers who had taken DES during their pregnancy had an increased risk of developing a rare form of cervical or vaginal cancer when they reach adulthood.

The Commission believes it inappropriate to relate the effects observed in the case of DES, which resulted from the *chronic* exposure of a chemically distinct estrogen to a develping fetus *in utero*, to the possible effects of a single *acute ingestion* by a young child of the estrogens contained in oral contraceptives [18].

4. Commenters have asserted that sufficient data are not available to evaluate the effects of oral contraceptives in male and female children, and data are not available to predict the effects of ingesting these drugs in combination with other drugs for household substances. [17.]

The Commission responds that over 20 years of human experience data are available on oral contraceptives, and that the effects of these drugs are well established. Ingestion data, reflecting incidents in both sexes, indicate that the drugs are frequently ingested but few, if any, serious effects have been reported in children [20]. In addition, there is no evidence of oral contraceptives interacting with other drugs or household products to produce untoward reactions [20].

5. Commenters have suggested that no exemption should be provided unless

the industry provides studies of single dose effects (at excessive levels) on long-term animal health [17].

The FDA does not require such studies in order to prove the safety of a drug [20]. Therefore, if the Commission adopted this suggestion, it would be requiring studies to support a special packaging exemption that are not required to market the drug in the first place.

D. Injury Data

The Commission's Children and Poisoning (CAP) data base for the years 1978 through March 1983 contains 105 reports of accidental ingestions of oral contraceptives by children under age five [24]. This projects to a national estimate of 4,305 similar cases. Of the 105 reports, 101 children were treated and released; two were transferred and treated; two were hospitalized.

For the years 1969 through 1978, 5027 cases of accidental ingestion of oral contraceptives by children under age five were reported to the National Clearinghouse for Poison Control Centers [25]. Of these 5027 cases, 139 reported symptoms, most frequently lethargy and nausea/vomiting/diarrhea. Thirty-four children were hospitalized, generally for one or two days.

E. Market Information

Since oral contraceptives were introduced in 1960, they have become the most popular reversible method of contraception worldwide. Industry sources estimate that, since 1979, the number of women using oral contraceptives in the United States has remained stable at roughly 10 million [26,27].

Six domestic pharmaceutical manufacturers share the U.S. market for oral contraceptives, with three firms predominating [26,27]. These six firms currently have combined annual retail sales in excess of $400 million [26,27].

F. Regulatory Flexibility Act Certification

Before the issuance of the April 1984 proposed exemption, the Commission staff had concluded that no firm would be required to institute any changes to its present practices as a result of the exemption. Therefore, using the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601(3), the Commission certified that the exemption would not, if issued, have a significant economic impact on a substantial number of small entities [32].

G. Environmental Considerations

Rules requiring poison prevention packaging of products and exemptions from such rules normally have little or no potential for affecting the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. *See* 16 CFR 1021.5(c)(3). In issuing the April 1984 proposed exemption, the Commission concluded that it would, if issued, have no significant effects on the environment.

H. Effective Date

The PPPA provides that, except for good cause, no regulation shall take effect sooner than 180 days or later one year from the date such regulation is issued. A lead time of six months to a year provides firms with time to "gear up" to child-resistant packaging.

However, an exemption from a PPPA packaging requirement does not fall within the prescribed time limits on the effective date, and no lead time is necessary where child-resistant packaging is not being required. In the case of the oral contraceptives, the packaging is not now required and no marketplace changes will be necessary. Therefore, the Commission has decided that the exemption will become effective immediately upon its publication in final form in the **Federal Register.** An immediate effective date complies with the Administrative Procedure Act, 5 U.S.C. 553(d)(1), as well as the PPPA.

I. Conclusion

After considering all relevant and available information, the Commission finds that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the oral contraceptives described below. Based on this finding, the Commission concludes that a special packaging exemption for them should be issued.[2]

Accordingly, pursuant to provision of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; secs. 2(4), 3, 5; 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573; sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends § 1700.14(a)(10) of Subchapter E of Chapter II of Title 16 by adding paragraph (iv) as follows (although unchanged, the introductory text of subsection (10) is included for context):

[2] The exemption was approved by a 5–0 vote of the Commission.

§ 1700.14 [Amended]

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(iv) Cyclically administered oral contraceptives in manufacturers' memonic (memory-aid) dispenser packages that rely solely upon the activity of one or more progestogen or estrogen substances.

Authority: Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474; Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a).

* * * * *

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and Children, Packaging and containers, Poison prevention, Toxic substances.

Dated: November 2, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of references

1. **Federal Register** document proposing an exemption from special packaging for oral contraceptives (39 FR 5197–98, February 11, 1974).

2. Public comment from Dr. Robert Scherz of American Academy of Pediatrics; February 19, 1974.

3. Public comment from Creighton University; February 22, 1974.

4. Public comment from Sunbeam Plastics; February 25, 1974.

5. Public comment from Cooper Laboratories; February 25, 1974.

6. Follow-up public comment from Dr. Robert Scherz of American Academy of Pediatrics; February 26, 1974.

7. Public comment from Searle Laboratories; March 4, 1974.

8. Public comment from American Pharmaceutical Association; March 8, 1974.

9. Public comment from Mead Johnson Research Center; March 8, 1974.

10. Public comment from University of Alabama (Birmingham) Medical Center; February 26, 1974.

11. Public comment from Abbott Laboratories; March 8, 1974.

12. Public comment from Patricia van Betten; March 9, 1974.

13. Public comment from Parke, Davis & Company; March 11, 1974.

14. Public comment from Dr. Sumner Yaffe of American Academy of Pediatrics; March 13, 1974.

15. Public comment from The Upjohn Company; March 12, 1974.

16. Public comments from Ortho Pharmaceutical Corp.; April 22, 1974, August 27, 1974, and September 27, 1974.

17. Thirteen comments from different members of the Technical Advisory Committee; January through April 1980.

18. Memo from Fred Marozzi and Denise Orzech on oral contraceptives petitions; October 12, 1979.

19. Memo from Fred Marozzi on the packaging of cyclically administered oral contraceptives; March 27, 1979.

20. Memo from Fred Marozzi analyzing TAC comments on oral contraceptive exemption petition; May 30, 1980.

21. Memo from Fred Marozzi summarizing FDA's position on acute and long-term effects of oral contraceptives following accidental ingestion by children; April 8, 1983.

22. Record of December 14, 1982 meeting between CPSC and FDA staff on oral contraceptive exemption from PPPA packaging; December 20, 1982.

23. Letter from Joseph Hile, FDA Associate Commissioner for Regulatory Affairs; March 7, 1983.

24. Memo from Dorothy Drago on ingestions of oral contraceptives; May 10, 1983.

25. Memo from Denise Orzech on injury data update on oral contraceptives; March 20, 1981.

26. Memo from Elliot Foutes on update of market information on oral contraceptives; July 18, 1983.

27. Memo from Elliot Foutes on market information on oral contraceptives; January 8, 1980 (RESTRICTED).

28. Briefing memo from Virginia White on proposed regulation to exempt oral contraceptives from special packaging requirements; September 28, 1983.

29. Memo from Alan Shakin on proposed exemption of oral contraceptives from special packaging requirements; September 29, 1983 (RESTRICTED).

30. Vote sheets on proposed exemption of oral contraceptives from special packaging requirements; September 29, 1983.

31. Memo from Fred Marozzi on expansion of exemption to all estrogen and progestogen substances; March 9, 1984.

32. Federal Register document proposing an exemption from special packaging for oral contraceptives (49 FR 13888–91, (April 9, 1984).

33. Public comment from G.D. Searle & Co.; May 10, 1984.

34. Public comment from Wyeth Laboratories, Inc.; June 8, 1984.

35. Briefing package and vote sheets on final exemption; October 2, 1984.

[FR Doc. 84–29223 Filed 11–6–84; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old Age, Survivors, and Disability Insurance Benefits; Deductions, Reductions, and Nonpayments of Benefits

Correction

In a correction to FR Doc. 84–27767 appearing on page 43951 in the issue of Thursday, November 1, 1984, make the following corrections: In the third column, the third lines of paragraphs 4. and 5., "408.408a" should read "404.408."

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[00000/R701; FRL–2712–7]

Food for Human Consumption; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; EDB Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice amends 21 CFR 193.225(a) and 21 CFR 193.230(a) by the deletion of the listing of the fumigant ethylene dibromide (EDB). This action has been taken in order to bring these regulations into conformity with other recent regulatory actions taken by the Agency in response to health and safety concerns posed by residues of EDB.

EFFECTIVE DATE: Effective on November 7, 1984.

ADDRESS: Written objections identified by the document control number [00000/R701] may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Johnson, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–7420).

SUPPLEMENTARY INFORMATION: On June 8, 1984, EPA issued a notice, published in the **Federal Register** of June 15, 1984 (49 FR 24749), which proposed to bring 21 CFR 193.225 and 193.230 into conformity with recent tolerance actions on EDB which followed the Agency's issuance of a notice of intent to cancel registrations of EDB for the quarantine fumigation of citrus and papayas, and for use as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling equipment, as well as for certain other uses (48 FR 46234, October 11, 1983).

Specifically, the Agency proposed to

1. Delete "ethylene dibromide" from the listing in 21 CFR 193.225(a).

2. Delete the word "mixtures" from the introductory text of 21 CFR 193.230(a).

3. Delete the words "and ethylene dibromide" from the first sentence in 21 CFR 193.230(a)(2).

4. Replace the words "this mixture and any previous fumigations" in the second sentence of 21 CFR 193.230(a)(2) with the words "methyl bromide and any previous fumigations with methyl bromide".

5. Replace the word "mixture" in 21 CFR 193.230(d) with the word "fumigant".

No comments were received in response to this notice proposing the amendment of these rules.

Based on considerations discussed in detail in the June 15, 1984 notice, the Agency is hereby amending 21 CFR 193.225 and 193.230 as follows:

1. Delete "ethylene dibromide" from the listing in 21 CFR 193.225(a).

2. Delete the word "mixtures" from the introductory text in 21 CFR 193.230(a).

3. Delete the words "and ethylene dibromide" from the first sentence in 21 CFR 193.230(a)(2).

4. Replace the words "this mixture and any previous fumigations" in the second sentence of 21 CFR 193.230(a)(2) with the words "methyl bromide and any previous fumigations with methyl bromide".

5. Replace the word "mixture" in 21 CFR 193.230(d) with the word "fumigant".

By making these changes to bring these regulations into conformity with the recent action on EDB, the Agency is not making a current judgment about the appropriateness of the remaining provisions of the rules, which may be subject to revision based on the results of an ongoing Agency review of chemical fumigants.

This amendment brings 21 CFR 193.225(a) and 193.230(a) into conformity with the following recent tolerance actions: (1) The revocation on May 25, 1984 of the tolerances in 40 CFR 180.146 for residues of inorganic bromides

(calculated as Br) in or on citrus fruits and papayas fumigated after harvest with EDB and the establishment of tolerances for EDB *per se* in or on these commodities (49 FR 22802), (2) the revocation on April 23, 1984 of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on certain grains which were fumigated after harvest with EDB (49 FR 17147), (3) the revocation on April 23, 1984 of the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues on a variety of grains resulting from the use of EDB as a post-harvest fumigant (49 FR 17144), and (4) the establishment of a tolerance of 900 ppb for residues of EDB *per se* on these grains on April 23, 1984 (49 FR 17145).

Elsewhere in this issue of the **Federal Register**, the Agency has issued a final rule bringing 40 CFR 180.3(c)(2) into conformity with the recent regulatory actions taken by the Agency in response to the health and safety concerns posed by residues of EDB.

Any person adversely affected by this amendment to 21 CFR 193.225 and 193.230, may, within 30 days after the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections must be submitted in quintuplicate and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been sent to the Office of Management and Budget for review as required by section 3 of Executive Order 12291.

This action was analyzed under the Regulatory Flexibility Act, and the requirements of Executive Order 12291. The analysis contained in the proposals for the revocation of the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues in a variety of grains resulting from the post-harvest fumigation of EDB applies equally to the amendment set forth in this notice. Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

(Sec. 409(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)))

Dated: October 31, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 193—[AMENDED]

Therefore, 21 CFR Part 193 is amended as follows:

1. In § 193.225 by revising paragraph (a) to read as follows:

§ 193.225 Fumigants for grain-mill machinery.

* * * * *

(a) The fumigants consist of one or more of the following: carbon disulfide, carbon tetrachloride, ethylene dichloride, methyl bromide.

* * * * *

2. In § 193.230 by revising the introductory text of paragraph (a), paragraphs (a)(2) and (d) to read as follows:

§ 193.230 Fumigants for processed grains used in production of fermented malt beverages.

* * * * *

(a) They consist of one of the following:

* * * * *

(2) Methyl bromide. Total residues of inorganic bromides (calculated as Br) from the use of methyl bromide and any previous fumigations with methyl bromide shall not exceed 125 parts per million.

* * * * *

(d) The total residue of inorganic bromides in fermented malt beverages, resulting from the use of corn grits and cracked rice fumigated with the fumigant described in paragraph (a)(2) of this section plus additional residues of inorganic bromides that may be present from uses in accordance with other regulations in this chapter promulgated under section 408 and/or 409 of the act, does not exceed 25 parts per million bromide (calculated as Br).

[FR Doc. 84-29257 Filed 11-6-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 361

[Docket No. 78N-0400]

Conforming Amendment Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule on protection of human subjects which published in the **Federal Register** of January 27, 1981 (46 FR 8942). A conforming amendment was inadvertently omitted from that final rule. This document corrects that oversight.

EFFECTIVE DATE: January 27, 1981.

FOR FURTHER INFORMATION CONTACT: Paul O. Fehnel, Jr., Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 14, 1979 (44 FR 47699 and 47713), FDA proposed amendments to conform various sections of its regulations to the proposed standards for institutional review boards (IRB) for clinical investigations regulations and informed consent regulations. One of the proposed conforming amendments was an amendment to 21 CFR 361.1(d)(9) to refer to the IRB requirements in 21 Part CFR 56 (44 FR 47711).

The regulations were issued in final form in the **Federal Register** of January 27, 1981 (46 FR 8942 and 8958). The informed consent regulations appeared at 46 FR 8942 and the IRB regulations appeared at 46 FR 8958. Comment 138 in the preamble of the IRB regulations at 46 FR 8974 stated that "FDA is adopting the conforming amendments as proposed. However, in accordance with the principles of common sense, the amendments proposed separately but applicable both to Part 50 and Part 56 have been combined and are included with FDA's informed consent final rule published elsewhere in this issue of the **Federal Register.**" However, the conforming amendment to § 361.1(d)(9) was not included in the final rule. As a result, this section still refers to the Department's IRB regulations (45 CFR Part 46) rather than to the agency's IRB regulations. Accordingly, the agency is issuing the following correction to the January 27, 1981 final rule to set forth the amendment that was inadvertently omitted:

PART 361—[AMENDED]

In FR Doc. 81-2687, appearing at page 8942 in the issue of Tuesday, January 27, 1981, on page 8955 in the first column, amendment "11" is corrected to read "11. Part 361 is amended in § 361.1 by revising paragraphs (d)(5) and (9) to read as follows:" and paragraph (d)(9) is correctly revised to read as follows:

§ 361.1 Radioactive drugs for certain research uses.

* * * * *

(d) * * *

(9) *Approval by an institutional review board.* The investigator shall obtain the review and approval of an institutional review board that conforms to the requirements of Part 56 of this chapter.

* * * * *

Dated: October 31, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-29206 Filed 11-6-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 430, 436, and 442

[Docket No. 84N-0251]

Antibiotic Drugs; Sterile Cefonicid Sodium; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that provided for the inclusion of accepted standards for a new antibiotic drug, sterile cefonicid sodium. This document corrects various editorial errors.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-22881, appearing on page 34347, in the issue for Thursday, August 30, 1984, the following corrections are made:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. In the amendment to Part 430 appearing on page 34347, second column, § 430.4(a)(52) is corrected to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(52) *Cefonicid.* 5-Thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid, 7-[(hydroxyphenylacetyl)amino]-8-oxo-3[[[1-(sulfomethyl)-1*H*-tetrazol-5yl]-thio]methyl]-, disodium salt, [6R-[6α7β(R*)]].

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. In the amendment to Part 436 appearing on page 34348, first and second columns, § 436.350(c)(2), (c)(3), and (c)(4) is corrected to read as follows:

§ 436.350 High-performance liquid chromatographic assay for cefonicid.

* * * * *

(c) * * *

(2) *Efficiency of the column.* Calculate the number of theoretical plates (n) of the column as follows:

$$n = 5.545\left[\frac{{}^{t}R}{{}^{w}h}\right]^{2}$$

where:

n = Efficiency, as number of theoretical plates for column;

${}^{t}R$ = Retention time of solute; and

${}^{w}h$ = Peak width at half-height.

(3) *Resolution factor.* Calculate the resolution factor (R), between desacetyl cefonicid and cefonicid, as follows:

$$R = \frac{2({}^{t}2 - {}^{t}1)}{{}^{w}1 + {}^{w}2}$$

where:

${}^{t}1$ = Retention time of desacetyl cefonicid;

${}^{t}2$ = Retention time of cefonicid; and

${}^{w}1$ and ${}^{w}2$ = Widths of the bases of the corresponding peaks obtained by extrapolating the relatively straight sides of the peaks to the baseline.

(4) *Coefficient of variation (relative standard deviation).* Calculate the coefficient of variation (S_R in percent) as follows:

$$\frac{S}{R} = \frac{100}{\bar{X}}\left[\frac{\sum_{i=1}^{N}(X_i - \bar{X})^2}{N-1}\right]^{1/2}$$

where:

X is the mean of N individual measurements of X_i.

If the complete operating system meets the system suitability requirements of the monograph for the drug being tested, proceed as described in paragraph (b) of this section, using the sample solution in lieu of the working standard solution.

PART 442—CEPHA ANTIBIOTIC DRUGS

3. On page 34348, under § 442.20a *Sterile cefonicid sodium,* second column, in paragraph (a)(1)(i), third line, "that" is corrected to read "than"; and in the third column, in paragraph (b)(1)(ii)(*b*)(*2*), third line, insert the word "and" between "sample" and "milligrams".

Dated: October 31, 1984.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 84-29207 Filed 11-6-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 7964]

Procedure and Administration; Tax Shelter Registration; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary rule.

SUMMARY: This document contains a correction to the Federal Register publication beginning at 49 FR 32712 (August 15, 1984) of the temporary regulations which were the subject of Treasury Decision 7964 relating to tax shelter registration.

EFFECTIVE DATE: The temporary regulations that are the subject of these corrections apply to tax shelters in which any interest is first sold after August 31, 1984. The corrections are to be effective with respect to the same date.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley 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, 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1984, the **Federal Register** published amendments to the Procedure and Administration Regulations (26 CFR Part 301) to provide rules relating to both tax shelter registration under section 6111 of the Internal Revenue Code of 1954 and the penalties imposed by section 6707 for failure properly to register tax shelters or to furnish the tax shelter registration numbers. These amendments were made to reflect the addition of sections 6111 and 6707 to the Code by section 141 of the Tax Reform Act of 1984 (Pub. L. 98–369, 98 Stat. 678).

Need for Correction

As published, several corrections are required on various pages throughout Treasury Decision 7964. The first two corrections are required in the right-hand column of page 32712. The fourth line of the third full paragraph incorrectly includes the word "or" rather than the word "of" within the parenthetic remark; and the third line from the bottom of the page incorrectly includes the roman numeral "(ii)" rather than the cardinal number "(2)".

The third and fourth corrections are required in the left-hand column of page 32713. The first line incorrectly includes the roman numeral "(iii)" rather than the cardinal number "(3)"; and the last line of the third full paragraph omitted a parenthesis immediately following the reference to "§ 301.6111–1T" and preceding the word "of".

The fifth correction is required in the middle column of page 32717. The fifth line from the bottom of the first paragraph omitted the language "regulating the" immediately preceding the language "offering or sale of securities".

The sixth and seventh corrections are required in the right-hand column of page 32722. Under the heading "Part 1—Identifying Information", the nineteenth line incorrectly includes the word "organizer" immediately following the word "shelter" and preceding the parenthetic remark "(principal organizer")"; and the twenty-second line incorrectly includes the word "investment" rather than the word "investments".

The eighth correction is required in the right-hand column of page 32724. Under the heading "Item 8b", the sixteenth line omitted the language "in the tax shelter over the first five years" immediately following the word "unit" and preceding the period.

The final correction is required in § 301.6707–1T (Q–8), middle column, page 32726. The text of Q–8 incorrectly includes the word "incorrect" rather than the word "incomplete".

Correction of Publication

Accordingly, the publication of Treasury Decision 7964 which was the subject of FR Doc. 21728 (August 15, 1984), is corrected as follows:

Paragraph 1. On page 32712, in the fourth line of the third full paragraph, in the right-hand column, the word "or" is removed and the word "of" is added in its place.

Par. 2. In the third line from the bottom of page 32712, the roman numeral "(ii)" is removed and the cardinal number "(2)" is added in its place.

Par. 3. On page 32713, in the first line of the left-hand column, the roman numeral "(iii)" is removed and the cardinal number "(3)" is added in its place.

Par. 4. On page 32713, in the last line of the third full paragraph, in the left-hand column, a parenthesis is added immediately following the language "§301.6111–1T" and preceding the word "of".

Par. 5. On page 32717, in the fifth line from the bottom of the first paragraph, in the middle column, the language "regulating the" is added immediately preceding the language "offering or sale of securities".

Par. 6. On page 32722, in the nineteenth line of the right-hand column, under the heading "Part 1—Identifying Information", the word "organizer" is removed immediately following the word "shelter" and preceding the parenthetic remark "("principal organizer")".

Par. 7. On page 32722, in the twenty-second line of the right-hand column, under the heading "Part 1—Identifying Information", the word "investment" is removed and the word "investments" is added in its place.

Par. 8. On page 32724, in the sixteenth line of the right-hand column, under the heading "Item 8b", the language "in the tax shelter over the first five years" is added immediately following the word "unit" and preceding the period.

§ 301.6707–1T [Corrected]

Par. 9. On page 32726, in §301.6707–1T (Q–8), the word "incorrect" is removed and the word "incomplete" is added in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–29362 Filed 11–6–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval of Permanent Program Amendment From the State of Ohio Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Ohio as an amendment to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of changes to the Ohio regulations concerning surface water information required in an underground mining permit application. The Ohio Division of Reclamation (the Division) submitted the proposed program amendment on March 9, 1984. OSM published a notice in the **Federal Register** on April 3, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 13159). The public comment period ended May 3, 1984. OSM's review of Ohio's proposed amendment identified concerns relating to information on surface water usage and omission of the term "baseline." OSM notified the Division about its concerns on May 25, 1984, and on August 8, 1984, the Division responded by submitting an explanation regarding its regulations on water usage and the reasons why the term "baseline" is not used. OSM reopened and extended the comment period from September 10 to September 25, 1984, in order to provide the public an opportunity to reconsider the adequacy of the proposed amendment.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director of OSM has determined that the amendment, as modified on August 8, 1984, meets the requirements of SMCRA and the Federal regulations and is approving it. The Federal regulations codifying decisions concerning the Ohio program are being amended to implement this decision.

EFFECTIVE DATE: November 7, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Ehmett, Acting Field Office Director, Columbus Field Office, Office

of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

II. Submission of Revisions

By letter dated March 9, 1984, Ohio submitted a program amendment to revise the surface water information requirements in an underground mining permit application.

Specifically, the amendment includes the following revisions to Ohio rule 1501:13-4-13 *Underground Mining Permit Application Requirements for Information on Environmental Resources*:

(1) Paragraph (E)(2)(a) is revised to require water quantity descriptions including, at a minimum, information on seasonal flow rates; and

(2) Paragraph (E)(2)(b)(vii) is revised to require total dissolved solids in milligrams per liter or specific conductance corrected to twenty-five degrees centigrade.

On April 3, 1984, OSM published a notice in the **Federal Register** announcing receipt of the amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 13159). The public comment period ended May 3, 1984. The opportunity to request a public hearing was provided, but none was requested.

During review of the amendment, OSM identified a concern in that Ohio rule 1501:13-4-13(E)(2) did not require, as does 30 CFR 784.14(b)(2), that the surface water information submitted be sufficient to demonstrate water usage. Such information is necessary in order for the regulatory authority to have as complete a picture of the existing conditions as possible. OSM also noted that the Ohio rule did not use the term "baseline" to refer to the water information required in the application.

OSM notified Ohio about these concerns by letter dated May 25, 1984, and Ohio responded by submitting clarifying information on August 8, 1984. The clarifying information identified all of the information requirements regarding surface water usage already contained in the Ohio rules, and explained why use of the term "baseline" is unnecessary.

On September 10, 1984, OSM published a notice in the **Federal Register** reopening and extending the public comment period on Ohio's proposed amendment as modified on August 8, 1984 (49 FR 35522). That comment period ended on September 25, 1984.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Ohio on March 9, 1984, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

Paragraph (E)(2)(a) was revised to require water quantity descriptions including, at a minimum, information on seasonal flow rates. This revision was made to be consistent with the Federal rules at 30 CFR 784.14(b)(2), which was revised on September 26, 1983. The Director finds the revised Ohio rule to be no less effective than 30 CFR 784.14(b)(2).

Paragraph (E)(2)(b)(vii) was revised to require information on total dissolved solids in milligrams per liter on specific conductance corrected to twenty-five degrees centigrade. This revision was also made to be consistent with the Federal rule at 30 CFR 784.14(b)(2) which was revised on September 26, 1983. The Director finds the revised Ohio rule to be no less effective than 30 CFR 784.14(b)(2).

During review of the amendment, OSM identified a concern in that Ohio rule 1501:13-4-13(E)(2) does not require, as does 30 CFR 784.14(b)(2), that the baseline hydrologic information submitted be sufficient to demonstrate the quantity, seasonal quality, and usage of surface water resources. The regulatory authority must have adequate baseline data in order to determine the probable consequences of mining operations on surface-water bodies in permit or adjacent areas. In its August 8, 1984 response, the Division stated that it does not believe it is necessary to add such a requirement because sufficient information on surface water usage is already required in other parts of the Ohio rules. The Division listed and explained each of the requirements in Rules 1501:13-4-08, 1501:13-4-10, and 1501:13-4-13. After reviewing the provisions, the Director finds that the existing Ohio rules require baseline data on surface water resources in permit or adjacent areas sufficient to enable the regulatory authority to make the requisite findings as to the probable hydrologic consequences of the mining operation.

Another concern identified by OSM was that the Ohio rule does not use the term "baseline" anywhere in the rule. OSM asked for clarification that the requested water information is baseline information so that data collected later can be compared to the premining, or "baseline" conditions. The Division responded that use of the term "baseline" was not necessary because there would be no other reason to collect pre-mining information, and the addition of the term "baseline" is not needed to make the point any more evident. The Director finds that in view of the Division's clarification, the Ohio rule is no less effective than the Federal regulations.

IV. Public Comments

No public comments were received. Acknowledgments were received from the following Federal agencies.

Department of Agriculture—Farmers Home Administration, Soil Conservation Service
Department of Labor—Mine Safety and Health Administration
Department of the Army—Office of the Chief of Engineers

The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the March 9, 1984 amendment to the Ohio program as modified on August 8, 1984. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the above State program modification.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations Surface mining, Underground mining.

Dated: November 1, 1984.

Wesley R. Booker,

Acting Director, Office of Surface Mining.

PART 935—OHIO

30 CFR 935.15 is amended by adding a new paragraph (m) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(m) The following amendment submitted to OSM on March 9, 1984, as modified on August 8, 1984, is approved effective upon promulgation of the revised rule by the State, provided the rule adopted is identical to the rule submitted to and reviewed by OSM: Ohio rule 1501:13–4–13(E)(2).

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 84–29355 Filed 11–6–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–005; A–4–FR 4–2712–2]

Approval and Promulgation of State Implementation Plans; Georgia; Generic Bubble Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today disapproves Georgia's generic bubble regulation and accompanying materials because: (1) Their operation will not be sufficiently replicable to assure attainment and maintenance of the national ambient air quality standards and (2) the State's submittal does not meet requirements of the Clean Air Act on enforceability of State Implementation Plan (SIP) provisions. The Georgia Environmental Protection Division (EPD) developed its procedures in response to EPA's bubble policy statement of December 11, 1979 (44 FR 71779), and subsequent Agency guidance recommending that states develop such regulations. The procedures would have allowed industry to use the most economically feasible means to achieve compliance with State, local, and Federal regulations without case-by-case EPA approval. EPA's disapproval means that industry will still be able to bubble, but each bubble will have to be processed as an individual revision of the State's implementation plan.

EFFECTIVE DATE: This action is effective December 7, 1984.

ADDRESSES: Copies of the materials submitted by Georgia and an evaluation report prepared by EPA may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street SW., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, EPA Region IV, Air Management Branch, at the above address, phone 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: On October 27, 1982, the EPD submitted for EPA's approval as a plan revision "Equivalent Alternate Emission Reduction Options" (paragraph (2)(a)8. of the Rules of the Department of Natural Resources, Chapter 391–3–1), "Georgia's Strategy for Implementing Emission Bubbles," and "Bubble Modeling Procedures." EPD attempted to develop its generic bubble procedures in accordance with EPA's emission trading policy. The EPA policy was developed over a period of two years, and was officially proposed in the **Federal Register** on April 7, 1982 (47 FR 15076). The April 7, 1982 policy statement replaced EPA's original bubble policy (44 FR 71779, December 11, 1979).

This Georgia plan outlines conditions under which some emission trading plans can be developed and implemented at the State level without case-by-case EPA approval, i.e., generic rule procedures. The Georgia rules are general in nature and the "Strategy" and "Modeling Procedure" specify how the rules will be implemented. For the reasons described in a letter from James H. Sargent, Regional Counsel for EPA Region IV , to Michael J. Bowers, Attorney General of Georgia, which is attached to the EPA Evaluation Report available at the address listed above, EPA believes that the State submittal does not meet the requirements of Section 110(a)(2) of the Clean Air Act on enforceability of State Implementation Plan (SIP) provisions. Specifically, the Agency believes that the Strategy and Modeling Procedure are "substantive" rules that were subject to, but were not adopted consistent with, Georgia's Administrative Procedure Act (APA) rulemaking procedures and need to be adopted accordingly in order to be enforceable. Second, EPA questions whether the Board of Natural Resources has authority under Georgia law to delegate to the State Director of the Environmental Protection Division of the Department of Natural Resources authority to adopt emission limitations that supersede current Board-adopted emission limitations.

As explained in more detail in EPA's Evaluation Report, a second major defect in the Georgia bubble revision is that numerous definitions and procedures are so unclear that they reserve to the State significant discretion in establishing alternative emission limits (bubbles). Therefore, the revision does not provide replicable procedures for developing bubble limits, a requirement described in the proposed Emissions Trading Policy Statement. EPA notes the following deficiencies as examples:

—Paragraph (2)(a)(8)(i)(I) of the Rule and the 5th paragraph, p. 2 of the Strategy may be read to permit compliance date extensions that interfere with reasonable further progress (RFP). Under EPA's proposed policy, States may grant sources compliance date extensions only: (1) In ozone or CO nonattainment areas with attainment date extensions past 1982, provided the state demonstrates that the extension would preserve the total amount of reductions required by the dates specified in the State's reasonable further progress (RFP) demonstrations; and (2) in other areas, provided the State demonstrates that the SIP does not rely for timely attainment or maintenance on the source's adherence to the otherwise applicable compliance deadline. For EPA to approve a generic rule that would permit such extensions, the rule must contain a replicable method of making the required demonstrations. The Georgia strategy does not do this. (This problem can be avoided by not allowing compliance extensions under the generic rule.)

—The Georgia attainment area trading baseline is generally the actual emissions, level on the PSD baseline date. This has several deficiences:

1. It does not provide a replicable method of calculating actual emissions (the provision would use the emissions level "representative of the source's actual emissions at the time" the PSD baseline is set; this leaves the State significant discretion); one way to solve this is by defining actual emissions with reference to a fixed period (e.g., the 2-year period immediately preceding the PSD baseline date);

2. It does not account for cases in which the PSD baseline has not yet been triggered;

3. It does not account for the absence of PSD baseline dates for pollutants other than particulate matter and SO_2;

4. It does not account for cases in which actual emissions on the PSD baseline date are *higher* than federally enforceable allowable emissions; in these cases the rule should require use of the lower allowable emissions level as the baseline (i.e., reductions to compliance levels should not be creditable).

—The Rule, Strategy, and Modeling Procedure do not specify in replicable terms how the State would decide whether emission trades meet EPA's requirement of ambient equivalence. See, e.g., Item II.B.4 of EPA's proposed Emissions Trading policy Statement, Technical Issues Document, 47 FR 15085.

As a starting point, we note that the State may meet this requirement in a generic rule by using two sets of procedures in analyzing bubbles involving total suspended particulates, sulfur dioxide, or carbon monoxide—Level I and Level II. The rule may exempt from air quality modeling requirements all trades that meet the Level I conditions specified at 47 FR 15082 and clarified in the February 17, 1983 memorandum from Sheldon Meyers, former Director of OAQPS, which is attached to the EPA Evaluation Report available at the address listed above. The rule may permit the use of limited modeling in connection with trades that meet the Level II conditions specified at 47 FR 15082 and the Meyers memorandum. To do this generically, however, the rule must provide replicable procedures for employing this simplified modeling, as explained at 47 FR 15085 and the EPA Evaluation Report.

Action

EPA today disapproved the "Equivalent Alternate Emission Reduction Options" (Rules of the Department of Natural Resources, Chapter 391-3-1, paragraph (2)(a)(8.), "Georgia's Strategy for Implementing Emission Bubbles," and "Bubble Modeling Procedures". This disapproval action is based upon our judgment that the strategy is unenforceable and that the rules and strategy together do not contain procedures that are sufficiently replicable and stringent to ensure adequate and compatible results. Therefore, any emission trading or bubble actions, including those which involve modeling, must continue to be submitted to EPA as individual SIP revisions.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, intergovernmental relations, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: November 1, 1984.

Administrator.

William D. Ruckelshaus,

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L—Georgia

A new § 52.573 is added as follows:

§ 52.573 Control strategy: General.

The generic rules and procedures for emission trades (bubbles), submitted on October 27, 1982, by the Georgia Department of Natural Resources, are disapproved because they do not meet the requirements of the Clean Air Act.

[FR Doc. 84-29242 Filed 11-6-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[00000/R700; FRL-2713-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; EDB Conforming Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds a statement to 40 CFR 180.3(c)(2) to indicate that the section does not apply to tolerances for ethylene dibromide (EDB). This statement is being added in order to bring this regulation into conformity with other recent regulatory actions taken by the Agency in response to health and safety concerns posed by residues of EDB.

EFFECTIVE DATE: Effective on November 7, 1984.

ADDRESS: Written objections identified by the document control number [00000/R700] may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Johnson, Registration Division (TS-767C), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7420).

SUPPLEMENTARY INFORMATION: On June 8, 1984, EPA issued a proposed rule, published in the **Federal Register** of June 15, 1984 (49 FR 24754), which proposed the addition of the following sentence to 40 CFR 180.3(c)(2): "This regulation does not apply to tolerance rules established for ethylene dibromide." No comments were received in response to this notice of proposed rulemaking to amend 40 CFR 180.3(c)(2).

The Agency proposed this change to bring this regulation into conformity with the recent tolerance actions on ethylene dibromide (EDB) which followed the Agency's issuance of a notice of intent to cancel registrations of EDB for the quarantine fumigation of citrus and papayas, effective September 1, 1984, and for use as a fumigant of grain stored in bulk and as a fumigant for spot treatment of grain milling

equipment, as well as for certain other uses, (48 FR 46234, October 11, 1983).

40 CFR 180.3(c)(2) currently provides that:

Where tolerances are established in terms of inorganic bromide residues only from use of organic bromide fumigants on raw agricultural commodities, such tolerances are sufficient to protect the public health and no additional concurrent tolerances for the organic pesticide chemicals from such use are necessary. This conclusion is based on evidence of the dissipation of the organic pesticide or its conversion to inorganic bromide residues in the food when ready to eat.

Based on the considerations discussed in detail in the June 15, 1984 proposal, this notice adds the following sentence to 40 CFR 18013(c)(2): "This regulation does not apply to tolerance rules established for ethylene dibromide."

The Agency is not making a current judgment about the appropriateness of the remaining applications of this rule, which may be subject to revision based on the results of an ongoing Agency review of chemical fumigants.

This amendment brings 40 CFR 180.3(c)(2) into conformity with the following recent tolerances actions: (1) The revocation on May 25, 1984 of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on citrus fruits and papayas fumigated after harvest with EDB and the establishment of tolerances for EDB *per se* in or on these commodities (49 FR 220802), (2) the revocation on April 23, 1984 of the tolerances in 40 CFR 180.146 for residues of inorganic bromides (calculated as Br) in or on certain grains which were fumigated after harvest with EDB (49 FR 17147), (3) the revocation on April 23, 1984 of the exemption from the requirement of a tolerance in 40 CFR 180.1006 for organic bromide residues on a variety of grains resulting from the use of EDB as a post-harvest fumigant (49 FR 17144), and (4) the establishment of a tolerance of 900 ppb for residues of EDB *per se* on these grains on April 23, 1984 (49 FR 17145).

Elsewhere in this issue of the **Federal Register**, the Agency has issued a final rule [00000/R701] bringing 21 CFR 193.225(a) and 193.230(a) into conformity with the recent regulatory actions taken by the Agency in response to the health and safety concerns posed by residues of EDB.

Any person adversely affected by this regulation amending 40 CFR 180.3(c)(2) may, within 30 days after the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectional and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been sent to the Office of Management and Budget for review as required by section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

(Sec. 408 (e) and (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a (e) and (m)))

Dated: October 31, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR 180.3 is amended by adding the following sentence at the end of paragraph (c)(2) to read as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(c) * * *

(2) * * * This regulation does not apply to tolerance rules established for ethylene dibromide.

* * * * *

[FR Doc. 84-29256 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

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40 CFR Part 180

[PP 4F3020/R710; FRL-2709-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Aqueous Extract of Seaweed Meal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the plant growth regulator aqueous extract of seaweed meal derived from *Laminaria digitata, Laminaria hyperborea, Fucus serratus,* and *Ascophyllum nodosum* in or on bananas. This exemption from the requirement of a tolerance for residues of the plant growth regulator was requested by the Atlantic and Pacific Research Corp.

EFFECTIVE DATE: Effective on November 7, 1984.

ADDRESS: Written objections, identified by the document control number [PP 4F3020/R710], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 21, 1984 (49 FR 10572), which announced that the Atlantic and Pacific Research Inc., P.O. Box 14545, North Palm Beach, FL 33408, had filed pesticide petition 4F3020 with the EPA. The petition proposed amending 40 CFR 180.1042 by establishing an exemption from the requirement of a tolerance for residues of the plant growth regulator aqueous extract of seaweed meal derived from *Laminaria digitata, Laminaria hyperborea, Fucus serratus,* and *Ascophyllum nodosum* in or on bananas.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the exemption from the requirement of a tolerance include an acute oral lethal dose (LD_{50}) study in albino rats with an LD_{50} greater than 15,380 milligrams (mg)/kilogram (kg) and an eye irritation study. All other toxicology studies and requirements, including long and short-term feeding studies and a three-generation reproduction study, were waived in accordance with the provisions of 40 CFR 162.45(c). These requirements are waived because aqueous extract of seaweed meal is a derivative of a human food. The requirement of an adequate analytical method was also waived. Since the product is the extract of an aquatic plant and its components are present in plants to which it is applied, analysis for product residue is impractical. The marine algae species *Laminaria digitata, Laminaria hyperborea, Fucus serratus,* and *Ascophyllum nodosum* from which the product is drived are identical, or closely related, to species used for human consumption and as livestock and poultry feeds. The product, which is derived from these species, would not appear to present an unacceptable hazard to humans and fish and wildlife since the algae are used as a normal dietary item. It is reasonable to assume that there will be no adverse effects from an extract of a nontoxic plant material containing only natural materials of a nature common to

members of the plant kingdom and subject to the usual known routes of natural degradative processes.

An exemption from the requirement of a tolerance has been previously established for residues of the extract when used in or on various raw agricultural commodities. No regulatory actions are pending against continued registration of the pesticide.

The pesticide is considered useful for the purpose for which the exemption is sought. Based on the information cited above, the Agency has determined that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 26, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 1042—[AMENDED]

Therefore, 40 CFR 180.1042 is amended by adding and alphabetically inserting the raw agricultural commodity banana to read as follows:

§ 180.1042 Aqueous extract of seaweed meal; exemption from the requirement of a tolerance.

* * * * *

Commodities

* * * * *

Bananas

* * * * *

[FR Doc. 84-29048 Filed 11-6-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 4F2994/R708; PH-FRL 2711-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Cyano (3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity English walnuts. Thus regulation to establish a maximum permissible level for residues of the insecticide in or on English walnuts was requested pursuant to a petition by the Shell Oil Co.

EFFECTIVE DATE: Effective on November 7, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM #2, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of January 4, 1984 (49 FR 503), which announced that the Shell Oil Co., 1025 Connecticut Ave., NW., Washington, D.C. 20036, had submitted pesticide petition 4F2994 to the Agency proposing to amend 40 CFR 180.379 by establishing tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity English walnuts at 0.2 part per million (ppm).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 1 to 3 grams (g)/kilogram (kg) (water vehicle) and 450.0 milligrams (mg)/kg of body weight (bw) in dimethylsulfoxide vehicle; a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm, with no oncogenic effects noted under the conditions of the study at dosage levels of 100, 300, 1,000, and 3,000 ppm (3,000 ppm being the highest dosage level tested in the study); a 24-month mouse feeding study with a NOEL of 10 to 50 ppm for males and 50 to 250 ppm for females in which no oncogenic effects were noted at dosage levels of 10, 50, 250, and 1,250 ppm (1,250 ppm being the highest dosage level tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested—significantly decreased body weight was observed at this dose level); a 2-year rat feeding study (no observable effects at dosage levels of 1, 2, 5, and 250 ppm, 250 ppm being the highest level fed); a 3-generation rat reproduction study with a NOEL of 250 ppm (highest level fed); teratology studies (in mice and rabbits, both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); Ames test *in vitro* (negative); and bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 gm/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI) is calculated to be 0.125 mg/kg/day based on the 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 7.5 mg/day for a 60-kg person. Published and pending tolerances result in a maximum

theoretical residue contribution (TMRC) of 2.4828 mg/day based on a 1.5-kg diet and utilize 33.10 percent of the ADI. The establishment of this tolerance will increase the TMRC to 2.4829 mg/day resulting in a total utilization of 33.11 of the ADI.

The metabolism of the insecticide is adequately understood. An adequate analytical method, gas chromatography, is available for enforcement purposes. There are currently no regulatory actions pending against continued registration of this insecticide. Because no animal feed items are involved in this petition, there will be no problem of secondary residues in meat, milk, poultry, and eggs.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that establishment of the tolerance will protect the public health, and it is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities.

A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 29, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodity, to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate; tolerance for residues.

* * * * *

Commodities	Parts per million
* * * * *	
English walnuts	0.2
* * * * *	

[FR Doc. 84-29120 Filed 11-6-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6F1748/R628; FRL-2711-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Benomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide benomyl and its metabolites in or on the grain and straw of barley, oats, rye, and wheat. This regulation to establish maximum permissible levels for the combined residues of benomyl and its metabolites in or on the commodities was requested pursuant to petitions by E. I. du Pont de Nemours and Co.

EFFECTIVE DATE: Effective on November 7, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of April 8, 1976 (41 FR 14924), that E.I. Du Pont de Nemours & Co., Wilmington, DE 19898, had filed a pesticide petition proposing to amend 40 CFR 180.294 by establishing tolerances for the residues of the fungicide benomyl (methyl-1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on certain raw agricultural commodities: barley grain and straw, oat grain and straw, rye grain and straw, and wheat grain at 0.2 part per million (ppm) and wheat straw at 15.0 ppm. The petition was later amended by requesting that tolerances be established for barley, oats, and rye hay at 0.2 ppm; wheat hay at 15.0 ppm; milk at 1.0 ppm; and liver of livestock at 4.0 ppm. The Agency has decided to publish only the grain and straw of barley, oats, rye, and wheat tolerances.

The scientific data considered in support of these tolerances include a 2-year dog feeding study with a no-observed-effect-level (NOEL) of 500 ppm (12.5 milligrams per kilogram of body weight per day (mg/kg/day)); a 2-year rat feeding study with a NOEL of 2,500 ppm (125 mg/kg/day); a 3-generation rat reproduction study with a NOEL of 100 ppm (5 mg/kg/day) and 2 teratology studies, one on rats with a NOEL of 30 mg/kg/day and the other on rabbits with a NOEL of 500 ppm. Based on the 3-generation reproduction rat study with a NOEL of 100 ppm (5 mg/kg/day) and using a 100-fold safety factor, the acceptable daily intake (ADI) is 0.05 mg/kg/day and the maximum permissible intake (MPI) is 3.00 mg/day for a 60-kg person. Established tolerances result in a theoretical maximum residue contribution (TMRC) of 2.1139 mg/day and utilization of 70.5 percent of the MPI. Establishment of tolerances for grain and straw of barley, oats, rye, and wheat will have little impact on the TMRC, since they contribute 0.03234 mg/day to the TMRC. This represents a 1.53 percent increase in the TMRC and utilizes an additional 1.08 percent of the MPI. Tolerances ranging from 0.1 to 50.0 ppm have previously been established for residues of benomyl and its metabolites in or on a variety of raw agricultural commodities. The data base regarding the metabolism of benomyl in plants and animals is incomplete and not fully understood. As the present tolerance regulation is written, there are analytical methods available for enforcement purposes on all commodities except livestock tissue.

A study submitted recently indicates that tolerances may need to be revised upwards for some of the existing commodities. These data raise a question whether the established milk tolerance and the meat tolerances of 0.1 ppm are adequate to cover secondary residues from feeding treated commodities. This question applies to both existing feed tolerances as well as new tolerances. In order to assess the

adequacy of the tolerance level established for milk, the Agency has requested the petitioner to undertake appropriate feeding and metabolism studies necessary to corroborate the 0.1 ppm level. The labeling for benomyl products will prohibit the grazing of livestock on treated wheat hay (forage), thus minimizing the contribution of benomyl residues to milk from the proposed tolerances.

Routine enforcement methodology is not available for the determination of the bound benzimidazle moiety containing metabolites in animal tissue. The theoretical incremental increase in the level of bound residues in liver resulting from the feeding of grain and straw of wheat, oats, rye, and/or barley are minimal compared to the theoretical amount present from the existing tolerances. Therefore, the Agency is not requiring a change in the enforcement methodology to determine the level of bound parent-metabolites in liver at this fime. The tolerance regulations for benomyl will be reassessed during the development of the Registration Standard for benomyl. The Agency will have the necessary data to address these two issues when the registration standard is developed. The Registration Standard is scheduled to be completed in 1986. The tolerances being established may be revised or revoked as a result of the tolerance reassessment associated with the Registration Standard or as a result of new information on these residues.

Benomyl has been the subject of an intensive risk/benefit evaluation in connection with the rebuttable presumption against registration (RPAR). The RPAR was issued because of teratogenic, mutagenic, and reproductive effects demonstrated by either benomyl and/or its metabolite, methylbenzimidazolecarbamate (MBC). Subsequent to these findings, data have been made available indicating that benomyl is oncogenic, and additional teratogenic tests have been submitted. A reevaluation of the presently registered and proposed uses of benomyl in light of the potential effects has been completed. The Agency position concerning the RPAR issues with benomyl was published in the **Federal Register** of October 20, 1982 (47 FR 46747), in the Notice of Determination Concluding the Rebuttable Presumption Against Registration for benomyl. The results of that evaluation are available through the National Technical Information System (PB83-148189).

The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the information considered by the Agency, it is concluded that the amount of benomyl added to the diet from the proposed use on barley, oats, rye, and wheat will not significantly increase human dietary exposure. Thus, the tolerances for barley, oats, rye, and wheat are considered to pose a negligible increment in risk, and it is concluded that the tolerances established by amending 40 CFR 180.294 would protect the public health. Therefore the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Section 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(j)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: October 26, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.294 is amended by adding and alphabetically inserting the following commodities, to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Barley, grain	0.2
Barley, straw	0.2
* * * * *	
Oats, grain	0.2
Oats, straw	0.2
* * * * *	
Rye, grain	0.2
Rye, straw	0.2
* * * * *	
Wheat, grain	0.2
Wheat, straw	15.0

[FR Doc. 84-29114 Filed 11-6-84; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A-26]

Revocation of Delegations of Authority

AGENCY: General Services Administration.

ACTION: Temporary regulations.

SUMMARY: This document revokes delegations of authority granted to other agency heads by the Administrator of General Services under the Federal Property and Administrative Services Act of 1949 (63 Stat. 378; 40 U.S.C. et seq.). These delegations are no longer in force due to the completion of the proceedings for which they were issued.

DATES: *Effective date:* November 7, 1984.

Expiration date: May 7, 1985.

FOR FURTHER INFORMATION CONTACT: Carol Shannon, Directives and Reports Management Branch (202/535-7942).

(63 Stat. 378; 40 U.S.C. et seq.)

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

Federal Property Management Regulations; Temporary Regulation A-26

October 19, 1984.

To: Heads of Federal agencies.

Subject: Revocation of delegations of authority.

1. *Purpose.* This document revokes delegations of authority granted to other agency heads by the Administrator of General Services under the Federal Property and Administrative Services Act of 1949 (63 Stat. 378; 40 U.S.C. et seq.).

2. *Effective date.* This document is effective November 7, 1984.

3. *Expiration date.* This document expires on May 7, 1985.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to the completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

FPMR temporary regulation	Date	Subject
D-59	Feb. 15, 1977	Delegation of authority to the Secretary of the interior—leasing of space.
E-51	July 11, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
E-54	Nov. 10, 1978	Delegation of authority to the Secretary of Defense—gas rate proceeding.
E-55	Jan. 24, 1979	Delegation of authority to the Secretary of Defense—electric rate proceeding.
E-57	Jan. 16, 1979	Delegation of authority to the Secretary of Defense—gas rate proceeding.
E-61	Feb. 14, 1979	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
E-63	Apr. 2, 1979	Delegation of authority to the Secretary of Defense—electric rate proceeding.
E-64	....do	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
E-65	June 27, 1979	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
E-66	....do	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-39	Jan. 24, 1969	Delegation of authority to the Administrator, National Aeronautics and Space Administration—telecommunications service proceeding.
F-173	Mar. 19, 1973	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-181	June 13, 1973	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-209	Jan. 25, 1974	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-214	Mar. 25, 1974	Delegation of authority to the Secretary of Defense—water rate proceeding.
F-224	June 19, 1974	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-312	Nov. 22, 1974	Delegation of authority to the Chairman, Atomic Energy Commission—gas rate proceeding.
F-316	Dec. 19, 1974	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-321	Jan. 2, 1975	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-344	June 18, 1975	Delegation of authority to the Administrator of Veterans Affairs—water rate proceeding.
F-350	July 22, 1975	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-352	Aug. 25, 1975	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-356	Sept. 19, 1975	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-360	Oct. 29, 1975	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-362	Nov. 21, 1975	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-365	Dec. 3, 1975	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-371	Jan. 26, 1976	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-379	Mar. 17, 1976	Delegation of authority to the Administrator, Energy Research and Development—electric rate proceeding.
F-384	Apr. 30, 1976	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-393	June 4, 1976	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-399	Aug. 30, 1976	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-409	Jan. 5, 1977	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-410	Jan. 11, 1977	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-411	Jan. 31 1977	Delegation of authority to the Administrator, Energy Research and Development—gas rate proceeding.
F-420	Apr. 4, 1977	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-423	Apr. 15, 1977	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-430	June 21, 1977	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-432	Aug. 1, 1977	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-433	....do	Delegation of authority to the Administrator, Energy Research and Development—gas curtailment plan proceeding.
F-434	Aug. 1, 1977	Delegation of authority to the Administrator, Energy Research and Development—electric rate proceeding.
F-445	Oct. 7, 1977	Delegation of authority to the Secretary of Defense—generic proceeding involving general rate-making issues.
F-446	Oct. 19, 1977	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-452	Dec. 23, 1977	Delegation of authority to the Secretary of Defense—electric, gas, and steam rate proceeding.
F-453	Dec. 29, 1977	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-454	Feb. 7, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-455	Jan. 16, 1978	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-459	Feb. 7, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-460	Feb. 9, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-464	Feb. 21, 1978	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-465	Mar. 8, 1978	Delegation of authority to the Secretary of Defense—gas rate proceeding.
F-467	May 17, 1978	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-468	June 12, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-469	June 14, 1978	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-470	Sept. 12, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-473	Oct. 10, 1978	Delegation of authority to the Secretary of Defense—electric rate proceeding.
F-477	Dec. 19, 1978	Delegation of authority to the Secretary of Defense—electric and gas rate proceeding.
F-478	....do	Delegation of authority to the Secretary of Defense—gas rate proceeding.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84-29252 Filed 11-6-8; 8:45 am]

BILLING CODE 6820-34-M

41 CFR Part 101-20

[FPMR Temp. Reg. D-69, Supp. 2]

Federal Employee Parking

AGENCY: Public Buildings Service, GSA.

ACTION: Temporary Regulation.

SUMMARY: This supplement extends to March 31, 1985, the expiration date of FPMR Temporary Regulation D–69. D–69 sets forth revised policies and procedures concerning Federal employee parking. The regulation was developed as part of an effort to review and streamline GSA's property management regulations.

DATES: *Effective date:* October 1, 1984.

Expiration date: March 31, 1985.

FOR FURTHER INFORMATION CONTACT: Judy A. Kraft, Acting Director, Space Management Division (202–566–1875).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101 the following temporary regulation is added to the appendix at the end of Subchapter D as follows:

Federal Property Management Regulations; Temporary Regulation D–69, Supplement 2

October 17, 1984.

To: Heads of Federal agencies

Subject: Federal Employee Parking

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation D–69.

2. *Effective date.* October 1, 1984.

3. *Expiration date.* This supplement expires on March 31, 1985.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation D–69 is revised to March 31, 1985.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–29251 Filed 11–6–84; 8:45 am]

BILLING CODE 6820–23–M

41 CFR Part 101–41

[FPMR Amdt. G–68]

Cancel Standard Form 1172, Certificate in Lieu of Lost U.S. Government Transportation Request

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations (FPMR) by cancelling Standard Form (SF) 1172, Certificate in Lieu of Lost U.S. Government Transportation Request, and removes the reference and illustration. Revised procedures for billing and obtaining payment when a carrier furnishing service to the U.S. Government loses or misplaces a Government Transportation Request (GTR) are substituted. The Government Printing Office (GPO) has discontinued the sale of SF 1172 because of limited use. GPO's discontinuance of the printing and stocking of the form requires GSA to implement alternative procedures. In addition, cancelling this form will eliminate the need for the Government to print and stock the SF 1172 for sale to the carrier industry.

New procedures prescribe that the carrier will certify on the face of the SF 1113, Public Voucher for Transportation Charges, billing document and attach copies of the pertinent ticket coupon(s) with the GTR number visible on the face of the coupon. Elimination of the SF 1172 will remove the requirement for industry to either purchase from the Government or locally reproduce and stock this form, thereby effecting an economy measure for the carrier industry.

EFFECTIVE DATE: November 7, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Review Branch, Office of Transportation Audits (202–786–3014).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** of May 30, 1984 (49 FR 22503), inviting comments for 30 days ending June 29, 1984. There were two responses. A carrier association had no objection to the proposal. A Government agency suggested that (1) no more than one lost or misplaced GTR be billed on a Public Voucher for Transportation charges (SF 1113) and (2) that the SF 1113 be annotated in a manner to alert the paying office that a ticket had been "lost and/or misplaced". The first suggested change has been incorporated in this final rule. Concerning the second suggestion, the proposed annotation was already part of the proposed regulation and has been included in this final rule. GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Government property management, Maritime carriers, Passenger service, Railroads, Transportation.

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for 41 CFR Part 101–41 is:

Authority: 31 U.S.C. 3726, and 40 U.S.C. 486(c).

2. The table of contents for Part 101–41 is amended by removing or reserving the following entries:

Sec.
101–41.202–4 [Reserved]
101–41.4901–1172 [Reserved]

Subpart 101–41.2—Passenger Transportation Services Furnished for the Account of the United States

§ 101–41.202–4 [Reserved]

3. Section 101–41.202–4 is removed and reserved.

4. In section 101–41.202–5, paragraph (b) is revised to read as follows:

§ 101–41.202–5 Procurement of standard forms by agencies and carriers.

* * * * *

(b) Carriers may purchase SF 1113 and SF 1113–A from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or have them printed commercially. When printing these forms commercially, carriers shall ensure that the forms conform to the exact size, wording, and arrangement of the approved standard forms and, while no minimum grade of paper is set, carriers shall provide a reasonable grade of paperstock. Carriers may have SF 1113 and SF 1113–A

printed also in continuous-feed format for machine billing by adding pin-feed strips on the margins. The tear-off slip may be moved from the bottom to the right edge of SF 1113, to aid in machine use of the form, but it must be perforated on all edges to measure 8½ by 3 3/16 inches when detached from the body of the SF 1113 and from the pin-feed strips. The forms must conform in all other respects to the exact size, wording, color, and arrangement of the approved standard forms. Any deviations must be approved in writing by the Director, Office of Transportation Audits (BW), GSA.

5. Section 101–41.211–3 is revised to read as follows:

§ 101–41.211–3 Billing charges for GTR's lost by carrier.

(a) When a carrier has lost or misplaced a GTR, it shall bill the charges for the services furnished on a SF 1113, Public Voucher for Transportation Charges, annotated with the following signed certification: "I certify that all U.S. Government Transportation Requests (GTR's) honored by the above-named carrier or travel agent pass into my office; that ticket(s) (form and ticket number(s)), value of ticket(s), accommodations (number and type), points of travel (from and to) annotated below was (were furnished in exchange for the specified GTR; that the stated value(s) is (are) true and correct; that the said GTR has been lost or misplaced and cannot be located; that the honoring carrier has not received payment for services rendered thereunder; and that, if the said GTR is later found, it will be marked 'Canceled—Certification in Lieu Issued' and transmitted to the General Services Administration (BWAA/C), Washington, DC 20405, and no claim made thereon." Copy/copies of ticket coupon(s), with the GTR number visible, will be attached in support of the SF 1113. A statement of any other pertinent facts and circumstances should be included. Each lost or misplaced GTR shall be billed on a separate SF 1113 to be distinguished from charges applicable to other GTR's. (See § 101–41.214 for billing of transportation charges.)

(b) Disbursing officers shall certify on the SF 1113 that the services specified thereon have been furnished, that payment has not been made to any claimant, and that the record has been annotated to prevent duplicate payment. The carrier may transmit its bill (SF 1113 with certification) to the General Services Administration (BWCA), Washington, DC 20405, if the paying agency is unknown.

6. Section 101–41.211–4 is revised to read as follows:

§ 101–41.211–4 Disposition of GTR's previously certified lost by carrier.

An original GTR that is located after payment has been made under § 101–41.211–3 shall be forwarded promptly to the General Services Administration (BWAA/C), Washington, DC 20405, together with a reference to the carrier's bill on which charges for the lost GTR were paid.

7. In section 101–41.211–5, paragraph (a) is revised to read as follows:

§ 101–41.211–5 Billing charges for air excess baggage coupons lost by carrier.

(a) When a carrier has lost or misplaced its flight coupon copy of the GEBAT covering the air carriage of excess baggage, it shall bill the charges on an SF 1113 annotated with the following signed certification: "I certify that all GEBATS honored by the above-named carrier or travel agent pass into my office; that the authorizing GTR(s) (number(s)), applicable passenger ticket(s) (number(s)), name of traveler(s), weight or number of pieces of excess baggage authorized and carried, points between which service was authorized and rendered, and all other information pertinent to the transaction annotated below was (were) furnished in exchange for the specific GEBAT: that the stated value(s) is (are) true and correct; that the said GEBAT has been lost or misplaced and cannot be located; that the honoring carrier has not received payment for services rendered thereunder; and that, if the said GEBAT is later found, it will be marked 'Canceled-Certification in Lieu Issued' and transmitted to the General Services Administration (BWAA/C), Washington, DC 20405, and no claim made thereon." The disbursing officer shall certify on the SF 1113 that the services specified therein have been furnished, that payment has not been made to any claimant, and that the record has been annotated to prevent duplicate payment.

* * * * *

Subpart 101–41.49—Illustrations of Forms

§ 101.41.4901–1172 [Removed]

8. Section 101–41.4901–1172 is removed.

Dated: October 29, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–29250 Filed 11–6–84; 8:45 am]

BILLING CODE 6820–AM–M

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41 CFR Part 101–47

[FPMR Amdt. H–150]

Historic Monument Conveyances; Use of Profits From Revenue Producing Activities

AGENCY: Federal Property Resources Services, GSA.

ACTION: Final rule.

SUMMARY: This rule amends the regulation covering the conveyance of Federal surplus real property for historic monument purposes with revenue producing activities. This amendment will ensure that profits from such activities are used for historic preservation, park, or recreational purposes.

EFFECTIVE DATE: This regulation is effective November 7, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property, (202–535–7067).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–47

Surplus government property, Government property management.

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for Part 101–47 is as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 101-47.3—Surplus Real Property Disposal

2. Section 101-47.308-3 is amended by revising paragraph (a)(3) to read as follows:

§ 101-47.308-3 Property for use as historic monuments.

(a) * * *

(3) Approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property. The plan shall not be approved unless it provides that all incomes in excess of costs of repair, rehabilitation, restoration, maintenance and a specified reasonable profit or payment that may accrue to a lessor, sublessor, or developer in connection with the management, operation, or development of the property for revenue producing activities shall be used by the grantee, lessor, sublessor, or developer, only for public historic preservation, park, or recreational purposes; and

* * * * *

Dated: October 18, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84-29253 Filed 11-6-84; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 403

[BERC-91-CN]

Medicare Program; Medicare Supplemental Policies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of interim final rule with comment period.

SUMMARY: This document corrects a technical error to the interim final rule with comment period published in the **Federal Register** on July 26, 1982 (47 FR 32390) on Medicare supplemental policies. That publication incorrectly stated that the office of the **Federal Register** maintains a copy of the National Association of Insurance Commissioners (NAIC) Model Standards available for public inspection.

FOR FURTHER INFORMATION CONTACT: Thomas Hoyer, 301-594-9446.

SUPPLEMENTARY INFORMATION: The interim final rule with comment period (IFC), Medicare Supplemental Policies, published on July 26, 1982 (47 FR 32390) contained a technical error in 42 CFR 403.210(a). We stated in that section that the NAIC model standards are available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C. 20408. We also stated erroneously in a response to comment 2, section V. of the preamble (47 FR 32393) that both the statute and the regulations incorporate the NAIC Model Standards by reference.

In fact, the regulations published in the **Federal Register** on July 26, 1982 do not incorporate the NAIC Model Standards by reference. Accordingly, in discussing the NAIC Model Standards in the preamble, we should have merely explained, for the reader's information, that the NAIC Model Standards are specified by statute in section 1882 of the Social Security Act (sections 1882 (b)(1)(A), (c)(1), and (g)(2); 42 U.S.C. 1395ss (b)(1)(A), (c)(1), and (g)(2)). Further, since the NAIC Model Standards were not incorporated in the regulations by reference, they have never been available for inspection at the Office of the Federal Register, as erroneously stated in § 403.210(a). (The standards remain available for purchase from the addresses included in that same section of the regulations.)

To remedy this situation, in FR Doc. 82-20082 beginning on page 32390, in the issue of July 26, 1982, make the following corrections:

1. On page 32393, the response to comment two in the third column is corrected by removing the phrase "by reference" in the second sentence.

§ 403.210 [Corrected]

2. On page 32401, § 403.210(a) is corrected by removing the last sentence.

(Secs. 1102, 1871, 1874(a), and 1882 of the Social Security Act; 42 U.S.C. 1302, 1395hh, 1395kk(a), and 1395ss)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: November 1, 1984.

Wallace O. Keene,

Acting Deputy Assistant, Secretary for Management Analysis and Systems.

[FR Doc. 84-29361 Filed 11-6-84; 8:45 am]

BILLING CODE 4120-03-M

42 CFR Part 405

[BPO-030-CN]

Medicare Program; Interest Charges on Overpayments and Underpayments to Providers and Suppliers of Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical and clerical errors in the final rule published in the **Federal Register** on September 14, 1984 (49 FR 36097) on interest charges on overpayment and underpayments to providers and suppliers of services.

FOR FURTHER INFORMATION, CONTACT: Julie Brown (301) 594-9638.

SUPPLEMENTARY INFORMATION: The final rule, "Interest Charges on Overpayments and Underpayments to Providers and Suppliers of Services", published in the **Federal Register** on September 14, 1984 [49 FR 36097, FR Doc. 84-24299], contained several errors that were either clerical or typographical, as indicated below:

1. On page 36097, in column two, immediately preceding the **"EFFECTIVE DATE"** entry, the name of the contact person for the document was omitted. There should have been an entry reading: **"FOR FURTHER INFORMATION, CONTACT:** Paul Krieger (301) 594-9205."

2. Under **"SUPPLEMENTARY INFORMATION"**, on page 36097 in column 2, the word "provide" was omitted from the first line of the third paragraph. That line should read: "Specifically, the regulations provide that—".

3. In the preamble, on page 36101, under "III. Summary of Changes", the word "in" in line 3 under item (1) should read "on", in order to match the regulations text statement, "cost report that is not filed on time".

4. In the preamble on page 36102 (also under "III. Summary of Changes") at the top of column 1 under item (3) in line 6, the word "rate" should be inserted after "interest".

§ 405.376 [Amended]

5. In the regulations text on page 36103, column 1, in § 405.376(e)(2)(i), the word "is" at the end of the fourth line of the subparagraph should be removed.

6. Also in the regulations text on page 36103, column 1, in § 405.376(e)(3), the comma in the first line (following "report") was inadvertently inserted and should be removed.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medicare Insurance)

Dated: November 1, 1984.

Wallace Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-29225 Filed 11-6-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1821

[Circular No. 2555]

Application Procedures; Changes of Addresses of State Offices

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking amends 43 CFR Part 1820 to reflect the new addresses of several of the State Offices of the Bureau of Land Management. All filings and other documents relating to public lands in the respective States shall be filed at the new addresses of the State Offices with the appropriate areas of jurisdiction.

EFFECTIVE DATE: November 7, 1984.

FOR FURTHER INFORMATION CONTACT: Eleanor R. Schwartz, (202)–343–8735.

SUPPLEMENTARY INFORMATION: This final rulemaking reflects the administrative action of relocating several of the State Offices of the Bureau of Land Management. It changes the addresses for the filing of documents relating to public lands in several States, but makes no other changes in filing requirements. Therefore, this amendment is published as a final rulemaking with the effective date shown above.

The Department of the Interior has determined that because this rule is an administrative action, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. There are no additional information collection requirements imposed by this final rulemaking.

List of Subjects in 43 CFR Part 1821

Administrative practice and procedures, Alaska, Archives and records, Public Lands.

Under the authority of section 2478 of the Revised Statutes (43 U.S.C. 1201), Subpart 1821, Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: October 31, 1984.

J. Steven Griles,

Acting Assistant Secretary of the Interior.

PART 1821—[AMENDED]

The portion of § 1821.2–1(d) beginning with the heading "State Office and Area of Jurisdiction" and ending after the address and Jurisdiction of the Wyoming State Office, is revised to read as follows:

§ 1821.2–1 [Amended]

* * * * *

State Office and Area of Jurisdiction

Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513—Southern Alaska, plus all mineral leasing.[1]

Fairbanks District Office, No. Post of Ft. Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707—Northern Alaska except for all minerals leasing.[1]

Arizona State Office, 3707 North 7th Street, P.O. Box 16563, Phoenix, Arizona 85011—Arizona.

California State Office, Federal Building, 2800 Cottage Way, Sacramento, California 95825—California.

Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205—Colorado and Kansas.

Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304—Arkansas, Iowa, Louisiana, Minnesota, Missouri and all States east of the Mississippi.

Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706—Idaho.

Montana State Office, Granite Tower, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107—Montana, North Dakota and South Dakota.

Nevada State Office, Federal Building, Rm. 3038, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520—Nevada.

New Mexico State Office, Joseph M. Montoya Federal Building, South Federal Place, P.O. Box 1449, Sante Fe, New Mexico 87501—New Mexico, Oklahoma and Texas.

Oregon State Office, 825 Northeast Multnomah Street, P.O. Box 2965, Portland, Oregon 97208—Oregon and Washington.

Utah State Office, CFS Financial Center, 324 South State Street, Salt Lake City, Utah 84111–2303—Utah.

Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003—Wyoming and Nebraska.

* * * * *

[FR Doc. 84–29254 Filed 11–6–84; 8:45 am]

BILLING CODE 3410–84–M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A: South Carolina

AGENCY: Office of Personnel Management.

ACTION: Final rule with request for comments.

SUMMARY: The Office of Personnel Management is establishing three new offices for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that these designations are necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

DATES: This rule is effective immediately upon publication. In view of the need for its publication without an opportunity for prior comment, comments will still be considered. To be timely, comments must be received on or before December 7, 1984.

ADDRESS: Send or deliver comments to Ronald E. Brooks, Coordinator, Voting Rights Program, Office of Personnel Management, Room 5532, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ronald E. Brooks, Coordinator, Voting Rights Program, (202) 632–5544.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Calhoun, Richland, and Williamsburg Counties, South Carolina as additional examination points under the provisions of the Voting Rights Act of 1965, as amended. He has determined that these designations are necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Pursuant to section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to allow Federal examiners to register voters immediately in view of the pending elections to be held in the subject counties, where Federal observers will observe elections under the authority of the Voting Rights Act of 1965, as amended.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities because it adds three new locations to the list of counties in the regulations concerning OPM's responsibilities under that Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends 45 CFR 801.202, Appendix A, by alphabetically adding Calhoun County, Richland County, and Williamsburg County, South Carolina, to read as follows:

PART 801—VOTING RIGHTS PROGRAM

§ 801.202 Times and places for filing and forms of application.

* * * * *

Appendix A

* * * * *

South Carolina

County; Place for filing; Beginning date.

* * * * *

Calhoun—Room 5, 2nd Floor, 111 Harry C. Raysor Drive, St. Mathews, South Carolina; Richland—Room 1466, Strom Thurmond FOB, 1835 Assembly Street, Columbia, South Carolina; Williamsburg—ASCS Service Center, 208 Short Street, Kingstree, South Carolina. September 28, 1984.

* * * * *

(5 U.S.C. 1103; secs. 7,9,79 Stat. 440, 411 (42 U.S.C. 1973c, 1973g)

[FR Doc. 84-29224 Filed 11-6-84; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

[Docket No. 41033-4133]

Fishermen's Protective Act Procedures; Fees

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule establishing fees for the agreement year beginning October 1, 1984. The Fishermen's Protective Act requires fees from participating vessel owners. These fees are used for a vessel seizure compensation program.

EFFECTIVE DATE: October 1, 1984, through September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone number (202) 634-7496.

SUPPLEMENTARY INFORMATION: Section 7 of the Fishermen's Protective Act (22 U.S.C. 1971-1980) compensates certain losses caused by a foreign country's detention of a United States fishing vessel based on oceanic rights not recognized by the United States. Pre-existing agreements are required for compensation. Annual agreement fees are established by amendment of these rules.

All agreement holders for the year ending September 30, 1984, who wish their agreements extended through September 30, 1985, by amendment (rather than entering into an entirely new agreement) must submit the fees required by this rules amendment. The fees are due on October 1, 1984, but are payable as late as November 15, 1984. Failure to pay the fees before November 15, 1984, will result in agreement termination retroactive to October 1, 1984.

Program fees are established in accordance with section 7 and Administration policy. Section 7 requires that fees cover program administrative costs and at least 25 percent of claims. Administration policy requires fees to fund program costs to the maximum extent possible. Fiscal year 1984 fees covered almost 100 percent of claim payments in that year. Fiscal year 1985 claims payments are expected to be at least as much as fiscal year 1984. Fiscal year 1985 fees will remain the same as fiscal year 1984 fees ($16 per gross ton).

All parties should, however, be on notice that major seizures and detentions during fiscal year 1984 may result in a fiscal year 1985 claim payment which necessitates an upward adjustment of fiscal year 1985 fees at some later time during the year. Failure to pay adjusted fees within 30 days of the date of adjustment will result in termination of guaranty agreements.

Classification

As a "matter relating to Agency * * * contracts," this rule is exempt from the notice, comment and delayed effectiveness provisions of the Administrative Procedure Act. This means analysis under the Regulatory Flexibility Act is not required.

The Administrator of the National Oceanic and Atmospheric Administration has reviewed this final rulemaking in accordance with the specifications of Executive Order 12291 and determined that it is not a major rule since it has no effect on the economy, costs or prices. No regulatory impact analysis is required.

No additional information collection will be required. The information collection from applicants for guaranty agreements has been approved by the Office of Management and Budget, control number 0648-0095.

The Assistant Administrator has determined that this rulemaking does not require the preparation of an environmental impact statement under the National Environmental Policy Act.

List of Subjects in 50 CFR Part 258

Claims, Fisheries, Fishing vessels, Indemnity payments, Insurance, Loan programs—business, Business.

Dated: November 1, 1984.

William G. Gordon,

Assistant Administrator for Fisheries.

PART 258—[AMENDED]

Accordingly, Section 258.5 of the Fishermen's Protective Act Procedures (50 CFR Part 258) is amended to read as follows:

1. The authority citation for Part 258 is revised to read as follows:

Authority: 22 U.S.C. 1977.

2. Section 258.5 is revised to read as follows:

§ 258.5 Fees.

(a) Fees must cover administrative costs and a minimum of at least 25 percent of estimated claim payments. Fees are based on past and projected experience. Fees may be adjusted at any time by amending this part. Failure to pay adjusted fees within 30 days of the date of adjustment will result in a termination of guarantee agreements.

(b) Guaranty agreement fees for the agreement year October 1, 1984, through September 30, 1984 are $16 per gross vessel ton as listed on an agreement vessel's document. Fractions of a ton are excluded.

(c) No fees will be returned after a guaranty agreement is executed by the Secretary.

(d) A guaranty agreement may, with the Secretary's consent, be assigned to a new owner of an agreement vessel if the

vessel is transferred during the agreement period.

(e) All holders of agreements for the agreement year ending September 30, 1984, who wish them extended through September 30, 1985, by amendment (rather than entering into an entirely new agreement) must submit their fees not later than November 15, 1984. The fees are due October 1, 1984, but payable as late as November 15, 1984. Failure to submit fees before November 15, 1984, will result in agreement termination retroactive to October 1, 1984. A new agreement may then be entered into, but it will be effective only from the date of postmark.

[FR Doc. 84-29354 Filed 11-6-84; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 217
Wednesday, November 7, 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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

[Doc. No. 1256S]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1985 and succeeding crop years to change the policy for insuring cotton by: (1) Adding failure of the irrigation water supply from an unavoidable cause after planting as a cause of loss; (2) amending the premium adjustment table; (3) defining the insured's responsibility for reporting production records; (4) changing the end of insurance period, cancellation, and termination dates in Texas; and (5) deleting Appendix A. The intended effect of this rule is to comply with Departmental Regulation 1512–1, with regard to review of regulations for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 7, 1984, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512–1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

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), because it will not result in: (1) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

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

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor corrections to language and format, the principal changes contained in the policy for insuring cotton are:

1. *Section 1.a.*—Add the failure of irrigation water supply due to unavoidable cause as an insurable cause of loss. This was added to clarify intent since it appears as an implied cause of loss in Section 2.e.(2).

2. *Section 3.d.*—Clarify the production reporting requirement. This change was made to assure that insureds were aware it is their responsibility to report production for the most recent year. Because guarantees will be based on producer's actual production history (APH), this information is necessary to determine the guarantee.

3. *Section 5.a.*—Changes in the Premium Adjustment Table Included: (a) Assuming the number of loss years does not increase, premium adjustment factors will decrease as additional years of records are obtained; and (b) only actual production records will be used to determine the premium adjustment factor. Assigned yields will not be considered as production records.

4. *Section 7*—Change the end of the insurance period from January 31 to September 30 in the following Texas Counties:

Atascosa	Kinney
Bandera	Maverick
Bexar	Medina
Edwards	Real
Frio	Uvalde
Karnes	Val Verde
Kendall	Wilson
Kerr	Zavala

This change was made because most of the crop is harvested before September.

5. *Section 15.d.*—Change cancellation and termination dates from March 31 to February 15 in the following south Texas Counties:

Atascosa	Kinney
Bandera	Maverick
Bexar	Medina
Edwards	Real
Frio	Uvalde
Karnes	Val Verde
Kendall	Wilson
Kerr	Zavala

This change is proposed because most of the cotton in these counties is planted in March and these dates must precede planting to avoid adverse selectivity.

In addition to the policy changes, FCIC also proposes to eliminate the codification of Appendix A. Federal crop insurance for cotton has been expanded into almost all counties where cotton is produced. FCIC service offices will be able to advise a producer if cotton insurance is offered in a county.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the **Federal Register**. All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 421

Crop Insurance, Cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 CFR Part 421), the Federal Crop Insurance Corporation proposes to revise and reissue the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1985 and succeeding crop years, to read as follows:

PART 421—COTTON CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

421.1 Availability of cotton crop insurance.
421.2 Premium rates, production guarantees, levels of coverage, and prices at which indemnities shall be completed.
421.3 OMB control numbers.
421.4. Creditors.
421.5 Good faith reliance on misrepresentation.
421.6 The contract.
421.7. The application and policy.

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

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 421.1 Availability of cotton crop insurance.

Insurance shall be offered under the provisions of this subpart on cotton in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 421.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for cotton which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 421.3 OBM control numbers.

The information collection requirements contained in these regulations (7 CFR 421) 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.

§ 421.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 421.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the cotton insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 421.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the cotton crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the new contract are available at the applicable service offices.

§ 421.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the cotton crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a cotton contract issued under such prior regulations, without the filing of a new application.

(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) and may be amended from time to time for subsequent crop years. The provisions of the Cotton Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Cotton—Crop Insurance Policy

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

Agreement To Insure: We will 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) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting, unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:
(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;
(2) The failure to follow recognized good cotton farming practices;
(3) 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 will be American Upland lint cotton 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 will be cotton 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 elect. The acreage insured of skip-row cotton will be the acreage occupied by the rows of cotton after eliminating the skipped-row portions, unless other methods are required by the actuarial table.

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

d. We do not insure any acreage:
(1) Which is not irrigated and from which a hay crop was harvested or on which a small grain crop reached the heading stage in the same calendar year;
(2) Planted in excess of the limitations established by any program administered by the United States Department of Agriculture;
(3) Which is new ground acreage;
(4) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;
(5) Which is irrigated and an irrigated practice is not provided for by the actuarial table, unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;
(6) Which is destroyed, it is practical to replant to cotton, and such acreage is not replanted;
(7) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;
(8) Planted to a type or variety of cotton not established as adapted to the area or excluded by the actuarial table; or
(9) Which you have elected to exclude, (the exclusion must be by unit, in writing, on our form, and made before the closing date for submitting applications unless the unit to be excluded is acquired after the closing date, then the exclusion may be filed up to 15 days after the acquisition of the unit but not later than the acreage reporting date (see section 3)).

e. If insurance is provided for an irrigated practice:
(1) You must report as irrigated only the acreage for which you have adquate facilities and water to carry out a good cotton irrigation practice at the time of planting; and
(2) Any loss of production caused by failure to carry out a good cotton irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will 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 planting.

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

You must report on our form:
a. All the acreage of cotton 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 on insurable acreage on each unit.

You must designate separately any areage that is not insurable. You must report if you do not have a share in any cotton planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined 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. The production guarantees in the actuarial table are the second stage guarantees. The first stage guarantee is 60 percent of the second state guarantee. The stages are:
(1) *First Stage*—From planting until 50 days after the final planting date or until the shedding of the first blooms, whichever occurs first (we may limit the liability to the first stage if the cotton was damaged during this period to the extent that farmers generally would not further care for the cotton); or
(2) *Second Stage*—all insured cotton after the first stage.

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

d. You may change the coverage level and price election 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

Number of loss year [2]	Number of continuous years of actual records [1]					
	5	6	7	8	9	10
Percentage Adjustment Factor for Current Crop Year						
0	80	75	70	65	60	55
1	100	95	90	85	80	80
2	115	115	110	110	100	100
3	135	130	125	120	115	110
4	165	150	140	130	125	115
5	200	180	165	150	135	130
6		200	180	165	150	135
7			200	180	165	150
8				200	180	165
9					200	180
10						200

[1] The number of years of actual records must be the most recent and continuous years excluding any year in which no crop was planted. For each unit with less than five years of actual records the premium adjustment percentage is 100. The premium adjustment table will be applicable only when 5 or more years of actual records are available and will be expanded until 10 years of records are reached. Thereafter, the records for the most recent 10 years excluding the current year will be used.

[2] A. "Loss Year" is defined as a year in which the actual yield is below the production guarantee for the unit.

B. Interest will 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.

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 cotton is planted and ends at the earliest of:
a. Total destruction of the cotton;
b. Removal of the cotton from the field;
c. Final adjustment of a loss; or
d. The date immediately after planting as follows:
(1) Arizona, California, New Mexico, Oklahoma and all Texas counties except those listed in (2)—January 31;
(2) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas and all Texas Counties lying south thereof—September 30;
(3) All other states—December 31.

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 cotton 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 cotton and given written consent. We will not consent to another use until it is too late 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 loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. A representative sample of unharvested cotton (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of the 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 cotton on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period (see section 7d).

b. You may not destroy any cotton on which an indemnity will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the cotton which is 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 must be submitted to us on our form not later than 60 days after the earliest of:

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

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

(1) Establish the total production of cotton 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 will be determined on each unit by:

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

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

(3) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the actual premium determined to be due, the production guarantee on the unit wil be computed on the information reported and not on the actual information determined. All production from insurable acreage whether or not reported as insurable will count against the production guarantee.

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

(1) When mature cotton (harvested or unharvested) has been damaged solely by insured causes, the production to count will be reduced if, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market is less then 75 percent of price quotation "B". Price quotation "B" will be that day's spot market price quotation at the same market for cotton of the grade, staple length, and micronaire reading shown by the actuarial table for this purpose. The pounds of production to be counted will be determined by multiplying the number of pounds (harvested and appraised) of mature cotton by price quotation "A" and dividing the result by 75 percent of price quotation "B".

(2) Appraised production to be counted will include:

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

(b) Not less than the applicable 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) Only the appraised production in excess of the difference between the first and second state production guarantee for acreage not covered by (a) and (b) above and which does not qualify for the second stage guarantee will be counted except as provided in (d) below; and

(d) The entire appraisal for uninsured causes.

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

(a) Is not put to another use before harvest of cotton 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.

(4) The cotton stalks will not be destroyed on any acreage for which an indemnity is claimed, until we give consent. An appraisal of not less than the second stage guarantee may be made on acreage where the stalks have been destroyed without our consent.

(5) The amount of production of any unharvested cotton may be determined on the basis of field appraisals conducted after the end of the insurance period.

(6) If you have elected to exclude hail and fire as insured causes of loss and the cotton is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

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

f. You must 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 will 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 the cotton is planted 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, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 will 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 will 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 will 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 will have the right to submit the loss notices and forms required by the contract.

13, Subrogration. (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 will at our option belong to us. if we recover more than we paid you plus our expenses, the excess will be paid to us.

14. Records and access to farm.

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

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will 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 will 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 will be the date you sign the claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture will be the date both such payment and set off are approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria and Jackson Counties, Texas and all Texas counties lying south thereof.	Februray 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas Counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton and Matagorda Counties Texas.	March 31.
All other Texas counties and all other states.	April 15.

e. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

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

16. Contract changes.

We may change any of the 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 will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of cotton 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 cotton insurance in the county.

b. "ASCS" means the Agricultural Stabililzation and Conservation Service of the United States Department of Agriculture.

c. "Cotton" means only American Upland Cotton.

d. "County" means the county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any land identified by an ASCS farm serial number for the county but physically located in another county.

e. "Crop year" means the period within which the cotton is normally grown and will be designated by the calendar year in which the cotton is normally harvested.

f. "Final Notice of Loss" means the date you give "Final Notice" as shown on the FCI–74, Claim for Indemnity.

g. "Harvest" means the removal of the seed cotton from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

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

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

j. "Mature cotton" means cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

k. "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year will not be considered new ground acreage.

l. "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.

m. "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.

n. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows (or rows of another crop) as defined by ASCS.

o. "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR 27.93) pursuant to 26 U.S.C. 4862.

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

q. "Unit" means all insurable acreage of cotton in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

r. "Yield" means: (1) The actual yield as reported to ASCS or (2) the yield as established by ASCS or by us.

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 will 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.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: October 31, 1984.

[FR Doc. 84–29249 Filed 11–6–84; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 420

[Doc. No. 1202S]

Grain Sorghum Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Grain Sorghum Crop Insurance Regulations (7 CFR Part 420), effective for the 1985 and succeeding crop years. The intended effect of this rule is to comply with the provisions of Departmental Regulation 1512–1 with regard to review of regulations issued by FCIC for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in

the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 7, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

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), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

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

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the grain sorghum policy are:

1. Section 1.a.—Add failure of irrigation water supply because of unavoidable cause as an insurable cause of loss: This clarifies intent since it is implied as a cause of loss in section 2.e.(2).

2. Section 5.a.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will therefore reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1989 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

3. Section 5.—Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the premium adjustment table eliminates the need for these provisions.

4. Section 6.—Specify that the replanting payment will only be applied to payment of the premium if the billing date had passed.

In cases when the billing date for a crop has passed on the date the replanting payment is made the replanting payment will be deducted and applied to payment of the billed premium. This is a change from the previous practice of applying the replanting payment to the outstanding premium in all cases.

5. Section 7.d.—Change the end of the insurance period to September 30 in the following Texas Counties:

Atascosa	Kinney
Bandera	Maverick
Bexar	Medina
Edwards	Real
Frio	Uvalde
Karnes	Val Verde
Kendall	Wilson
Kerr	Zavala

This change was made because most of the crop is harvested before September.

6. Section 9.d.—Effective for the 1986 and succeeding crop years allow the guarantee only on the acreage, share, or practice reported but credit production on the acreage, share, or practice actually planted if the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted. When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

7. Section 9.e. and g.(2)—Delete the requirement that a replanting payment be considered an indemnity. This change allows an insured to collect a replanting payment in addition to an indemnity equal to the total liability for the unit in the event of a total loss. Previously, the total of any replanting payment and indemnity could not exceed the FCIC liability on the unit in the event of partial loss.

8. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

9. Section 15.e.—Change cancellation and termination dates from March 31 to February 15 in the following south Texas counties:

Atascosa	Kinney
Bandera	Maverick
Bexar	Medina
Edwards	Real
Frio	Uvalde
Karnes	Val Verde
Kendall	Wilson
Kerr	Zavala

This change is proposed because most of the grain sorghum in these counties is planted in March and these dates must precede planting to avoid adverse selectivity.

10. Section 17.g.—Add a definition for the term "Loss Ratio" to clarify its use in section 5.

11. In addition to the policy changes FCIC also proposed to eliminate the codification of Appendix A. Federal crop insurance for grain sorghum has been expanded into almost all counties in which grain sorghum is produced. The FCIC service offices will be able to advise a producer if grain sorghum insurance is offered in any county.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register**. All written comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 420

Crop insurance, Grain sorghum.

Proposed Rule

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 proposes to revise and reissue

the Grain Sorghum Crop Insurance Regulations (7 CFR Part 420), effective for the 1985 and succeeding crop years, to read as follows:

PART 420—GRAIN SORGHUM CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

420.1 Availability of grain sorghum crop insurance.
420.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
420.3 OMB control numbers.
420.4 Creditors.
420.5 Good faith reliance on misrepresentation.
420.6 The contract.
420.7 The application and policy.

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

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 420.1 Availability of grain sorghum crop insurance.

Insurance shall be offered under the provisions of this subpart on grain sorghum in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 420.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for grain sorghum which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 420.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 420) 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.

§ 420.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 420.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the grain sorghum insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in case involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 420.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contact shall cover the grain sorghum crop as provided in the policy. The contract shall cover the grain sorghum crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 420.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the grain sorghum crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a grain sorghum contract issued under such prior regulations, without the filing of a new application.

(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) and may be amended from time to time for subsequent crop years. The provisions of the Grain Sorghum Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Grain Sorghum—Crop Insurance Policy

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

AGREEMENT TO INSURE: We will 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) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;
unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We will not insure against any loss of production due to:
(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;
(2) The failure to follow recognized good grain sorghum farming practices;
(3) The impoundment of water by any governmental, public or private dam or reservoir project; or
(4) Any cause not specified in section 1a as insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be grain sorghum which is initially planted to a combine-type hybrid grain sorghum for harvest as grain, 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 will be grain sorghum 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 elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured grain sorghum at the time of planting.

d. We do not insure any acreage:
(1) If 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 by 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 grain sorghum, 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) Of volunteer grain sorghum
(6) Planted to a forage sorghum or initially thick-planted for silage or fodder;
(7) Of a second grain sorghum crop following a grain sorghum crop harvested in the same crop year;
(8) Planted to a type or variety of grain sorghum not established as adapted to the area or excluded by the actuarial table; or
(9) Planted with a crop other than grain sorghum.

e. If insurance is provided for an irrigated practice:
(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good grain sorghum irrigation practice at the time of planting; and
(2) Any loss of production caused by failure to carry out a good grain sorghum irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Unless otherwise provided in the actuarial table, insurance will attach only on acreage initially planted in rows far enough apart to permit cultivation, if not irrigated. If such acreage is destroyed and replanted to any grain-producing type grain sorghum or in any planting pattern, the acreage will be considered insured acreage and not as acreage put to another use.

g. 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.

h. 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 production.

You must report on our form:

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

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any grain sorghum planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined 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 will be 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 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.

b. Interest will 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. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the Experience Table contained in the grain sorghum policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;
(2) The premium reduction will not increase because of favorable experience;
(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;
(4) Once the loss ratio exceeds .80 no further premium reduction will apply; and
(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, 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. Insuance period.

Insurance attaches when the grain sorghum is planted and ends at the earliest of:
(a) Total destruction of the grain sorghum;
(b) Combining, threshing or removal from the field;
(c) Final adjustment of a loss; or
(d) The following dates immediately after planting:

(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas and all Texas Counties lying south thereof..... September 30;
(2) All other Texas Counties and all other states..... December 10.

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 grain sorghum damaged due to any insured causes. (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 grain sorghum on any unit is damaged and you decide not to further care for or harvest any part of it;
(c) You want our consent to put the acerage 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 appraised tha grain sorghum and 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 must be given. A representative sample of the unharvested grain sorghum (at least 10 feet wide and the entire length of the field) must remain unharvested 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 grain sorghum 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 grain sorghum 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 grain sorghum which is 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 must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the grain sorghum on the unit;

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

(1) Establish the total production of grain sorghum 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 will be determined on each unit by:

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

(2) Subtracting therefrom the total production of grain sorghum 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 under section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (bushels) to be counted for a unit will include all harvested and appraised production.

(1) Mature grain sorghum production:

(a) Which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(b) Which, due to insurable causes, contains more than 18.0 percent moisture or has a test weight of less than 51 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains more than 15 percent kernel damage, will be adjusted by:

(i) Dividing the value per bushel of such grain sorghum by the price per bushel of U.S. No. 2 grain sorghum; and

(ii) Multiplying the result by the number of bushels of such grain sorghum.

The applicable price for No. 2 grain sorghum will be the local market price on the earlier of the day the loss is adjusted or the day such grain sorghum was sold.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good grain sorghum 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.

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

(a) Not put to another use before harvest of grain sorghum becomes general in the county;

(b) Harvested; or

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

(4) The amount of production of any unharvested grain sorghum may be determined on the basis of field appraisals conducted after the end of the insurance period.

(5) If you have elected to exclude hail and fire as insured causes of loss and the grain sorghum is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

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

f. A replanting payment may be made on any insured grain sorghum 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 will not exceed 7 bushels multiplied by the price election, multiplied by 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.

g. You must not abandon any acreage to us.

h. 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.

i. We will 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.

j. 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 grain sorghum is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 will 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 will 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 will 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 will 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 will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

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

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop

year. Thereafter, the contract will 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 years.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If the insured, prior to the cancellation date, shows, to our satisfaction, that records are unavailable due to conditions beyond the insured's control, such as fire, flood or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the ten-year average.

d. This contract will 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 will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such payment and set off are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination date
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton and Matagorda Counties, Texas.	March 31.
All other Texas counties and all other states.	April 15.

f. 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 will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

g. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the 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 will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 prior to the cancellation date for counties with an April 15 cancellation date and by November 30 prior to the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any written notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of grain sorghum 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 grain sorghum 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 grain sorghum is normally grown and will be designated by the calendar year in which the grain sorghum is normally harvested.

d. "Harvest" means the completion of combining or threshing of grain sorghum on the unit.

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

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

g. "Loss Ratio" means the ratio of indemnity(ies) to premium(s).

h. "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.

i. "Replanting" means performing the cultural practices necessary to replant insured acreage to grain sorghum.

j. "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.

k. "Tenant" means a person who rents land from another person for a share of the certain sorghum or a share of the proceeds therefrom.

l. "Unit" means insurable acreage of grain sorghum 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 grain sorghum on such land will 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. We will determine units as herein defined when the acreage is reported. Errors in reporting 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 will be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Rgulations.

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.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 31, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-29245 Filed 11-6-84: 8:45 am]

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7 CFR Part 424

[Doc. No. 1438S]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Rice Corp Insurance Regulations (7 CFR Part 424), effective for the 1985 and succeeding crop years. The intended effect of this rule is to comply with the provisions of Departmental Regulation 1512-1 with regard to review of regulations issued by FCIC for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in

the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 7, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512–1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

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), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

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

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 F.R. 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor corrections to language and format, the principal changes are contained in the policy for insuring rice as contained herein. These changes are:

1. *Section 1.a.*—Add failure of irrigation water supply due to unavoidable cause as an insurable cause of loss. This was added to clarify intent since it appears as an implied cause of loss in Section 1.b.(6).

2. *Section 3.d.*—Clarify production reporting requirements. This change was made to assure that insureds were aware it is their responsibility to report production for the most recent year. Because guarantees will be based on a producer's actual production history (APH), this information is necessary to determine the guarantee.

3. *Section 5.a.*—Changes in the Premium Adjustment Table include:

(a) Assuming the number of loss years does not increase, premium adjustment factors will decrease as additional years of records are obtained; and

(b) Only actual production records will be used to determine the premium adjustment factor. Assigned yields will not be considered as production records.

4. *Section 8.a.(a)(a), 8.b., and 9.f.*—Add to provide replanting provisions consistent with other crop insurance policies and to provide a maximum amount for that purpose.

5. *Section 9.e.(1)*—Change moisture content from 14.0 percent to 12.0 percent to conform with marketing practice since rice is commonly bought and sold on the basis of 12.0 percent moisture.

6. In addition to the policy changes FCIC also proposes to eliminate the codification of Appendix A. Federal crop insurance for rice has been expanded into almost all counties where rice is produced. FCIC service offices will be able to advise a producer if rice insurance is offered in a county.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register**. All written comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 424

Crop insurance, Rice.

Proposed Rule

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 proposes to revise and reissue the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1985 and succeeding crop years, to read as follows:

PART 424—RICE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and succeeding Crop Years

Sec.

424.1 Availability of rice crop insurance.
424.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
424.3 OMB control numbers.
424.4 Creditors.
424.5 Good faith reliance on misrepresentation.
424.6 The contract.
424.7 The application and policy.

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

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 424.1 Availability of rice crop insurance.

Insurance shall be offered under the provisions of this subpart on rice in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 424.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for rice which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 424.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR 424) 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.

§ 424.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the

holder of the interest to any benefit under the contract.

§ 424.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the rice insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds: (1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional pemiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 424.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the rice crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 424.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the rice crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of rice contract issued under such prior regulations, without the filing of a new application.

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Rice—Crop Insurance Policy

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

Agreement to Insure: We will 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 (excluding drought);

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

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

(1) Application of saline water;

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

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

(4) The impoundment of water by any governmental, public or private dam or reservoir project;

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

(6) The failure to carry out a good irrigation practice, except failure of the water supply after planting due to an unavoidable cause; or

(7) The breakdown of irrigation equipment or facilities.

2. Crop, acreage, and share insured.

a. The crop insured will be rice which is planted for harvest as grain, which is grown on insured acreage and for which a guarantee and premium rate provided by the actuarial table.

b. The acreage insured for each crop year will be rice 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 elect.

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

d. We will not insure any acreage:

(1) On which rice was destroyed to comply with any other United States Department of Agriculture or state programs;

(2) Which does not meet the rotation requirements designated by the actuarial table;

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

(4) Which is not irrigated;

(15) Which is destroyed, it is practical to replant to rice, and such acreage was not replanted;

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

(7) Of volunteer rice;

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

(9) Which you have elected to exclude (the exclusion must be by unit, in writing on our form and made before the closing date for submitting applications unless the unit to be excluded is acquired after the closing date, then an exclusion may be filed for 15 days after the acquisition of the unit but no later than the acreage reporting date (see Section 3)); or

(10) Planted with a crop other than rice.

e. 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.

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.

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

You must report on our form:

a. All the acreage of rice 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 on insurable acreage on each unit.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any rice planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined 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 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

Number of loss years [2]	Number of continuous years of actual records [1]					
	5	6	7	8	9	10
Percentage Adjustment factor for current crop year						
0	80	75	70	65	60	55
1	100	95	90	85	80	80
2	115	115	110	110	100	100
3	135	130	125	120	115	110
4	165	150	140	130	125	115
5	200	180	165	150	135	130
6		200	180	165	150	135
7			200	180	165	150
8				200	180	165
9					200	180
10						200

[1] The number of years of actual records must be the most recent and continuous years excluding any year in which no crop was planted. For each unit with less than five years of actual records the premium adjustment percentage is 100. The premium adjustment table will be applicable only when 5 or more years of actual records are available and will be expanded until 10 years of records are reached. Thereafter the most recent 10 years of records will be used.

[2] A. "Loss Year" is defined as a year in which the actual yield is below the production guarantee for the unit.

B. Interest will 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.

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 rice is planted and ends at the earliest of:

a. Total destruction of the rice;

b. Combining, threshing or removal from the field;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which rice is normally harvested.

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 rice 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 rice on any unit is damaged and you decide not to further care for or harvest any part of it;

(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 appraised the rice and 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 replanted or 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 must be given. A representative sample of the unharvested rice (at least 10 feet wide and the entire length of the field) must remain unharvested 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 rice 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 rice 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 rice which is 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 must be submitted to us on our form not later than 60 days after the earliest of:

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

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

(1) Establish the total production of rice 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 will be determined on each unit by:

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

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

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

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage whether or not reported as insurable will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production including any production from a second rice crop harvested in the same crop year.

(1) Mature rough rice production which otherwise is not eligible for quality adjustment will be reduced in volume by .12 percent for each .1 percentage point of moisture in excess of 12.0 percent; or

(2) Mature rough rice production which, due to insurable causes:

(a) Has a total milling yield (heads, second heads, screening and brewers) of less than 68 pounds per hundredweight;

(b) The whole kernel weight is less than 55 pounds per hundredweight for medium and short grain varieties;

(c) The whole kernel weight is less than 48 pounds per hundredweight for long grain varieties;

(d) Contains more than 4.0 percent chalky kernels in long grain varieties;

(e) Contains more than 6.0 percent chalky kernels in medium or short grain varieties;

(f) Contains more than 3.0 percent chalky kernels in other types; or

(g) Contains more than 2.5 percent red rice will have the production adjusted by:

(i) Dividing the value per pound of such rice, by the price per pound of U.S. No. 3 rough rice; and

(ii) Multiplying the result by the number of pounds of such rice.

(The applicable price for No. 3 rough rice will be the nearest milling center price on the earlier of the day the loss is adjusted or the day the rice was sold).

(3) Any mature production from volunteer rice growing in the rice will be counted as rice on a weight basis.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good rice 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.

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

(a) Is not put to another use before harvest of rice 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) The amount of production of any unharvested rice may be determined on the basis of field appraisals conducted after the end of the insurance period.

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

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

f. A replanting payment may be made on any insured rice 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 will not exceed 400 pounds multiplied by the price election, the product of which is multiplied by 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.

g. You must not abandon any acreage to us.

h. 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.

i. We will 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 dispprove such claim.

j. 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 rice is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 will 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 will 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 will 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 will 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 somone other than us, you must do all you can to preserve any such rights. If we pay for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

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

15. Life of Contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will 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 will 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 will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such payment and set off are approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit counties Texas and all Texas counties south thereof.	February 15.
Missouri	April 15.
Florida	March 15.
All other Texas counties and states	March 31.

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 will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

e. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the 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 will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with a April 15 cancellation date and November 30 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of rice 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, practice, insurable and uninsurable acreage, and related information regarding rice insurance in the county.

b. "ASCS" means the Agricultural Stablization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any land identified by an ASCS farm serial number for the county but not physically located in the county.

d. "Crop year" means the period within which the rice is normally grown and will be designated by the calendar year in which the rice is normally harvested.

e. "Harvest" means the completion of combining or threshing of rice on the unit.

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

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

h. "Mill Center" means any location in which two or more mills are engaged in milling rough rice.

i. "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.

j. "Replanting" means performing the cultural practices necessary to replant insured acreage to rice.

k. "Second crop rice" means regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

l. "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.

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

n. "Unit" means all insurable acreage of rice in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

o. "Yield" means the actual yield reported by you to ASCS or the yield established by ASCS or us.

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 will 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 times 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.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary; Federal Crop Insurance Corproation.

Approved by: Merritt W. Sprague, *Manager.*

Dated: October 31, 1984

[FR Doc. 84-29247 Filed 11-6-84; 8:45 am]

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7 CFR Part 425

[Docket No. 1344S]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1985 and succeeding crop years. The intended effect of this rule is to comply with the provisions of Departmental Regulation 1512-1 with regard to review of regulations issued by FCIC for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 7, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

Meritt 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), because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

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

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart, V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor corrections to language and format, the principal changes are contained in the policy for insuring peanuts as contained herein. These changes are:

1. Section 1.a.—Add the failure of irrigation water supply because of unavoidable cause as an insurable cause of loss. This clarifies intent since it is implied in section 2.e.(2).

2. Section 3.e.—Remove the provision requiring the most recent year's production for insurable acreage on each unit as it is now referenced to in section 15.c.

3. Section 5.a.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will therefore reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1989 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

4. Section 5.—Remove the provisions for the transfer of insurance experience and for premiums computation when participation has not been continous. Deletion of the premium adjustment table eliminates the need for these provisions.

5. Section 6.—Specify that the replanting payment will only be applied to payment of the premium if the billing date has passed. In cases when the billing date for a crop has passed on the date the replanting payment is made it will be deducted and applied to payment of the billed premium. This is a change from the previous practice of applying the replanting payment to the outstanding premium in all cases.

6. Section 9.d.—Effective for the 1986 and succeeding crop years, allow the guarantee only on the acreage, share, or practice reported but credit production on the acreage, share, or practice actually planted if the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted. When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

7. Section 9.—Delete the requirement that a replanting payment be considered an indemnity. This change allows an insured to collect a replanting payment in addition to an indemnity equal to the total liability for the unit in the event of a total loss. Previously, the total of any replanting payment and indemnity could not exceed the FCIC liability on the unit in the event of partial loss.

8. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the proposed change to mandatory APH.

9. Section 15.e.—Add Somervell County to the list of Texas counties with an April 15 cancellation and termination date.

10. Section 17.c.—Change the definition for the term "County" to agree with the changed unit definition.

11. Section 17.i.—Add a definition for the term "Loss ratio" to clarify its use in Section 5.

12. Section 17.n.—Change the definition of the term "Unit" to conform to a single ASCS farm serial number. No further division will be allowed. This change will reduce the problem of transferring production from one unit to another.

13. In addition to the policy changes FCIC also proposed to eliminate the codification of Appendix A. Federal crop insurance for peanuts has been expanded into almost all peanut counties. The FCIC service offices will be able to advise a producer if peanut insurance is offered in any county.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register.** All written comments made pursuant to this action will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 425

Crop insurance, Peanuts.

Proposed Rule

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 herewith proposes to revise and reissue the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1985 and succeeding crop years, to read as follows:

PART 425—PEANUT CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

425.1 Availability of peanut crop insurance.
425.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
425.3 OMB control numbers.
425.4 Creditors.
425.5 Good faith reliance on misrepresentation.
425.6 The contract.
425.7 The application and policy.
425.8 Price election agreement for non-quota peanuts.

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

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 425.1 Availability of peanut crop insurance.

Insurance shall be offered under the provisions of this subpart on peanuts in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 425.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities will be computed.

(a) The Manager will establish premium rates, production guarantees, coverage levels and prices at which indemnities will be computed for peanuts which will be shown on the actuarial table on file in applicable service offices and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 425.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR 425) 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.

§ 425.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 425.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the peanut insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured person relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 425.6 The contract.

(a) The insurance contract shall become effective upon the acceptance

by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract will cover the peanut crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 425.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the peanut crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a peanut contract issued under such prior regulations, without the filing of a new application.

(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) and may be amended from time to time for subsequent crop years. The provisions of the Peanut Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Peanut—Crop Insurance Policy

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

AGREEMENT TO INSURE: We will 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) Failure of the irrigation water supply due to 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 will not insure against any loss of production due to:

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

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

(3) 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 will be peanuts planted for the purpose of digging, maturing, and marketing as farmers' stock peanuts, 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 will be peanuts 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 elect.

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

d. We do not insure any acreage:

(1) Not planted to a type of peanuts designated as insurable by the actuarial table;

(2) On which the peanuts were destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

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

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

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

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

(7) Planted for experimental purposes.

e. If insurance is provided for an irrigated practice:

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

(2) Any loss of production caused by failure to carry out a good peanut irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will 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.

3. Report of acreage, share, poundage, quota, practice, and production. You must report on your form:

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

b. The practice;

c. Your share at the time of planting; and

d. The effective poundage marketing quota, if any, applicable to the unit for the current crop year as provided under ASCS Peanut Marketing Quota Regulations.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any peanuts planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined 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 in the actuarial table.

b. The production guarantee per acre will be reduced by the lesser of 250 pounds or 20 percent for any unharvested 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 for the unit (insured acreage times the applicable production guarantee), which may consist of quota and non-quota (additional) peanuts, times the applicable price election, times the premium rate, times your share at the time of planting.

b. Interest will 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. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the Experience Table contained in the peanut policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;

(4) Once the loss ratio exceeds .80 no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, 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 peanuts are planted and ends at the earliest of:

a. total destruction of the peanuts;

b. threshing or removal from the field;

c. final adjustments of a loss; or

d. the following dates immediately after planting:

(1) Duval and La Salle Counties, Texas..... November 30;

(2) New Mexico, Oklahoma and all other Texas counties.....December 31;

(3) All other states..... November 30.

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 peanuts 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 threshing, the peanuts on any unit are damaged and you decide not to further care for or thresh 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 appraised the peanuts and 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 replanted or 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 must be given. A representative sample of the unharvested peanuts (at least 10 feet wide and the entire length of the field) must remain unharvested 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 peanuts on the unit;

(b) the completion of harvest or otherwise disposing of the peanuts on the unit; or

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

b. You may not destroy or replant any of the peanuts 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 peanuts 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 must be submitted to us on our form not later than 60 days after the earliest of:

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

(2) Completion of harvest or otherwise disposing of the peanuts on the unit; or

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

b. We will not pay any indemnity unless you:

(1) Establish the total production of peanuts 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 will be determined on each unit by:

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

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

(3) Multiplying the remainder applicable to quota and/or non-quota (additional) production by the applicable price election; and

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due or the acreage reported by you is less than the actual acreage determined, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to count will be identified as quota and/or non-quota (additional) production by:

(1) Counting all threshed and appraised production less than or equal to the unit's effective poundage quota as quota production; and

(2) Counting any threshed and appraised production in excess of the unit's effective poundage quota as non-quota (additional) production.

f. The total production to be counted for a unit will include all threshed and appraised production.

(1) Threshed production will be the net weight in pounds shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum".

(2) Mature peanut production which is damaged, due to insurable causes, will be adjusted by:

(a) Dividing the value per pound for the insured type of peanuts by the applicable average price per pound; and

(b) Multiplying the result by the number of pounds of such production.

(3) To enable us to determine the net weight and quality of production of any peanuts for which a United States Department of Agriculture "Inspection Certificate and Sales Memorandum" has not been issued, we must be given the opportunity to have such peanuts inspected and graded before you dispose of them. If you dispose of any producton without giving us the opportunity to have the peanuts inspected and graded, the gross weight of such production will be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the net weight and quality of such peanuts.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good peanut 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) Only the appraised and threshed production in excess of the lesser of 250 pounds or 20 percent of the production guarantee on all other unharvested acreage.

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

(a) Not put to another use before harvest of peanuts becomes general in the county;

(b) Harvested; or

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

(6) The amount of production of any unharvested peanuts may be determined on the basis of field appraisals conducted after the end of the insurance period.

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

(8) The commingled production of units will 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 peanuts 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 quarantee;

(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 will not exceed the lesser of 250 pounds or 20 percent of the production guarantee multiplied by the applicable price election (the quota price up to and including the unit's effective quota and the non-quota price of any additional peanuts), multiplied by 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.

h. You must 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 will 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.

k. 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 peanuts are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 will 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 amout 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 will 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 will 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 will 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 will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

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

15. Life of contract: Cancellation termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will 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 will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If the insured, prior to the cancellation date, shows, to our satisfaction, that records are unavailable due to conditions beyond the insured's control, such as fire, flood or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the ten-year average.

d. This contract will 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 will be the date you sign the claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture will be the date both such payment and set off are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Dual and La Salle Counties, Texas	February 15.
New Mexico; Oklahoma; Brown, Baylor Callahan, Coilingsworth, Commanche, Dallam, Eastland, Erath, Gaines, Garza, Hood, Jones, Montague, Motley, Palo Pinto, Parker, Somervell and Stonewall Counties, Texas and Virginia.	April 15.
All other Texas counties and all other states.	March 31.

f. If you die or are judically declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

g. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the 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 will be provide the price election which you will be deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with a April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of peanut crop insurance:

a. "Acturial 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 peanut insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and:

(1) any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) any land identified by an ASCS farm serial number for the county by physically located in another county.

d. "Crop year" means the period within which the peanuts are normally grown and will be designated by the calendar year in which the peanuts are normally harvested.

e. "Effective Poundage Marketing Quota" means the farm marketing quota as established and recorded by ASCS.

f. "Harvest" means the completion of digging of peanuts on any acreage for the purpose of combining or threshing, from which acreage, at least the lesser of 250 pounds or 20 percent of the production guarantee per acre shown in the actuarial table is dug.

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

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

i. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

j. "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.

k. "Replanting" means performing the cultural practices necessary to replant insured acreage to the same crop.

l. "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.

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

n. "Unit" means all insurable acreage of peanuts in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

o. "Value per pound" means the "value per pound including loose shell kernels" as shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum," except for Segregation II, III and non-quota (additional) peanuts for which the value per pound will be determined by us.

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 will 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.

§ 425.8 Price election agreement for non-quota peanuts.

(a) Notwithstanding the provisions of § 425.7 of this part, an insured producer may, upon submission and approval of a Contract Price Election Agreement Option form approved by the Corporation, elect as the price at which indemnities will be computed for all non-quota peanuts, the price stipulated on such agreement option form for the current crop year: Provided, That (1) all non-quota peanuts are contracted as provided under regulations established by the Secretary of Agriculture, (2) the contract(s) is dated on or before the date planting begins, and shows the pounds contracted and the applicable contract price(s), and (3) the pounds contracted equal or exceed the pounds of guarantee of non-quota peanuts for the insured's share on all units.

(b) If the pounds of non-quota peanuts contracted is less than the non-quota guarantee, the price at which indemnities will be computed will be the price for non-quota peanuts elected by the insured from the actuarial table.

(c) When non-quota peanuts are contracted at different prices, the contract price applicable shall be the weighted average of the individual contract prices.

(d) The Contract Price Election Agreement Option shall be applicable for the current crop year. A new option must be submitted for each subsequent crop year.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 31, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-29248 Filed 11-6-84; 8:45 am]

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7 CFR Part 432

[Doc. No. 1247S]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1985 and succeeding crop years. The intended effect of this rule is to comply with the provisions of Departmental Regulation 1512-1 with regard to review of regulations issued by FCIC for need, currency, clarity, and effectiveness. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than December 7, 1984, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

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.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1 (December 15, 1983). This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

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), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule apply are: Title Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and

safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor corrections to language and format, the principal changes contained in the policy for insuring corn are:

1. Section 1.a.—Add the failure of irrigation water supply due to an unavoidable cause" as an insurable cause of loss. This cause of loss was added to clarify intent since it appears as an implied cause of loss in section 2.e.(2).

2. Section 5.a.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1989 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

3. Section 5.c and d.—Remove the provisions for the transfer of insurance experience and for premium computation when insurance has not been continuous. Deletion of the premium adjustment table eliminates the requirement for these sections.

4. Section 6—Add a provision for set off from replanting payments. Normally, replanting payments will be paid directly to the insured. However, in cases when the billing date for a crop has passed when the insured is paid for replanting the provisions will be set off.

5. Section 7.—Change the date for the end of the insurance period from December 10 to September 30 in the following Texas Counties:

Atascosa	Kinney
Bandera	Maverick
Bexar	Medina
Edwards	Real
Frio	Uvalde
Karnes	Val Verde
Kendall	Wilson
Kerr	Zavala

This change was made because most of the crop in these counties is harvested before September.

6. Section 7.—Change the date for the end of the insurance period in 14 western Washington counties from September 30 to October 31. These are "silage only" counties and the date change was made to reflect the normal silage harvesting period for the area.

7. Section 9.e.—Change effective for the 1986 crop year to allow the guarantee only on the acreage, share, or practice reported but credit production on the acreage, share, or practice actually planted if the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted. When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce indemnities when acres are underreported and will reduce the complexity of calculations.

8. Section 9.—Delete the requirement that a replanting payment be considered as an indemnity. The result of this change allows an insured to collect a replanting payment in addition to an indemnity equal to the total liability for the unit in the event of a total loss. Previously, the total of any replanting payment and indemnity could not exceed the liability for the covered loss which may be less than the total liability.

9. Section 9.f.(3).—Change to allow reduction of production to count for grain deficient silage in counties for which the actuarial table shows only a silage guarantee. FCIC has received numerous requests for this change indicating that the amount of grain is critical to the quality of the silage. In many cases, producers raising corn for silage are using shorter maturity seed with an increase in the amount of grain produced by the time silage is harvested. FCIC's present corn policy allows for the reduction of production to count for grain deficient silage in counties with both a grain and silage guarantee. This change allows for the same reduction in counties with a silage only grarantee.

10. Section 15.c.—Add a clause to cancel the contract of production history is not furnished on or before the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control.

11. Section 15.e.—Change cancellation and termination dates from March 31 to February 15 in the following south Texas counties:

Atascosa	Kinney
Bandera	Maverick
Bexar	Medina
Edwards	Real
Frio	Uvalde
Karnes	Val Verde
Kendall	Wilson
Kerr	Zavala

Most of the corn in these counties is planted in March, and these dates must precede planting to avoid adverse selectivity.

12. Section 17.g.—Add a definition for the term "Loss ratio" to clarify its use in section 5.

In addition to the policy changes, FCIC also proposes to eliminate the codification of Appendix A. Federal crop insurance for corn has been expanded into almost all counties in which corn is produced. FCIC service offices will be able to advise a producer if corn insurance is offered in a county.

FCIC is soliciting comments on this proposed rule for 30 days after publication in the **Federal Register.** All written comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 432

Crop Insurance, Corn.

Proposed Rule

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 proposes to revise and reissue the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1985 and succeeding crop years, to read as follows:

PART 432—CORN CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

432.1 Availability of corn crop insurance.
432.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
432.3 OMB control numbers.
432.4 Creditors.
432.5 Good faith reliance on misrepresentation.
432.6 The contract.
432.7 The application and policy.

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

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 432.1 Availability of corn crop insurance.

Insurance shall be offered under the provisions of this subpart on corn in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 432.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for corn which will be included in the actuarial table on file in service offices for the

county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnites will be computed from among those levels and prices contained in the actuarial table for the crop year.

§432.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR 432) 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.

§432.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bunkruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§432.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the corn insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§432.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the corn crop as provided in the policy. The contract shall consist of the application, the policy, and the country actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§432.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the corn crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon it determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a corn contract issued under such prior regulations without the filing of a new application.

(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) and may be amended from time to time for subsequent crop years. The provisions of the Corn Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Corn—Crop Insurance Policy

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

AGREEMENT TO INSURE: We will 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) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

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

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

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

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

(3) 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 will be field corn ("corn") which is planted for harvest as grain or silage; 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 will be 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 elect.

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

d. We do not insure any acreage:

(1) If 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 by 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 corn, and such acreage was 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) Of volunteer corn;

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

(7) Planted with another crop except sorghum (grain or forage-type) when the

sorghum is not more than 20 percent of the stand.

e. If insurance is provided for an irrigated practice:

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

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

You must report on our form:

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

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any corn planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined 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 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 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 you share at the time of planting.

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

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the Experience Table contained in the corn policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;

(4) Once the loss ratio exceeds .80, no further premium reduction will be applicable; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, 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 corn is planted and ends at the earliest of:

a. Total destruction of the corn;

b. Harvest;

c. Final adjustment of a loss;

d. The date immediately following planting as follows:

(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas and all Texas Counties lying south thereof..... September 30;

(2) Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, Washington..... October 31;

(3) All other counties where our actuarial table shows:

(a) Only a silage guarantee; or

(b) Both a grain and a silage guarantee on any acreage of corn harvested for silage..... September 30; or

All other countries.....December 10.

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 corn 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 corn on any unit is damaged and you decided not to further care for or harvest any part of it;

(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 appraised the corn and 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 replanted or 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 must be given. A representative sample of unharvested corn (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of the 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 corn 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 corn 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 corn which is 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 must be submitted to us on our form not later than 60 days after the earliest of:

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

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

(1) Establish the total production of corn and/or silage 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 will be determined on each unit by:

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

(2) Multiplying this product by the price election;

(3) Subtracting the dollar amount obtained by multiplying the total production to be counted (see section 9f) by the price election; and

(4) Multiplying this result by your share.

d. If a unit contains acreage to which both a grain and a silage guarantee apply, the dollar amount of insurance and dollar amount of the production to be counted will be determined separately for each portion and then added together to determine the total amount for the unit.

e. If the information reported by you under section 3 of the policy:

(1) In the 1985 crop year results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

(2) In the 1986 and succeeding crop years results in a lower premium than the premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage whether or not reported as

insurable will count against the production guarantee.

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

(1) When the actuarial table shows only a grain guarantee, all production and appraisals will be determined in bushels. When the actuarial table shows only a silage guarantee, all production and appraisals will be in tons. When the actuarial table shows both a grain and silage guarantee, the production and appraisals will be determined in bushels for any unharvested acreage and in bushels or tons for any harvested acreage, depending upon whether the acreage is harvested for grain or silage.

(2) Mature grain production:

(a) Which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 15.5 through 30.0 percent and .2 percent for each .1 percentage point of moisture from 30.1 through 40.0 percent; or

(b) Which, due to insurable causes, has moisture over 40 percent; or kernel damage more than 15 percent as determined by a licensed grain grader; or test weight below 40 pounds per bushel, will be adjusted by:

(i) Dividing the value per bushel of such corn by the price per bushel of U.S. No. 2 corn; and

(ii) Multiplying the result by the number of bushels of such corn.

The applicable price for No. 2 corn will be the local market price on the earlier of the day the loss is adjusted or the day such corn was sold. The quality adjustment will not reduce the harvested production more than 75 percent so that at least 25 percent of harvested production will count.

(3) If the actuarial table shows both a grain and silage guarantee or only a silage guarantee and the corn is harvested as silage, if a grain appraisal is made concurrently with a silage appraisal and the grain appraisal is less than 4.5 bushels per ton, the production will be reduced 1 percent for each 1 tenth of a bushel below 4.5 bushels. There will be no reduction allowed for harvested silage production if a representative sample (at least 10 feet wide and the entire length of the field) for each 25 acres of corn harvested for silage is not left until appraised by us.

(4) Appraised production to be counted will include:

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

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

(c) Any appraised production on unharvested acreage.

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

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

(b) Harvested; or

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

(6) The amount of production of any unharvested corn may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If the actuarial table shows a silage guarantee or both a grain and silage guarantee and the normal silage harvesting period has ended, we may increase any tonnage appraisal or any harvested silage production by the factor designated by the actuarial table to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

(8) If the actuarial table shows only a silage guarantee, we may convert bushels of grain to tons of silage, and increase all production harvested after the normal silage harvesting period by the factor designated by the actuarial table to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

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

(10) The commingled production of units will 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 corn 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, except that:

(a) If the actuarial table shows only a grain guarantee or both a grain and silage guarantee, the payment will not exceed 8 bushels multiplied by the price election multiplied by your share; or

(b) If the actuarial table shows only a silage guarantee, the payment will not exceed 1 ton multiplied by the price election multiplied by your share.

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

h. You may 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 will 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.

k. 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 corn is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficiary entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will 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 purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before 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 will 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 will 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 will 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 will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

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

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will 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 will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If the insured, prior to the cancellation date shows, to our satisfaction, that records are unavailable due to conditions beyond the insured's control, such as fire, flood or other natural disaster, the Field Actuarial office may assign a yield for that year. The assigned yield will not exceed the ten year average.

d. This contract will 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 for the contract on which the amount is due. The date of payment of the amount due:

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

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such payment and set-off are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas and all Texas Counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	March 31.
All other Texas counties and all other states.	April 15.

f. 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 will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will 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 will dissolve the joint entity.

g. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any of the 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 will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of 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 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 corn is normally grown and shall be designated by the calendar year in which the corn is normally harvested.

d. "Harvest" means completion of combining, picking or cutting the corn for the purposes of livestock feed.

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. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

h. "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.

i. "Replanting" means performing the cultural practices necessary to replant insured acreage to corn.

j. "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.

k. "Silage" means corn harvested by servering the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

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

m. "Unit" means all insurable acreage of 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 corn on such land will 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 will 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 will 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.

Approved by the Board of Directors on August 16, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 31, 1984

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-29244 Filed 11-6-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Proposed Establishment of Inshell Trade Demand for the 1984-85 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking would invite comments on establishing an inshell trade demand for domestic filberts for the 1984-85 marketing year. This inshell trade demand would be used in implementing volume regulation percentage necessary to promote orderly marketing for filberts during that year. This proposal was unanimously recommended by the Filbert/Hazelnut Marketing Board. The Board works with the USDA in administering the filbert/hazelnut marketing order program.

DATE: Comments must be received by November 23, 1984.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Frank M. Grasberger has determined that an emergency situation exists which warrants publication of this proposal with less than a 30-day comment period because the proposed inshell trade demand will be used in connection with the computation of volume regulation percentages for the 1984–85 marketing year, which began July 1, 1984, and growers and handlers need to know promptly (a) whether volume regulation will be effective for the 1984–85 marketing year, and (b) the size of the inshell trade demand quantity for that year, so they can plan their operations accordingly.

This proposed rulemaking is pursuant to the marketing agreement and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 982.40(b) of the order provides that prior to August of a marketing year, the Board shall recommend establishment of an inshell trade demand for that year to the Secretary. If the Secretary finds on the basis of the Board's recommendation or other information that volume regulation for merchantable filberts for that marketing year would tend to effectuate the declared policy of the act, the Secretary is required to establish that inshell trade demand.

For the 1984–85 marketing year, the Board recommended an inshell trade demand of 5,400 tons pursuant to § 982.40(b). That trade demand is based on an average of domestic inshell shipments during the three years 1981–83 of 4,471 tons. The Board increased that quantity by 10 percent and added 500 tons for carryout on June 30, 1985.

The most recent estimate of the 1984 filbert crop in Oregon and Washington indicates that the crop may approximate 14,000 tons, far in excess of the Board's trade demand recommendation of 5,400 tons. Thus, volume regulation for the 1984–85 marketing year will be necessary and an inshell trade demand must be established for that season.

The inshell trade demand for the 1984–85 marketing year, will be used in the computation of a preliminary free percentage by Board management to release 70 percent of that inshell trade demand. After the 1984 field price has been negotiated between growers and handlers, a free percentage to release 80 percent of that inshell trade demand would be computed. On or before November 15, the Board will meet to recommend to the Secretary the final free and restricted percentages to release 100 percent, or up to 110 percent if market conditions justify, of the 1984–85 inshell trade demand.

The free percentage portion of the 1984 production would be available for use in all outlets, but primarily in the domestic inshell market. Inshell filberts withheld from handling (i.e., restricted filberts) may be shelled for domestic or foreign shipment, exported, or disposed of in outlets which are noncompetitive with normal outlets for inshell filberts.

List of Subjects in 7 CFR Part 982

Marketing agreement and order, Filberts, Hazelnuts, Oregon and Washington.

PART 982—[AMENDED]

Therefore, it is proposed that § 982.233 be removed and a new § 982.234 be added to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.234 Trade demand and free and restricted percentages—1984–85 marketing year.

(a) The trade demand for merchantable inshell filberts/hazelnuts for the 1984–85 marketing year shall be 5,400 tons.

(b) [Reserved].

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

Dated: November 2, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–29285 Filed 11–6–84; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84–055]

Bird Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning privately operated bird quarantine facilities to provide that approval of such a facility may be denied or withdrawn if a person who has an ownership, mortgage, or lease interest in the facility's physical plant is or has been convicted of certain specified crimes. This appears to be warranted to help ensure that persons could not exercise control over operations of the facility if they have been found to lack the integrity necessary to exercising such control.

DATE: Comments must be received on or before January 7, 1985.

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

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Richeson, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) contain, among other things, provisions concerning the importation of birds into the United States. The regulations are designed to protect the poultry industry of the United States from exotic Newcastle disease and other communicable diseases of poultry. Section 92.11(e) provides, with certain

exceptions, that each lot of pet birds, commercial birds, zoological birds, or research birds imported from any part of the world shall be entered at certain parts and quarantined at a United States Department of Agriculture quarantine facility or at a privately operated quarantine facility approved by the Deputy Administrator for Veterinary Services (VS).

The regulations in § 92.11(f) specify the conditions under which the approval of a privately operated bird quarantine facility may be denied or withdrawn. In this connection, § 92.11(f)(6) provides, among other things, that approval of a privately operated bird quarantine facility may be denied or withdrawn if the operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal or bird, or of any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of commercial birds, research birds, or zoological birds.

It is further provided in § 92.11(f)(6)(iii) that a person shall be deemed to be responsibly connected with the business of the quarantine facility if a partner, officer, director, holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

This document proposes to expand the list of persons deemed to be responsibly connected with the business of the quarantine facility to include any person who has an ownership, mortgage, or lease interest in the facility's physical plant.

It was intended that the list of persons deemed responsibly connected with the business of a quarantine facility include any person who would be in a position to exercise control over the operations of the quarantine facility since such person's integrity would be critical to the proper operations of the facility. Therefore, it appears to be necessary to include any person who has an ownership, mortgage, or lease interest in the facility's physical plant in the list of persons deemed to be responsibly connected with the business of the quarantine facility. It appears that it would be virtually impossible to ensure that such a person could not exercise some control over the operations of the facility.

Accordingly, if the proposal is adopted, the approval of a privately operated quarantine facility could be denied or withdrawn if a person who has an ownership, mortgage, or lease interest in the facility's physical plant is or has been convicted of any of the crimes specified above.

Executive Order 12291 and Regulatory Flexibility Act

This proposed action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this rule would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to complete with foreign-based enterprises in domestic or export markets.

No change in either the number of birds imported into the United States or in the number of persons importing birds is anticipated if this proposal becomes effective.

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

List of Subjects in 9 CFR Part 92

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

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

Therefore, it is proposed to revise 9 CFR 92.11(f)(6)(iii) to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(f) * * *

(6) * * *

(iii) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the quarantine facility if such person has an ownership, mortgage, or lease interest in the facility's physical plant, or if such person is a partner, officer, director, holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

* * * * *

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, 11; 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 2nd day of November, 1984.

D.F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-29287 Filed 11-6-84; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

[Docket No. PRM-71-6]

Critical Mass Energy Project, et al.; Denial of Petition for Rulemaking Concerning Emergency Planning and Response for Transportation Accidents Involving Radioactive Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of Petition for Rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM-71-6) from Richard P. Pollock of the Critical Mass Energy Project on behalf of the Critical Mass Energy Project, Congressman Theodore S. Weiss (NY) and Timothy E. Wirth (CO), and 11 citizen organizations on the basis that issues raised by the petitioners have been overtaken by subsequent actions. The petitioners requested that the NRC adopt regulations in four areas pertaining to the transportation of radioactive materials. The NRC has carefully considered the issues raised in the petition, as described herein; and has taken them into account in reaching a decision on the areas which fall within its jurisdiction.

ADDRESSES: Copies of the petition for rulemaking, the public comments thereon, and the NRC's letter of denial are available for public inspection and copying in the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Regulatory Analysis and Materials Risk Branch, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC. 20555; telephone: (301) 443-7902.

SUPPLEMENTARY INFORMATION:

The Petition

By letter dated October 31, 1977, Mr. Richard P. Pollock of the Critical Mass Energy Project, on behalf of the Critical Mass Energy Project; Congressman Theodore S. Weiss; Congressman Timothy E. Wirth; the California Citizen Action Group; Community Action Research Group of Ames, Iowa; Environmental Action of Colorado; Massachusetts Public Interest Research Group; Michigan Public Interest Research Group; National Intervenors, Inc.; New York Friends of the Earth; New York Public Interest Research Group; North Carolina Public Interest Research Group; Southwest Research and Information Center; and Vermont Public Interest Research Group, filed with the NRC a petition for rulemaking to amend NRC regulations.

The petitioners requested that the NRC adopt regulations that would, at a minimum, impose the following conditions on NRC licensees:

1. The use of special routes for the transportation of radio-active materials of all types to ensure that the shipments avoid densely populated areas and mountainous terrain.

2. The adoption of emergency plans for transportation accidents involving radioactive materials, including (a) the organization of emergency response units to carry out the plans and (b) semiannual drills with local and State law enforcement officials.

3. The assumption of financial responsibility for any shipping accident that involves the dispersal of radioactive materials.

4. The adoption of a plan for informing drivers of vehicles about the nature of the materials they are shipping and about emergency actions they should undertake in the event of an accident.

Basis for Requests

As a basis for the requested action, the petitioners stated that experts both inside and outside the Federal Government have concluded that there is a need for emergency response plans to protect the public in the event of an accident in transporting radioactive materials.

The petitioners also stated that although there has not yet been a transportation accident resulting in widespread injury to the public, the experience of the September 27, 1977, accident in southeastern Colorado shows that the present system is "wholly inadequate to deal with the risk to the public health from a transportation accident, and that regulations by the Commission are essential."

The petitioners further stated that the NRC requires nuclear power reactor licenses to adopt emergency response plans, but "there is no similar requirement for licensees of nuclear materials to be transported, even though a transportation accident would involve shippers [meaning carriers or transporters] and localities wholly unfamiliar with radioactive materials."

Public Comments on the Petition

A notice of filing of petition for rulemaking was published in the **Federal Register** on December 1, 1977 (42 FR 61089). Interested persons were invited to submit written comments or suggestions concerning the petition by January 30, 1978. The NRC received 40 comments in response to the notice: 35 from industry, industrial representative organizations, and industrial associations; three from individuals; and two from governmental agencies.

A majority of the commenters (34) opposed the petition. The main reasons cited by these commenters were:

1. The petitioners failed to provide sufficient safety, environmental, or legal justifications for implementing the actions proposed.

2. The implementation of the actions proposed would be extremely costly without corresponding public benefits.

3. Consideration should be given to transportation accidents for all hazardous materials, not just radioactive materials, and therefore, the Department of Transportation is the proper agency to address the overall transportation problem.

4. The current regulatory system is adequate to protect the public health and safety, and, therefore, it is unnecessary to implement the actions proposed.

Of the remaining six commenters, four suggested that the proposed actions exempt shipments containing small amounts of radioactive materials for medical, research, or industrial uses. The fifth commenter stated that the proposed actions should apply to all hazardous materials. The sixth commenter disagreed with parts of the petition but suggested that action on the petition be deferrred until NUREG/CR–0743 (Transportation of Radionuclides in Urban Environs: Draft Environmental Assessment) had been completed and issued for comment. The report was published in July 1980.

Staff Actions on the Petition

The response to the petition for rulemaking was delayed because of the following related actions: (1) after a truck accident in 1977 which resulted in a spill of yellowcake (uranium concentrate), the Department of Transportation (DOT) and the NRC conducted a special study on packaging integrity and emergency response to transportation accidents. Because the study included all four issues raised in the petition, the response to the petition was delayed pending the completion of the study. The study report was published in 1980; and (2) the DOT initiated a rulemaking proceeding on highway routing of radioactive materials in 1978. The NRC forwarded a copy of the petition and the public comments thereon to DOT for its consideration because one issue raised in the petition addressed highway routing of radioactive materials. DOT published its final rule in 1981, but this rule was challenged by the City and State of New York in Federal court. In February 1984, the rule was declared valid as originally promulgated. Each action is discusssed below:

1. In June 1978, the NRC notified the petitioners that action on the petition would be delayed pending completion of a related NRC/DOT study on packaging requirements for yellowcake (uranium concentrate) shipments and on emergency response to transportation accidents.

This study was begun after a truck accident on September 27, 1977, near Springfield, Colorado, resulted in a spill of a large amount of yellowcake onto a highway. Members of the U.S. Congress representing the State of Colorado and other officials of that State expressed concern about the integrity of packages containing yellowcake and the emergency response to transportation accidents involving radioactive materials. Representatives of NRC and DOT met with Congressman Timothy E. Wirth at his request. As a result of the discussions, the two agencies agreed to conduct a special joint study on package integrity and emergency response to transportation accidents. The study considered, among other things, all four areas addressed by the petitioners.

The study group published a draft report for comment in April 1979. The comments received on this draft were incorporated in the final study group report, "Review and Assessment of Package Requirements (Yellowcake) and Emergency Response to Transportation Accidents" (NUREG–0535), which was published in July 1980.

2. In April 1979, the NRC notified the petitioners that a copy of the petition and the 40 public comments received had been transmitted to the Materials Transportation Bureau (MTB) of the Department of Transportation (DOT). Since the first part of the petition

concerned the use of special routes for highway transportation of radioactive materials, the NRC believed that the petition and the comments thereon should be considered by MTB in its rulemaking proceeding on highway routing of radioactive materials.

The MTB published an Advance Notice of Proposed Rulemaking on highway routing of radioactive materials on August 17, 1978 (43 FR 36492). The notice stated that the MTB was considering promulgating routing requirements, under the authority of the Hazardous Materials Transportation Act, for highway carriers of radioactive materials. The MTB invited public comments on what Federal action would be justified. The large number of comments were reflected in the Notice of Proposed Rulemaking, published January 31, 1980, in the **Federal Register** (45 FR 7140). Public meetings on this proposed rule were held in several major cities. The final rule was published on January 19, 1981 (46 FR 5298), and was to become effective on February 1, 1982. (As a result of the litigation discussed below, the U.S. District Court stayed the effective date of the DOT rule until February 19, 1982.)

The final rule was challenged by the City of New York and the State of New York. On May 6, 1982, the District Court for the Southern District of New York declared invalid, in part, the highway routing regulations promulgated by the DOT. The DOT appealed the decision to the United States Court of Appeals for the Second Circuit. On August 10, 1983, the Circuit Court reversed and remanded the matter to the District Court for entry of a judgment upholding the DOT regulations. The City of New York and the State of New York then petitioned the United States Supreme Court for review of the Circuit Court's decision. On February 27, 1984, the Supreme Court denied the petition and refused to review the Circuit Court's decision. The result of the Supreme Court's action was to give validity to the DOT highway routing regulations as promulgated.

Reasons for Denial

The petitioners' concerns basically relate to that portion of transportation when radioactive materials are in the care of the carriers. The Congress has authorized both the NRC and the DOT to regulate the transportation of radioactive materials. These two agencies have agreed, by Memorandum of Understanding (executed June 8, 1979), to partition their regulatory responsibilities. Generally, the DOT is responsible for regulating safety in transportation of all hazardous materials, including radioactive materials, and the NRC is responsible for review and approval of package designs for fissile materials and for other radioactive materials in quantities exceeding type A limits, as defined in 10 CFR Part 71.

The NRC has considered the petition, the public comments thereon, the conclusions reached by the NRC/DOT study group, the DOT's rules on highway routing and financial responsibility, and other related information and has concluded that the issues raised in the petition have been substantively resolved by subsequent Federal action. The following discussion addresses each part of the petition.

Part 1: The use of special routes for the transportation of radioactive materials of all types to ensure that the shipments avoid densely populated areas and mountainous terrain.

This issue has been considered in a rulemaking proceeding by the Department of Transportation, which is the Federal agency with jurisdiction in this matter. The Materials Transportation Bureau of the Department of Transportation has conducted a rulemaking proceeding on highway routing of radioactive material shipments. As stated above, NRC provided MTB a copy of the petition and public comments received thereon for consideration in the rulemaking proceeding. The final rule was published on January 19, 1981, and became effective on February 19, 1982. The final rule was challenged by the City of New York and the State of New York and was upheld by the Second Circuit Court of Appeals. On February 27, 1984, the U.S. Supreme Court refused to review the Circuit Court's decision. The result of the Supreme Court's action was to give validity to the DOT highway routing regulations as promulgated.

The DOT rule requires carriers to use an interstate highway or an alternate "preferred route" that minimizes radiological risk. The DOT rule was based in part on NRC advice and studies concerning transportation risks and was subject both to considerable public review and deliberation and to judicial scrutiny. The NRC does not believe it is necessary to require further restrictions beyond the DOT rule.

Part 2: The adoption of emergency plans for transportation accidents involving radioactive materials, including (a) the organization of emergency response units to carry out the plan and (b) semiannual drills with local and State law enforcement officials.

The NRC considers the public health and safety to be adequately protected by current requirements for emergency response. Several organziations are involved in emergency response to transportation accidents: State and local personnel such as fire and police are responsible for emergency actions immediately following an accident; shippers are responsible for providing shipment hazard information; carriers are responsible for isolating and cleaning up the spilled radioactive materials; and certain Federal agencies are responsible for providing assistance to State and local governments. At the Federal level, the Federal Emergency Management Agency (FEMA) coordinates such Federal assistance; the DOT and NRC provide assistance to FEMA; and the DOE maintains radiological assistance teams that respond to radiological emergencies when requested. It is not practicable nor necessary to require shippers to duplicate the existing immediate emergency response capabilities to respond to the scene of a transportation accident.

The NRC/DOT study group considered the question of carrier's and shipper's emergency plans for transportation accidents. The study group found that, in general, the carrier (transporter) is responsible for proper care of cargo in transit. In an accident, the carrier is responsible for notifying the shippers and government authorities, isolating any spilled material from the public, and cleaning up any spilled material.

Since, in many cases, the carrier will have neither the technical expertise nor the experience and equipment to handle radioactive materials, the carrier may find it necessary to make arrangements with others to accomplish these duties. The carrier could make contractual arrangements with the shipper or any other organization that is capable of handling cleanup activities. However, the basic burden of ensuring that these provisions are made remains with the carrier.

Under existing DOT regulations (49 CFR 177.861), the highway carrier is responsible for promptly notifying the shipper (licensee) and the Federal Government of accidents; for isolating spilled radioactive material; and for ensuring that vehicles, buildings, areas, or equipment in which radioactive material has been spilled are not used until the radiation dose rate of any accessible surface is less than 0.5 millirem per hour and there is no significant removable radioactive contamination on the surfaces.

The shipper, on the other hand, is required by DOT regulations to comply with all applicable provisions concerning packaging, labeling, marking, and otherwise preparing the goods for transportation. For hazardous materials, the shipper is required to certify on the shipping papers that the goods are properly classified, described, packaged, marked, and labeled, and are in proper condition for transport (49 CFR 172.204). The shipper has no specific responsibilities for sending expert personnel to the accident scene but should be prepared to provide expert advice on the hazards of the shipment and any necessary precautions. However, since the shipper could be involved in a liability suit later, it may offer assistance in confining and cleaning up spills from any accident involving its shipment.

Concerning the request for semiannual drills with local and State law enforcement officials, it is impractical and probably not costeffective to require each shipper or carrier to conduct semiannual drills with local and State personnel in localities through which the shipment might travel. However, the training of local and State first-on-the-scene responders (such as law enforcement, fire fighting, and rescue personnel) on handling transportation emergencies involving radioactive materials is important. The Department of Transportation, with assistance from other Federal agencies, including the NRC, continues to develop and undate guidance and training materials for such first-on-the-scene responders. For these reasons, the NRC will not adopt the petitioners' suggestion concerning semiannual drills with local and State law enforcement officials.

Part 3: The assumption by licensees of financial responsibility for any shipping accident that involves the dispersal of radioactive materials.

The NRC believes that the liability for damages should be determined by the courts considering both the applicable State tort law and the particular circumstances associated with the accident.

If the origin or destination of the radioactive material being transported were a facility (for example, a nuclear power plant) for which the NRC required the licensee to have and maintain financial protection, the provisions of the Price-Anderson Act (Section 170 of the Atomic Energy Act of 1954, as amended) would ensure a source of funds up to $585 million for personal injury or property damage resulting from the transportation accident. The Price-Anderson Act does not preempt applicable State tort law, but in the event of an "extraordinary nuclear occurance" a facility licensee may be required to waive certain defenses that would otherwise be available.

Section 30 of the "Motor Carrier Act of 1980" (Pub. L. 96-296, as amended by section 406 of Pub. L. 97-424) requires the Secretary of Transportation, among other things, to establish regulations on minimum levels of financial responsibility for the transportation of hazardous materials by motor vehicles. The rule implementing this provision on minimum financial responsibility was published by DOT on June 11, 1981 (46 FR 30974) and subsequently amended on February 7, 1983 (48 FR 5560), on June 28, 1983 (48 FR 29699), and on July 2, 1984 (49 FR 27288). For radioactive materials, the minimum levels of financial responsibility are $1 million ($5 million effective January 1, 1985) for any vehicle transporting large quantities of radioactive materials and $500,000 ($1 million effective January 1, 1985) for transporting radioactive materials in other than large quantities.

Aside from the question of ultimate financial responsibility, the carrier should be prepared to assume the initial costs required to discharge its responsibilities in performing emergency response actions such as confining or cleaning up the spills. In terms of cost for emergency or protective actions that may be taken by the State or local governmental agencies, these agencies can reasonably be expected to be prepared to assume initial costs incurred as in other emergency situations such as fires and floods.

Part 4: A plan for informing the drivers of the vehicles about the nature of the material they are shipping and emergency actions they should undertake in the event of an accident.

The NRC considers existing DOT regulations for driver information to be adequate. Present DOT regulations require that a shipment of radioactive materials be accompanied by a description of each radionuclide contained in the shipment including: the name and radioactivity of each radionuclide, the physical and chemical forms, and other information regarding labels, external radiation levels, and fissile class (49 CFR 172.203). These requirements involve a system of labels for packages, placards for vehicles, shipping paper descriptions, and other package markings.

In the final rule on highway routing of radioactive materials published by DOT in January 1981 (46 FR 5298), specific training requirements are mandated for persons transporting large quantities of radioactive materials. The training includes, among other things, a requirement that the driver receive training on properties and hazards of the radioactive material transported and procedures to be followed in case of accidents or other emergencies.

In view of the DOT requirements, there does not appear to be a need for NRC to require shippers to provide and carriers to maintain additional detailed emergency procedures for the driver to undertake in case of accident.

Since each of the issues raised in the petition has been substantively resolved, the NRC has denied this petition.

Dated at Washington, DC this 2nd day of November, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-29360 Filed 11-6-84; 8:45 am]

BILLING CODE 7590-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL-2712-1]

Alternate Emission Reduction Plan for American Can Company, New Orleans Plant, New Orleans, LA

AGENCY: Environmental Protection Agency ((EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing approval of the American Can Company New Orleans Plant Alternative Emission Reduction Plan ("Bubble") as a revision to the Louisiana State Implementation Plan (SIP). The Bubble uses a low-volatile organic compound (VOC) content coating material on two base coat lines and one side-seam spray line to balance the use of a high-VOC coating material on six (6) side-seam spray lines. One base coating line and two side-seam lines are being shut down until a suitable compliance coating can be developed for them. This trade is consistent with the demonstration of attainment for Orleans Parish and with EPA's proposed Emissions Trading Policy Statement of April 7, 1982 [47 FR 15076].

DATE: Comments must be received by December 7, 1984.

ADDRESSES: Copies of the State's submittals are available for review during normal business hours at the following locations:

Air Quality Division, Louisiana Department of Environmental Quality, Land and Natural Resources Bldg., 625 N. 4th St., P.O. Box 44066, Baton Rouge, Louisiana 70804

Environmental Protection Agency, Region 6, Air Branch, 1201 Elm St., Dallas, Texas 75270

FOR FURTHER INFORMATION CONTACT: Timothy A. Glasco, State Implementation Plans Section, Air Branch, Air & Waste Management Division, EPA Region 6, 1201 Elm St., Dallas, Texas 75270, (214) 767–1518.

SUPPLEMENTARY INFORMATION: On October 31, 1983, the Governor of Louisiana submitted a request to revise the Louisiana SIP to include an Alternative Emission Reduction Plan for the American Can Company New Orleans Plant. The submittal contained certification that adequate notice and a public hearing were provided for the proposed alternative controls. EPA is proposing to approve the revision and invites comments from all interested persons. Comments received within 30 days of the publication of this notice will be considered by EPA.

Background

At the New Orleans Plant, American Can has so far been unable to develop a side-seam coating suitable for their needs which will meet the limit of 5.5 lbs. of VOC per gallon of coating (minus water) in Louisiana Air Quality Control Reg. 22.9.2(b). They have, however, developed coatings for two of their body spray lines and one of the side-seam lines which are better than that required by Louisiana regulations. The company has shut down one body spray and two side-seam spray lines which formerly utilized non-compliance coatings and proposes to average emissions over the remaining operating lines. The shutdown lines may only be restarted using compliance coatings and will be subject to an emissions cap based upon their former production level. The remaining lines being averaged in this bubble consist of two body spray lines which emit 11.42 tons per year (TPY) less than allowable emissions and six side-seam spray lines which emit 5.53 TPY more than allowable emissions. Averaging across the lines will produce a net air quality benefit for the trade of 5.89 TPY.

Review

The Bubble was reviewed against the proposed Emissions Trading Policy Statement published in the **Federal Register** on April 7, 1982 [47 FR 15076]. EPA has reviewed the State submittal and developed an Evaluation Report.[1] This report is available for inspection by interested parties during normal business hours at the EPA Region 6 office. Briefly, the review is summarized below.

To be valid as an Emission Reduction Credit (ERC), the reduction must be surplus, enforceable, permanent, and quantifiable. First, the reductions are surplus because the baseline for determining credit Reasonably Available Control Technology (RACT) consistent with the State's EPA-approved regulations.

Second, the limits in the trade are enforceable through Louisiana Air Quality Division Permit No. 1841 T, M–1. At this time, the permit is still in draft at the State. The State will issue the permit to American Can Company and submit it to EPA prior to finalization of this bubble. EPA is proposing approval on this basis and will take final action after the permit is issued and submitted.

Third, the emission for each line is specified in the permit and as such, is permanent. Any change in production which exceeds those limits would necessitate another revision to the SIP to preserve or alter this bubble.

Fourth, the company has submitted documentation quantifying the emissions claimed in the bubble. The method for determining allowable emissions conforms to EPA's Set II Control Technique Guidelines for surface coating for miscellaneous metal parts and products.

The proposed bubble also meets the further criteria given in the Emissions Trading Technical Issues Document published in the April 7, 1982 **Federal Register** [47 FR 15076] and which are as follows:

1. Emissions trades must involve the same pollutant Volatile Organic Compound (VOC) emissions increases are being traded for even greater decreases in VOC emissions from the shutdown of another part of the same facility.

2. All uses of Emission Reduction Credits must satisfy ambient tests. Pound for pound VOC trades such as this one are considered to have no net adverse impact on the environment.

3. Nonattainment area trades may not increase net baseline emissions. This trade is consistent with the RACT baseline in the 1979 demonstration of attainment approved by EPA for Orleans Parish on February 14, 1980 [45 FR 9903].

4. Emissions trades should not increase hazardous pollutants. None of the emissions involved in this trade are covered under Section 112 of the Clean Air Act (NESHAPS).

5. Emissions trades cannot be used to meet technology based requirements.

The American Can Company facility is an existing source so NSPS, BACT and LAER do not apply.

The American Can Bubble meets all of the criteria for an acceptable bubble as outlined in the April 7, 1982 **Federal Register** policy statement, therefore EPA is proposing to approve this plan.

Interested persons are invited to submit comments on this proposed approval. EPA will consider all comments received within thirty days of the publication of this notice.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities since it proposes no new requirements. (See 46 FR 8709.)

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

This notice of approval is issued under the authority of section 110 of the Clean Air Act, as amended, 40 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: July 5, 1984.

Dick Whittington,
Regional Administrator.

[FR Doc. 84–29243 Filed 11–6–84; 8:45 am]
BILLING CODE 6560–50–M

[1] EPA review of the American Can Bubble in September 1984.

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40 CFR Part 271

[A–6–FRL–2713–3]

Louisiana; Final Authorization of State Hazardous Waste Management Program

AGENCY: EPA.

ACTION: Notice of Tentative Determination on Application of State of Louisiana for Final Authorization, Public Hearing and Public Comment Period.

SUMMARY: The State of Louisiana has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the State's application and has made the tentative determination that the State of Louisiana's hazardous

waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to grant Final Authorization to the State to operate its program in lieu of the federal program in the State. The State of Louisiana's application for Final Authorization is available for public review and comment, and a public hearing will be held to solicit comments on the State's program submittal and EPA's tentative decision.

DATES: A public hearing is scheduled for December 6, 1984, at 7:00 p.m. The State of Louisiana will participate in the public hearing held by EPA on this subject. All comments on the State's application and EPA's tentative determination must be received by the close of the public hearing on December 6, 1984.

ADDRESSES: Copies of Louisiana's Final Authorization application are available during business hours at the following addresses for inspection and copying: Louisiana Departent of Environmental Quality, State Land and Natural Resources Building, Room 600, 625 North Fourth Street, Baton Rouge, Louisiana, 70802; U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, D.C. 20460, Phone: (202) 382-5926; U.S. EPA Region VI Library, 1201 Elm St., Dallas, Texas 75270, Phone: (214) 767-7341. Written comments should be sent to H.J. Parr, Hazardous Materials Branch, Environmental Protection Agency, 1201 Elm St., Dallas, Texas 75270, phone (214) 767-2645. EPA will hold the public hearing on December 6, 1984, at the State Land and Natural Resources Building, Mineral Board Hearing Room, 625 North Fourth Street, Baton Rouge, Louisiana, 70802, at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: H.J. Parr, Hazardous Materials Branch, U.S. EPA, 1201 Elm St., Dallas, Texas 75270, Phone: (214) 767-2645.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Two types of authorization may be granted. The first type, known as "interim authorization," is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (Section 3006(c), 42 U.S.C. 6226(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to Interim Authorization: Phase I, covering the EPA regulations in 40 CFR Part 260-263 and 265 (universe of hazardous wastes, generator standards, transporter standards and standards for interim facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II, Component A, covers general permitting procedures and technical standards for storage of hazardous waste in containers and tanks. Phase II, Component B, covers incinerator facilities, and Phase II, Component C, addresses facilities that dispose of hazardous waste in landfills, land treatment facilities, surface impoundments and waste piles. By statute, all Interim Authorizations expire on January 26, 1985. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received final authorization, as described below.

The second type of authorization is a "final" (permanent) authorization that is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal program, (2) is consistent with the Federal program and programs in other States, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6226(b)). States need not have obtained Interim Authorization in order to quality for Final Authorization. EPA regulations for Final Authorization appear at 40 CFR 271.1-271.23.

B. State of Louisiana

Louisiana's Phase I Interim Authorization was effective on December 19, 1980. Louisiana received Phase II, Components A, B and C Interim Authorization on January 24, 1984. On August 27, 1984, Louisiana submitted a complete application for Final Authorization. Prior to its submission, Louisiana solicited public comment and held a public hearing on its draft application.

EPA has reviewed Louisiana's application and has tentatively determined that the State's program meets all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization to Louisiana. In accordance with Section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on the tentative decision on December 6, 1984, at 7:00 p.m. at the State Land and Natural Resources Building, Mineral Board Hearing Room, 625 North Fourth Street, Baton Rouge, Louisiana 70802.

The public may also submit written comments on EPA's tentative determination and the State's submittal up until the close of the public hearing on December 6, 1984. Copies of Louisiana's application are available for inspection and copying at the locations indicated in the **"ADDRESS"** section of this notice.

EPA will consider all public comments on its tentative determination. Issues raised by those comments may be the basis for a decision to deny Final Authorization to Louisiana. EPA expects to make a final decision on whether or not to approve Louisiana's program by February 5, 1985 and will give notice notice of it in the **Federal Register**. The Notice will include a summary of the reasons for the final determination and a response to all major comments.

The State of Louisiana has not asserted authority to operate its program in lieu of the federal program on Indian Lands in Louisiana. Thus EPA will operate the federal program on Indian Lands after Final Authorization.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: October 11, 1984.

Myron Knudson,

Acting Regional Administrator.

[FR Doc. 84-29382 Filed 11-6-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Five Florida Pine Rockland Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes endangered status for four plants: *Euphorbia deltoidea* ssp. *deltoidea* (spurge), *Galactia smallii* (Small's milkpea), *Polygala smallii* (tiny polygala), and *Amorpha crenulata* (crenulate lead-plant). The Service proposes threatened status for one plant species, *Euphorbia garberi* (Garber's spurge). The four species recommended for endangered status are restricted to pine rockland habitat in Dade and Monroe Counties, Florida. They are

endangered by the continuing destruction of pine rockland habitat for residential and commercial purposes. South Florida pine rocklands, a unique habitat type, are now mainly restricted to small fragmented stands. Pine rockland plants also depend on periodic fire to maintain the habitat and prevent succession to hardwoods.

Euphorbia garberi, proposed as threatened, formerly occurred widely in Dade and Monroe Counties, Florida. Its range has been reduced by commercial and residential development in these counties. This species is now restricted to five known sites, four in Everglades National Park and one in the Florida Keys. Critical habitat is not being proposed for any of these species. A final determination that these are endangered and threatened species would provide them the protection of the Endangered Species Act, as amended.

DATES: Comments from all interested parties must be received by January 7, 1985). Public hearing requests must be received by December 24, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for public inspection, by appointment, during normal business hours (7 am–4:30 pm) at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address (904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Euphorbia deltoidea was originally described by Engelman, and published in Chapman (1883). Small (1903) transferred the species to the genus *Chamaesyce*. For the sake of consistency with the Service's previous treatment of the segregate genus *Chamaesyce*, the species proposed in this rule are referred to the genus *Euphorbia*. This agrees with the nomenclature used in the Service's December 15, 1980, plant notice of review (45 FR 82480)]. Small (1913, 1927) later described *Chamaesyce serpyllum* and *C. adherens* as species distinct from *C. Deltoidea*. Burch (1966) considered *E. deltoidea* to have two subspecies, *deltoidea* and *Serpyllum*, the former including the varieties *deltoidea* and *adhaerens*. Herndon, (1984a), however, believes that *deltoidea, adhaerens*, and *serpyllum* should be considered distinct species. This proposed rule applies to the taxa *deltoidea* and *adhaerens*, which are restricted to Dade County, Florida. *Euphorbia deltoidea* subspecies is restricted to Big Pine Key, Monroe County, Florida, and is also a candidate for Federal listing. There is no known overlap in range between these three taxa. *Euphorbia deltoidea* ssp. *deltoidea* occurs in the Coral Gables—South Miami—Perrine area, while variety *adhaerens* occurs in the Homestead—Goulds area. These two varieties are both covered by the listing of the subspecies *Euphorbia deltoidea* ssp. *deltoidea*.

Euphorbia deltoidea is a herbaceous, prostrate to barely ascending plant forming small mats to a few decimeters in diameter. The thin, wiry stems extend from a central woody tap root. Leaves are deltoid to ovate in shape, opposite, and up to 5 millimeters long. The flowers are unisexual; male and female flowers are arranged in a cuplike structure (cyathium). The 3-seeded fruits are 1–2 millimeters wide; seeds measure about 1 millimeter. The density and distribution of hairs on the stems, leaves, and capsules distinguish varieties *deltoidea* and *adhaerens*. Var. *deltoidea* is essentially hairless; *adhaerens* is fairly hairy.

Galactia smallii was first described as *Galactia prostrata* by Small (1933). Herndon (1981) published H.J. Rodger's finding that this specific name was preoccupied by an another species of *Galactia*. He also published Hollis' suggestion of the new specific name *smallii*, and clarified the characters separating this species from the related *Galactia pinetorium*. *Galactia smallii* is a small vine with compound leaves, usually with 3 elliptic leaflets 1.5–3 centimeters long. The pinkish flowers have a calyx 8–9 millimeters long and a standard petal 15–17 millimeters long. This species is currently known from only two sites near Homestead.

Polygala smallii was originally described by Small (1905) as *Polygala arenicola*. Smith and Ward (1976), realizing that the specific name *arenicola* was preoccupied in the genus *Polygala*, proposed a new name, *Polygala smallii*. The plant was originally known from pine rocklands in Broward and Dade Counties, Florida, but attempts to locate this species in 1979 (Austin *et al.*, 1980b) found all historic sites to have been extirpated. The species is now known only from two sites in Dade County. *Polygala smallii* is an erect biennial herb with short, branched or unbranched stems. Leaves are 12–50 millimeters long, crowded, oblanceolate to linear lanceolate, and often form a basal rosette. The small yellow-green flowers are clustered at the end of stems. The oblong seeds are 1.9–2.3 millimeters long.

Amorpha crenulata was described by Rydberg (1919) based on material from near Coconut Grove, Dade County, Florida. Wilbur (1975) confirmed the status of this species. The plant is presently restricted to two sites in the South Miami area (Herndon, 1984). *Amorpha crenulata* is a shrub to 1.5 meters in height. The compound leaves bear 25–33 leaflets. The flowers bear a single petal (the standard) 6 millimeters long and are arranged in loosely clustered racemes 9–20 centimeters long. The seed pod is 6–7 millimeters long and is conspiculously glandular.

Pine rockland plants formerly were more widely distributed along the south Florida limestone ridge, an area about 65 miles long, extending more or less continuously from southeastern Broward County to Long Pine Key in Everglades National Park. The ridge reaches 3–5 meters in elevation and provides a markedly different habitat for plants and animals than the marshes and wet prairies that dominate the surrounding areas. The substrate consists of porous limestone known as Miami oolite. Soils are poorly developed, consisting mainly of a thin layer of sand. Erosion of the limestone results in frequent solution holes and jagged surface features. Many plants are rooted in crevices in the limestone. The predominant canopy vegetation on the ridge is southern slash pine (*Pinus elliotii* var. *densa*). An understory of saw palmetto (*Serenoa repens*), silver palm (*Cocthrinax argentata*), poisonwood (*Metopium toxiferum*), rough velvetseed (*Guettarda elliptica*), and wax myrtle (*Myrica cerifera*) is typical. A large number of endemic pine rockland plants is present in the understory. Lack of fire results in succession to tropical hardwood hammock vegetation, characterized by oaks (*Quercus virginiana*, gumbo-limbo (*Bursera simaruba*), strangler fig (*Ficus aurea*), poisonwood (*Metopium toxiferum*), wild tamarind (*Lysiloma latisiliqua*), and other species.

Burning at 3 to 10-year intervals may be necessary to maintain the pine rockland community; without fire the community may develop into rockland hammock in about 25 years (Duever, 1984).

The pine rocklands have been extensively developed for residential, commercial, and agricultural purposes. Shaw (1975) estimated that the historic area of pinelands and hammocks in Dade County, exclusive of Everglades National Park, was about 152 thousand acres. In 1975, these forests were

estimated to have been reduced to 8,149 acres; 7,370 acres were pinelands. Only 5,268 acres of pinelands were of sufficient size to be considered viable. In 1978, these 5,268 acres of viable pinelands had decreased to 4,558 acres (Anonymous, 1978). Only 1,710 acres of pinelands remained in good condition; the remainder suffered from lack of burning and/or invasion of exotic plants. The Dade County Department of Resource Management is currently updating the forest survey, since the pinelands have continued to decline rapidly since 1978. Summaries of the unique botanical features of the Miami rock ridge pineland and the threats facing the remnants of this habitat type were recently provided by Herndon (1984c) and Duever (1984). One plant species, *Linum carteri* var. *carteri* (Carter's flax), is endemic to Dade County pinelands and may now be extinct (Austin *et al.*, 1980a). *Linum carteri* var. *carteri* is a candidate species for listing but could not be located in a 1980 search.

Euphoria garberi was originally described by Engelmann in 1883. Small (1903) transferred the species to the genus *Chamaesyce*. *Euphorbia garberi* is a prostrate herb with hairy stems, ovate leaves 4–9 millimeters long, and inconspicuous flowers. The species formerly occurred in Dade and Monroe Counties, Florida, from the Miami area to the Lower Florida Keys. An April, 1981, status survey (Austin *et al.*, 1980a) was unable to locate this species over much of the historic range. The only known remaining populations occur at four sites in Everglades National Park, Dade County, Florida, and one site on Big Pine Key, Monroe County, Florida. *Euphorbia garberi* occurs in transitional areas between hammocks and rock pinelands, and on beach ridges in saline coastal areas. This species occurs in open areas on dry, sandy soils. *Euphorbia garberi* has been extirpated from the Miami area and from most of the Florida Keys in Monroe County where it was formerly found.

Federal Government actions on these 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 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. In this report *Euphorbia deltoidea* ssp. *deltoidea* was listed as threatened, and *E. garberi* was listed as endangered. On July 1, 1975 (40 FR 27823), the Service published a notice in the Federal Register of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and of its intention thereby to review the status of the plant taxa named within. The above two taxa were included in the notice. On June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, Federal Register publication. *Euphorbia garberi* was included in the proposed rule. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, Federal Register publication, which also determined 13 plant species to be endangered or threatened (43 FR 17909). On December 10, 1979, the Service published a notice of withdrawal of the June 16, 1976, proposal along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980, the Service published a revised notice of review for native plants in the Federal Register (45 FR 82479); *Euphorbia deltoidea, Polygala smallii,* and *Euphorbia garberi* were included as category-1 species (species for which data in the Service's possession indicate listing is warranted).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Euphorbia deltoidea* ssp. *deltoidea* and *E. garberi* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of these two taxa was warranted, and that although other pending proposals had precluded their proposal, expeditious progress was being made to add species to the list. Notice of this finding was published in the Federal Register on January 20, 1984 (49 FR 2485). Publication of this proposal constitutes the next 1-year finding requirement for these species, which must be made by October 13, 1985.

On March 22, 1984, the Service received a petition from Mr. Alan Herndon of the Department of Biology, Florida International University, Miami, Florida, to list *Amorpha crenulata* and *Galactia smallii* pursuant to the Endangered Species Act. On June 4, 1984, an administrative decision was made that the petition presented substantial information indicating that petition action might be warranted. Notice to this effect was published in the Federal Register on July 13, 1984 (49 FR 28583). By publishing this proposed rule, the Service finds that the petitioned action is warranted in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et. seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) set forth the procedures for adding species to the Federal list. 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 *Euphorbia deltoidea* Engelm. ex Chapman ssp. *deltoidea* Burch (spurge), *Galactia smallii* H.J. Rogers ex Herndon (synonym: *G. prostrata* Small) (Small's milkpea), *Polygala smallii* Smith and Ward (synonym: *P. arenicola* Small) (tiny polygala), *Amorpha crenulata* Rydberg (crenulate lead-plant), and *Euphorbia* (*Chamaesyce*) *garberi* Englm. ex Chapm. (Garber's spurge) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Euphoria deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata* are restricted to pinelands of the Miami rock ridge in Dade County, Florida. Conversion of pine rocklands for commercial and residential purposes began early in the twentieth century and accelerated after 1930. It has been estimated that 90 percent of Dade County's pine rocklands (exclusive of the pine rocklands within Everglades National Park, where these species do not occur) present in 1940 had been destroyed by 1972 (Robertson and Kushlan, 1974). The pinelands outside of Everglades National Park have been even further reduced since that time, and are now restricted to small isolated stands. Herndon (1984) estimated that 98 percent of the Dade County pinelands outside of Everglades National Park had been destroyed by 1984. The largest of these remnants are in county ownership; a few significant parcels are in private or Federal ownership. These plant

species were probably originally fairly widely distributed throughout the pinelands, but apparently did not occur west of the Homestead area. The species occurring in Dade County parks (*Euphorbia deltoidea* ssp. *deltoidea* and *Amorpha crenulata*) are vulnerable to ongoing and potential future development for recreational purposes and the establishment of service roads, parking, and picnic areas.

Euphorbia deltoidea ssp. *deltoidea* var. *deltoidea* formerly occurred throughout the pinelands from Miami southwest to Cutler Ridge. It is now restricted to eight known sites in the vicinity of Cutler Ridge and Perrine. *Euphorbia deltoidea* ssp. *deltoidea* var. *adhaerens* formerly occurred at several sites in the Homestead-Goulds area; this species is now restricted to two sites near Homestead (Austin *et al.*, 1980a).

The former range of *Galactia smallii* is poorly known, but this species is presently restricted to two known sites near Homestead.

Polygala smallii formerly ranged from southeastern Broward County (near Fort Lauderdale) to the Cutler area in Dade County. This species is now restricted to two sites in the Cutler area. (Austin *et al.*, 1980b).

Amorpha crenulata formerly occurred throughout pinelands in the Miami—Coral Gables area; it is now known only from two highly restricted sites within the Miami City limits (Herndon, 1984).

Habitat destruction or modification threatening *Euphorbia garberi* includes residential and commercial development, lack of fire, resulting in increased competition and shading out by other plant species, and natural risk from destruction by storms or hurricanes. *Euphorbia garberi* was formerly found from the Miami area southwest to Everglades National Park (ENP) and the Lower Florida Keys. Currently, the species is known from only four sites in ENP and one site on Big Pine Key, Monroe County. The species has apparently been extirpated from eight of the Florida Keys where it formerly occurred (Austin, *et al.* 1980a). It has not been located in the Miami area since 1949. Three of the ENP populations are located in coastal areas where storm overwash could eliminate them. Another population is in a pineland area where periodic burning may be required to prevent overshading by shrubs. The Big Pine Key site is vulnerable to overshading and storm damage.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata* are so limited in distribution and population size that indiscriminate scientific or other collecting could adversely affect these species if it were to occur. This is not known to occur at this time, but caution will be necessary to ensure that increased publicity does not spark such collecting.

C. *Disease or predation.* Not applicable to these species.

D. *The inadequacy of existing regulatory mechanisms. Polygala smallii* is considered endangered by the Florida Committee on Rare and Endangered Plants and Animals, but this recognition provides no protection to the plant or its habitat. *Euphorbia deltoidea* ssp. *deltoidea* and *Amorpha crenulata* occur in Dade County parks, but are not accorded any specific protection in park planning or development. *Euphorbia garberi* is provided some protection by its inclusion in ENP, but is unprotected outside the Park. National Park Service regulations prohibit the removal of plants from parks; these regulations will be further strengthened by prohibitions of the Act which restrict the removal and reduction to possession of endangered plants from lands under Federal jurisdiction (proposed to be implemented for threatened plants at 48 FR 31417, July 8, 1983).

Dade County sponsors an Environmentally Endangered Lands (EEL) program which provides property tax benefits to landowners who agree to maintain healthy forestlands. The program includes prescribed burning for pinelands. Over 20 tracts of land supporting pinelands are now included in the EEL program, but these lands do not include any of the currently known sites for the species in this proposed regulation.

E. *Other natural or manmade factors affecting its continued existence.* Pine rockland habitat in Dade County succeeds to hardwood hammock in the absence of periodic burning. Pine rockland plants are gradually shaded out as succession takes place. As Dade County becomes increasingly developed and pinelands smaller and more fragmented, fire suppression is more apt to occur. Invasion of exotic plants is also affecting the pinelands. Two species currently invading this habitat are *Schinus terebinthifolia* (Brazilian pepper) and a large reed (*Neyraudia* sp.). Other exotic plants, which are extremely widespread in south Florida, may also invade pine rocklands in the future. The orchid tree (*Bauhinia variegata*) is currently present in some pinelands. Most of the remaining pinelands are surrounded with suburban landscaping dominated by exotic plants. Fire suppression and exotic plant competition affect *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata.*

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata* as endangered species and to list *Euphorbia garberi* as a threatened species. The former four species have already been extirpated over most of their historic range and could become extinct in the near future. *Euphorbia garberi* has been largely extirpated over its former range and is threatened at one or more of the remaining sites. The reasons for not proposing critical habitat for these species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata* are sufficiently restricted that excessive scientific collecting or vandalism could seriously damage the remaining populations of these species. Publication of critical habitat maps in the **Federal Register** would increase the likelihood of such activities. Similarly, it would not be prudent to publish maps of the few known sites of *Euphorbia garberi.* While collecting is generally prohibited in Monroe County Parks and in Everglades National Park, these prohibitions are difficult to enforce. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. Therefore, there is no net benefit of designating critical habitat for these plants.

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 actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the Act's 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 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to 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 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 destroy or adversely modify critical habitat. If a Federal action may affect a listed species or critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal involvement is presently known for two species, *Euphorbia deltoidea* ssp. *deltoidea* and *Euphorbia garberi*. The former species occurs on or near lands under the jurisdiction of the Federal Bureau of Prisons and the U.S. Army. Future activities of these agencies involving modification or removal of pinelands in Dade County could affect *Euphorbia deltoidea* ssp. *deltoidea*.

Euphorbia garberi occurs in Everglades National Park. Park management includes prescribed burning of pinelands in areas where *E. garberi* is located. The present burning schedules, aimed at maintaining pinelands, should benefit this species. No monitoring of this plant species could focus increased attention on its status.

The Act and its implementing regulations (found at 50 CFR 17.61, 17.62, and 17.63 for endangered, and 17.71 and 17.72 for threatened plants) set forth a series of general trade prohibitions that apply to endangered and threatened plant species. With respect to *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii, Amorpha crenulata*, and *Euphorbia garberi*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62, 17.63 and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species are virtually unknown in cultivation and are uncommon 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 would apply to *Euphorbia deltoidea* ssp. *deltoidea* on Federal lands in Dade County, if the species is listed. Section 4(d) allows for the provision of such protection to threatened plants through regulations. This new protection would apply to *Euphorbia garberi* in Everglades National Park (ENP) once revised regulations are promulgated. However, ENP regulations already prohibit collecting, except under permit, so the existing situation will be unchanged. The remaining plants considered in the rulemaking would be given similar protection to the extent they are located on land subject to Federal jurisdiction. Permits for exceptions to this prohibition are available through section 10(a) and 4(d) 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). It is likely that few collecting 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).

Public Comments Solicited

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

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii, Amorpha crenulata*, and *Euphorbia garberi;*

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

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulations on these species 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 Endangered Species Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

National Environmental Policy Act

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

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Author

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791-2580; FTS 946-2580).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation(s) Promulgation

PART 17—[AMENDED]

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

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

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

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, 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					
*	*	*	*	*	*	*
Euphorbiaceae—Spurge family:						
Euphorbia (Chamaesyce) deltoidea ssp. *deltoidea.*	Spurge	U.S.A. (FL)	E		NA	NA.
Euphorbia (Chamaesyce) garberi	Garber's spurge	U.S.A. (FL)	T		NA	NA.
Fabaceae—Pea family						
Amorpha crenulata	Crenulate lead—plant	U.S.A. (FL)	E		NA	NA.
Galactia smallii	Small's milk—pea	U.S.A. (FL)	E		NA	NA.
Polygalaceae—Milkwort family:						
Polygala smallii	Tiny polygala	U.S.A. (FL)	E		NA	NA.

Dated: October 23, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-29214 Filed 11-6-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 217
Wednesday, November 7, 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

Forms Under Review by Office of Management and Budget

Office of the Secretary

November 2, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and Telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

• Food and Nutrition Service
FSP Regulations—Part 278
On occasion, Annually
FNS–252, 252–2, and FNS–350
Business or other for-profit; 205,832 responses; 18,316 hours; not applicable under 3504(h)
Paul Jones (703) 756–3439

• Food Safety and Inspection Services
Regulations Governing Meat Inspection
On occasion
MP–216
State or local governments, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations; 1,985,985 responses; 168,577 hours; not applicable under 3504(h)
Roy Purdie, Jr. (202) 447–5372

Extension

• Food and Nutrition Service
Report of Shipment Received over, short and/or damaged
FNS–57
On occasion
State or local governments; 3,200 responses; 800 hours; not applicable under 3504(h)
Bessie Bradford (703) 756–3660

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 84–29288 Filed 11–6–84; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Highway 88 Future Recreation Use Determination, Eldorado National Forest; Alpine, Amador and El Dorado Counties, CA; Intent to Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement to analyze the effects of future recreation use alternatives adjacent to California State Highway 88 on the Amador Ranger District of the Eldorado National Forest.

This study will be conducted to conform to the proposed Eldorado National Forest Land and Resource Management Plan currently under preparation. That plan will provide that potential future use shall be assessed and decisions made for the disposition of recreation special use permits issued for organization sites, recreation residence tracts and resorts during the ten-year implementation period of the Forest Plan. Existing ski areas are excluded from consideration in this study, because decisions are on record which analyze the effects of their future use.

The portion of the Eldorado National Forest affected by public travel and visitation along Highway 88 represents a logical component of the Forest to evaluate future use of the above-named types of developed recreation. Undeveloped recreation use of forest land in the area and a variety of recreation uses on intermingled private lands are also quite high. The Highway 88 zone of influence is the first such composite area chosen to be examined as part of a staged Forestwide program.

At least three primary options will be considered for future occupancy of National Forest lands:

1. *Status quo (no change)*: continuance of existing special use permits for their present purpose.

2. *Disposal*: reversion of the lands under special use permit to private status through a land adjustment process.

3. *Recovery*: discontinuance of existing special use permits through their systematic termination for a demonstrated higher public need. The Forest Service will state specific future management opportunities for lands to be recovered.

All or portions of the involved tracts or permit areas may fit into any one of these three options. The detailed alternatives displayed in the draft environmental impact statement will not necessarily be exclusive. It is possible that a combination of status quo, disposal, or recovery will constitute feasible actions for permit disposition.

The Highway 88 study area reaches from Lumberyard Administrative Site on the west to Carson Pass on the east, generally encompassing recreation lands parallel to the road and surrounding Lower Bear River Reservoir, Silver Lake, Kirkwood Lake, and Caples Lake. Lands selected by permittees for exchange to the Forest Service under disposal options, may be located outside of the study area. The following individual recreation sites or residence tracts are named for consideration in the environmental impact statement.

1. Organization Camps

Camp Winton (Boy Scouts)

Minkalo (Campfire Girls)
Silverado (Boy Scouts)
Stockton Camp (City of Stockton, CA)
Two Sentinals (Girl Scouts)

2. Resorts

Caples Lake
Kit Carson (Silver Lake)

3. Recreation Residence Tracts

Bear River
Caples Lake
Devils Gate
East Silver Lake
Kirkwood Lake
South Silver Lake
Woods Lake

Federal, State and local agencies, permittees and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the public scoping process. This process will include:

1. Identification of those issues to be addressed.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review or management decision.
4. Determination of potential cooperating agencies or private entities and assignment of responsibilities.

The California State Department of Transportation (CALTRANS), the California State Department of Fish and Game, and Pacific Gas and Electric Company (PG&E) will be named as cooperators to evaluate potential impacts on State highway traffic management, wildlife habitat management, and operations of the private hydroelectric developments which neighbor the study area.

The Forest Supervisor will hold two public meetings. A local meeting will be held at the Jackson Civic Center, Highway 88 and 49, Jackson, California at 7:00 p.m., Monday, December 10, 1984. A central meeting will be held at the Harborside Holiday Inn, 221 N. Center Street (east off of I-5), Stockton, California at 7:00 p.m., Thursday, December 13, 1984.

Jerald N. Hutchins, Eldorado National Forest Supervisor, Placerville, California, is the responsible official.

The analysis is expected to take about 12 months. The draft environmental impact statement should be available to the public by December 1985. The final environmental impact statement is scheduled to be completed by June 1986.

Written comments and suggestions concerning the analysis should be sent to Glenn J. Gottschall, Amador District Ranger, 26820 Silver Drive, Star Route 3, Pioneer, CA 95666, by December 15, 1984.

Questions about the proposed action and environmental impact statement should be directed to Chuck Lowrie, Amador District Recreation Officer, 26820 Silver Drive, Star Route 3, Pioneer, CA 95666, phone 209-295-4251.

Dated: October 30, 1984.

Jerald N. Hutchins,

Forest Supervisor, Eldorado National Forest.

[FR Doc. 84-29235 Filed 11-6-84; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Colorado-Ute Electric Association, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA's Environmental Policies and Procedures, 7 CFR Part 1794, has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Colorado-Ute Electric Association, Inc. (Colorado-Ute), of Montrose, Colorado. The project consists of the construction of a Circulating Fluidized Bed Combustion (CFB) facility at the existing Nucla Station located in Montrose County.

DATE: The FONSI and EA will be available for review and comment for thirty (30) days from the date of this notice. Barring the submission of new information which indicates that the project may have a significant effect on the quality on the human environment, REA may take its final action at the end of the thirty (30) day period.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact (FONSI) and Environmental Assessment (EA) and Colorado-Ute's Borrower's Environmental Analysis (BEA) may be reviewed at or obtained from Mr. William E. Davis, Director, Western Area—Electric, Rural Electrification Administration, Room 0207, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382-8848, or Colorado-Ute Electric Association, Inc., 1845 South Townsend Avenue, Montrose, Colorado 81401, telephone: (303) 249-4501, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the BEA and other support documents submitted by Colorado-Ute and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project would consist of replacing three small boilers (total capacity is 36 megawatts (MW)) with a single CFB boiler increasing the plant capacity to 100 MW (net). The three existing turbine-generators will be refurbished and a fourth turbine-generator of approximately 64 MW (net) will be added. The proposed facilities would revitalize and extend the life of the existing Nucla Station and provide additional capacity at a lower cost than other reasonable alternatives available for providing additional capacity. The Nucla Station is located on the San Miguel River in the western section of Montrose County, Colorado. REA may provide financing assistance to Colorado-Ute for the project.

The BEA and EA adequately consider potential impacts of the proposed project to resources including threatened and endangered species, important farmland, cultural resources, floodplains and wetlands.

Alternatives examined included no action, alternative generating sites, alternative fluidized bed systems, and alternative unit sizes. After reviewing these alternatives, REA determined that the proposed project is an acceptable alternative because it meets Colorado-Ute's needs with a minimum of adverse impact.

In accordance with REA's Environmental Policies and Procedures, 7 CFR Part 1794, Colorado-Ute advertised the availability of the BEA in local newspapers. No comments were received. REA also held a public scoping meeting in Nucla, Colorado, on June 14, 1984. The public supported the project and no adverse comments were received.

Based upon the BEA and other related data, REA prepared an EA and FONSI concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: November 1, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84-29227 Filed 11-6-84; 8:45 am]
BILLING CODE 3410-15-M

Soil Conservation Service

Tallahaga Creek Watershed, MS; Intent To Prepare Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

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 being prepared for the Tallahaga Creek Watershed, Winston, Choctaw, and Neshoba Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: A.E. Sullivan, State Conservationist, Soil Conservation Service, 1321 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601–960–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, A.E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for flood prevention. Alternatives under consideration to reach these objectives include about 4 miles of floodway, 20 miles of new channel, 1 mile of clearing and snagging, and 22 miles of selective snagging.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action may be obtained from A.E. Sullivan, State Conservationist, at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Managment and Budget Circular A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects is applicable)

Dated: October 30, 1984.

Jack H. Winstead,

Assistant State Conservationist.

[FR Doc. 84–29259 Filed 11–6–84; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Agency Forms Under Review by OMB; CAB Form 272, Application for Foreign Aircraft Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Reporting Requirement under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of the extension of the requirement that foreign air carrier submit CAB Form 272 when applying for authority under 14 CFR 375.

DATED: October 26, 1984.

FOR FURTHER INFORMATION CONTACT: George Wellington, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5878.

SUPPLEMENTARY INFORMATION:

Agency Clearance Officer from whom a copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673–5922

How Often the Collection of Information Must be filed: On occasion

Who is Asked or Required to Report: Foreign Air Carriers

Estimate of Number of Annual Responses: 240

Estimate of Number of Annual Hours Needed to Complete the Reporting Requirement: 240

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–29334 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

[84–11–7, Docket 41121]

Bowman Aviation, Inc.; Foreign Charter Air Transportation of Cargo

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Board has tentatively decided to issue a certificate to Bowman Aviation, Inc. d/b/a/ Bo-S-Aire Airlines, Inc. authorizing it to engage in foreign charter air transportation of cargo.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken, as described in the order cited above, shall, NO LATER THAN November 28, 1984, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41121, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Bowman Aviation, Inc. d/b/a/ Bo-S-Aire Airlines, Inc. and the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue a certificate authorizing Bowman to engage in foreign charter air transportation of property and mail.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Jeff Gaynes, (202) 673–5153, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board November 1, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–29331 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

[Order 84–11–3; Docket 42603]

Houston-London Case; Order Instituting Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting Investigation.

SUMMARY: The Board is instituting the *Houston-London Case* to select a primary and back-up carrier to provide scheduled nonstop service between Houston, Texas, and London, England. The complete text of Order 84–11–3 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested parties, and petitions for reconsideration shall be filed by November 7, 1984. Answers shall be filed by November 9, 1984.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C.

20428 in Docket 42603, *Houston-London Case.*

FOR FURTHER INFORMATION CONTACT: Patricia N. Snyder, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5035.

SUPPLEMENTARY INFORMATION: The Complete text of Order 84–11–3 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

By the Civil Aeronautics Board November 1, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–29332 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

[Order 84–10–141; Docket 42601]

Revocation of Permits of Nonoperating Foreign Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Revocation of permits of Nonoperating Foreign Air Carriers adopted October 31, 1984.

SUMMARY: The Board proposes to revoke the foreign air carrier permits of Allarco Developments Ltd.; British Cargo Airlines Limited d/b/a British Cargo and IAS Cargo Airlines; Gateway Aviation Limited; Harrison Airways Limited; MacKenzie Air Ltd.; and Transportes Aereos de Carga, S.a. (Transacarga). These carriers appear to be nonoperating, have not complied with insurance regulations, and except for British Cargo, have had their destinations withdrawn by their homeland governments.

DATES: Persons having objections to the issuance of an order making final the tentative decision to revoke these permits should file objections by December 3, 1984. Objections should be addressed to Docket 42601, Civil Aeronautics Board, Dockets Section, Room 714, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

A copy of the complete order may be obtained by request from the C.A.B., Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington Metropolitan Area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Dean L. Johnson, (202) 673–5134, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board October 31, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84–29333 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket 42456]

Miami-London Competitive Service Case; Hearing

Notice is hereby given that the hearing in the above-entitled matter will be held commencing November 13, 1984, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 31, 1984.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 84–29336 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket 42332]

Tampa-Yucatan Service Case; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on November 7, 1984, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., October 30, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84–29335 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

[Docket 42332]

Tampa-Yucatan Service Case; Postponement of Hearing

Notice is hereby given that the hearing scheduled in the above-entitled proceeding for November 7, 1984, is rescheduled for November 9, 1984, at 10:00 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., November 1, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84–29337 Filed 11–6–84; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Michigan Advisory Committee Meeting; Cancellation

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 Michigan Advisory Committee to the Commission originally scheduled for November 8, 1984, at Detroit, Michigan (FR Doc. 84–27364, on page 40625) has been cancelled.

Dated at Washington, D.C., November 5, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–29468 Filed 11–6–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 279]

Resolution and Order Approving the Application of the City of Albuquerque, NM, for a Foreign-Trade Zone and a Special-Purpose Subzone in Albuquerque

Proceeding of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Albuquerque, New Mexico, filed with the Foreign-Trade Zones Board (the Board) on January 30, 1984, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Albuquerque, and a special-purpose subzone for Summa Medical Corporation primarily for export operations, within the Albuquerque Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when

appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the general-purpose zone, and any manufacturing other than for export within the subzone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone and Subzone in Albuquerque, NM

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Albuquerque, New Mexico (the Grantee) has made application (filed January 30, 1984, Docket No. 3–84, 49 FR 5980) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a general-purpose foreign-trade zone in Albuquerque, and a special-purpose subzone for Summa Medical Corporation primarily for export operations, within the Albuquerque Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone and subzone, designated on the records of the Board as Zone No. 110 and Subzone No. 110A at the locations mentioned above and more particularly described on the maps and drawings accompanying the applications in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone and subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone and subzone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the general-purpose zone and any manufacturing other than for export within the subzone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone or subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 30th day of October 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

[FR Doc. 84-29345 Filed 11-6-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Export Trade Certificate of Review; International Raw Materials, Ltd.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Relinquishment of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce issued an export trade certificate of review to International Raw Materials, Ltd. ("IRM") on April 5, 1984. This notice acknowledges and grants IRM's request to relinquish that certificate and terminate the protection afforded by the certificate.

IRM's application for a certificate of review was deemed submitted on January 6, 1984 and a summary of the application was published in the **Federal Register** on January 19, 1984 (48 FR 2283). The Department of Commerce, with the concurrence of the Department of Justice, issued a certificate of review to IRM on April 5, 1984. On October 9, 1984 the Department of Commerce received a request from IRM to relinquish that certificate. The Department has granted IRM's request and the protections of the certificate of review terminated on October 9, 1984.

Dated: October 17, 1984.

Richard H. Shay,

Acting General Counsel.

[FR Doc. 84-29217 Filed 11-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Patent and Trademark Office

Guidelines for the Submission of Applications for Interim Protection of Mask Works Under 17 U.S.C. 914

Chapter 9 of Title 17 of the United States Code, the Semiconductor Chip Protection Act of 1984, establishes a new form of intellectual property protection for made works that are fixed in semiconductor chips. Mask works are defined as a "series of related images, however fixed or encoded" that represent the three-dimensional patterns in the layers of a semiconductor chip. This chapter provides a 10 year term of protection for original mask works measured from their date of registration on first commercial exploitation anywhere in the world. Mask works must be registered in the United States Copyright Office within two years of first commercial exploitation to maintain this protection.

This chapter denies protection to foreign owners to mask works unless the works are first commercially exploited in the United States. It is contemplated that foreign countries will eventually obtain full protection by concluding treaties or enacting chip protection legislation. In order to encourage steps toward a regime of international comity in mask work protection, Section 914(a) provides that the Secretary of Commerce may extend the privilege of interim protection under the Semiconductor Chip Act to nationals of foreign nations under certain conditions. These are: (1) That the foreign nation in question is making progress (either by treaty negotiation or legislative enactment) toward a regime of mask work protection generally similar to that under the Act; (2) that its nationals and persons controlled by them (such as subsidiaries or affiliated

companies) are not engaging and have not in the recent past engaged in chip piracy or the sale of products containing infringing semiconductor components; and (3) that entry of the Secretary's order would promote the purposes of the Act and of achieving international comity toward mask work protection.

This notice establishes initial guidelines that specify the content and procedures for the submission of petitions for the Secretary of Commerce to issue or to terminate an Order extending the privilege of making interim registrations for mask works pursuant to chapter 9 of Title 17 of the United States Code. The Assistant Secretary of Commerce and Commissioner of Patents and Trademarks has been delegated the responsibility to receive petitions, conduct proceedings, make findings, and issue or terminate Orders. These guidelines set forth, in accordance with the statutory provisions, the persons eligible to initiate such proceedings, the procedures to be followed, and the information required to be submitted so that the Commissioner can make the determination required by the statute.

A. Definitions

As used in these guidelines:

(a) "Commissioner" means the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

(b) "Interim registration" means a registration of a mask work with the Register of Copyrights by a foreign national, domiciliary or sovereign authority made pursuant to an Order issued under these guidelines.

(c) "Order" means an action by the Commissioner issuing or terminating an Order extending to foreign nationals, domiciliaries and sovereign authorities the privilege of making interim registrations for mask works pursuant to Chapter 9 of title 17, U.S.C.

(d) "Petition" means a request that the Commissioner issue or terminate on Order extending to foreign nationals, domiciliaries and sovereign authorities the privilege of making interim registrations for mask works pursuant to Chapter 9 of title 17, U.S.C.

(e) "Proceeding" means a proceeding to issue or to terminate an Order extending to foreign nationals, domiciliaries and sovereign authorities the privilege of making interim registrations for mask works pursuant to Chapter 9, of title 17, U.S.C.

(f) "Secretary" means the Secretary of Commerce.

B. Effective Date of Guidelines

These guidelines shall come into force on the date of signature of H.R. 6163 by the President.

C. Initiation of Proceedings

(a) The Commissioner may initiate proceedings under these guidelines on his own motion or as directed by the Secretary.

(b) The Commissioner shall initiate proceedings under these guidelines upon receipt of a petition.

D. Submission of Petitions

(a) Petitions may be submitted at any time, however the effective date of any Order shall not precede the coming into force of Chapter 9 of 17 U.S.C.

(b) Petitions shall be submitted to the Commissioner for review and evaluation.

E. Content of Petitions

(a) Any petition requesting that the Commissioner issue an Order extending the privilege of making interim registration under Chapter 9 of 17 U.S.C. must include:

(1) A statement of the foreign governmental agency in charge of developing legislation or negotiating a treaty for the protection of mask works in a manner generally similar to the provisions of Chapter 9 of 17 U.S.C.: (i) That it is making good-faith efforts and reasonable progress toward developing and enacting such legislation or toward entering into such a treaty, and (ii) providing substantive information regarding the entity in the foreign nation to whom the responsibility has been delegated and the procedures that will be followed including any expected target dates for action.

(2) A statement by the appropriate foreign government or foreign governmental agency, including such supporting evidence as may be available, that netiher that nation nor its nationals, domiciliaries, sovereign authorities or persons controlled by them are enagaged in the misappropriation, or unauthorized distribution or commercial exploitation of mask works.

(3) Information from the party submitting the petition that provides evidence of the progress or the actual efforts undertaken by the foreign nation. Such information should include:

(i) Copies of bills introduced in the foreign legislature;

(ii) Copies of legislative proposals by responsible agencies;

(iii) Records of international proceedings or negotiations showing efforts toward developing an appropriate treaty;

(iv) Reports of governmental or private sector commissions studying and making recommendations on appropriate measures to protect mask works in semiconductor chip products;

(v) Correspondence between private sector organizations and responsible governmental organizations; and

(vi) Any other material including executive proclamations, resolutions or regulations that would support the claim of good-faith efforts and the absence of misappropriations or the absence of unauthorized distribution or commercial exploitation of mask works.

(b) All materials furnished must be in the English language or provided with a certified English translation.

F. Proceeding

(a) A proceeding shall be initiated by the publication of a notice in the Federal Register providing interested parties with an opportunity to submit relevant comments.

(b) Based upon comments received or a review of any petition submitted, the Commissioner, at his discretion, may hold a hearing to permit interested parties and the petitioner to present additional information.

(c) The Commissioner shall review the petition, evaluate the evidence submitted, consider the results of any hearing conducted during the course of the proceeding, and issue or terminate an Order.

(d) If the Commissioner refuses to issue an Order the petitioner may, within 30 days and upon the submission of additional evidence, request reconsideration. If 30 days pass and no request for reconsideration is received, the refusal to issue an Order shall be considered final.

(e) The Commissioner may issue an Order that is valid for a period of up to three years. The Commissioner, in making a determination on the duration of the proposed Order, will be guided by the strength and weight of the evidence submitted.

G. Duration of Orders

(a) Orders shall endure for the period specified in accordance with Section F(e) above, but in no case longer than three years from the effective date of Chapter 9 of 17 U.S.C. in accordance with 17 U.S.C. 914(d)(1)(e) unless tha authority of the Secretary is extended in accordance with 17 U.S.C. 914(f)(2).

(b) Orders shall be terminated if:

(1) The Commissioner finds after a proceeding under Section F above that

the conditions upon which the Order was based no longer exist, or

(2) Mask works of nationals, domiciliaries, and sovereign authorities of that foreign nation or mask works first commercially exploited in that nation become eligible for protection under: (i) A Presidential proclamation issued in accordance with 17 U.S.C. 902(a)(2), or (ii) that nation's own law for the protection of such works so long as that nation is a party to a treaty protecting such works to which the United States is also a party.

H. Mailing Address

(a) Petitions, requests for reconsideration, and all correspondence submitted pursuant to these guidelines shall be addressed to: Commissioner of Patents and Trademarks, Box 4, Washington, D.C. 20231.

(b) For further information contact: Assistant Commissioner for External Affairs, 703/557–3065. Mail inquiries should be directed to the same address indicated above to his attention.

Summary

The initial guidelines set forth above are considered to be appropriate to implement Title 17 U.S.C. 914. They will become effective on the date of signature of H.R. 6163 by the President. They will provide appropriate guidance to mask work owners and their agents pending the issuance of regulations.

Dated: November 1, 1984.

Rene D. Tegtmeyer,

Acting Commissioner of Patents and Trademarks.

[FR Doc. 84–29228 Filed 11–6–84; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF DEFENSE

Military Traffic Management Command; Currency Rate Adjustment Decision

AGENCY: Military Traffic Management Command (MTMC).

ACTION: Notice of decision of the currency rate adjustment policies and procedures of international through Government bill of lading shipments of Department of Defense household goods. Notice of proposed action was first given in the August 2, 1984, Federal Register at pp. 30992–30993.

SUMMARY: MTMC initiated a review of the currency rate adjustment procedures on July 25, 1984. This review involved an internal operational review, economic analysis, and included a public dialogue to provide industry with an opportunity to provide comments. Industry response to the public dialogue provided mixed opinions concerning the retention of currency adjustment procedures. Most firms recommended elimination of the present procedures.

After careful consideration of industries comments and our own analysis, MTMC concludes that continuance of the currency adjustment procedure is not in the best interest of the Department of Defense. It does not foster competition, is administratively burdensome, places small business at a disadvantage, is not reflective of actual costs, places directly on the Government all risks associated with increased foreign exchange costs, and has the potential for fraud, waste, and abuse.

Given the availability of various methods to eliminate the risk of foreign currency fluctuations and industry ability to manage this risk, there is no need to retain the current procedures. Therefore, MTMC's action is to simultaneously terminate the currency rate adjustment program with the competition of ITGBL Volume 49 (March 31, 1985). A letter has been sent to industry explaining this decision.

FOR FURTHER INFORMATION CONTACT: LTC Robert Coleman, HQ, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia 22041, Phone (202) 756–1164.

This determination has been made to pursuant to the authority of U.S.C. 2301–2314 and DOD Directives 4500.9 and 4500.34–R.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 84–29264 Filed 11–6–84; 8:45 am]

BILLING CODE 3710–08–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 29, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Military Aerospace Platform will meet at Wright-Patterson AFB, OH on November 27–28, 1984.

The purpose of the meeting will be a review by the Air Force laboratories of technology advances pertinent to the military aerospace platform. The meeting will convene from 8:30 a.m. to 5:00 p.m. on November 27 and from 8:30 a.m. to 4:00 p.m. on November 28.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–29260 Filed 11–6–84; 8:45 am]

BILLING CODE 3910–01–M

Advisory Committee on the Air Force Historical Program; Meeting

October 31, 1984.

The Advisory Committee on the Air Force Historical Program will hold a meeting on December 17, 1984 from 8:30 a.m. to 4:00 p.m. and December 18, 1984 from 8:30 a.m. to 12:00 noon at Bolling Air Force Base (AFB), D.C., Building 5681, Office of Air Force History's 4th Floor Conference Room. The purpose of the meeting is to examine the mission, scope, progress, and productivity of the Air Force Historical Program and make recommendations thereon for the consideration of the Secretary of the Air Force. The meeting will be open to the public. Topics to be discussed include organization and personnel, current status of historical projects, and status of the field history program.

For further information, contact Lt Col Elliott Converse, Executive, Office of Air Force History, Bolling AFB, D.C., telephone (202) 767–5764.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–29261 Filed 11–6–84; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–PP–82]

Electricity Export and Import Authorizations; Permits, etc.; Vermont Electric Transmission Co. (VELCO)

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Environmental Analysis.

SUMMARY: The Department of Energy's (DOE) Economic Regulatory Administration received an application on August 6, 1984, for a Presidential Permit from the Vermont Electric Transmission Company (VELCO). VELCO is proposing the construction of a 345 kV AC transmission line to be operated at 120 kV from the Canadian border to Highgate, Vermont. This case was docketed as PP–82 and the receipt of the application was noticed in the

September 6, 1984 issue of the **Federal Register.**

DOE plans to conduct an analysis of the environmental implications of this proposed transmission line as part of the Presidential Permit evaluation process. Any comments regarding possible environmental implications of this proposed transmission line should be sent to Susan F. Peterson at the address noted below. The closing date for comments is December 7, 1984.

FOR FURTHER INFORMATION CONTACT:
Susan F. Peterson, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–045, Washington, D.C. 20585 (202) 252–9506.

Issued in Washington, D.C., on October 30, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84–29229 Filed 11–6–84; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 84–06–NG]

Transcontinental Gas Pipe Line Corp.; Application To Amend Current Natural Gas Import Authorization and Extend the Term of the Authorization; Opinion and Order

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of issuance of opinion and order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on October 31, 1984, the ERA Administrator issued an Opinion and Order approving Transcontinental Gas Pipe Line Corporation's (Transco) application to amend its authorization to import Canadian natural gas from Sulpetro Limited. The approval authorizes the establishment of new pricing provisions, an increase in the contract quantity, an extension of term of the imports, a reduction in minimum take requirements and the purchase of Canadian gas either for system supply or on behalf of Transco's customers. This authorization is conditioned upon issuance of a final ERA order after the DOE completes its responsibilities under the National Environmental Policy Act regarding the construction of new pipeline facilities to transport the gas.

A copy of the Opinion and Order is attached.

FOR FURTHER INFORMATION CONTACT:

P.J. Fleming (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–9482
Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6667

Issued in Washington, D.C., on November 1, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

Transcontinental Gas Pipe Line Corporation (ERA Docket No. 84–06–NG); Order Granting Amendments to Conditional Authorization To Import Natural Gas From Canada and Granting Intervention; DOE/ERA Opinion and Order No. 46A

October 31, 1984.

I. Background

On July 19, 1984, Transcontinental Gas Pipe Line Corporation (Transco) filed an application with the Economic Regulatory Admimistration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, to amend an existing natural gas import authorization granted September 16, 1982, in DOE/ERA Opinion and Order No. 46 (Order 46).[1] Transco requested that the authorization be amended to reflect revisions to its gas purchase contract negotiated with its Canadian supplier, Sulpetro Limited (Sulpetro), on June 28, 1984.

In Order 46, Transco was conditionally authorized to import natural gas from Sulpetro for an eight-year period ending October 31, 1991, under a gas sale contract dated December 31, 1980. The original agreement provided for the sale of a maximum daily quantity of 75,000 Mcf through October 31, 1987, and 15,000 Mcf per day less each year for the remaining four contract years, with a 75 percent take-or-pay obligation. The contract set the price at the rate prescribed by the Canadian Government for gas exported to the United States. Order 46 authorized an import price not to exceed U.S. $4.94 per MMBtu, the border price at that time. The volumes purchased by Transco currently enter the United States at Niagara Falls, New York, through pipeline facilities owned and operated by Tennessee Gas Pipeline Company and, as needed, through the facilities of Consolidated Gas Supply Corporation. Transco intends that these interim transportation services continue until new pipeline facilities proposed by the Niagara Interstate Pipeline System (NIPS) are constructed.[2] Initial deliveries through the NIPS pipeline are contemplated to begin by November 1, 1987.

The approval in Order 46 was limited to Transco's use of existing pipeline facilities to deliver the gas. The importation of volumes through facilities not yet constructed was conditioned upon the issuance of a final opinion and order after an environmental review is completed.[3]

By the revised agreement of June 28, 1984, Transco's purchases from Sulpetro will rise to 125,000 Mcf of gas per day starting November 1, 1987, with no stepdown in volumes during the later years of the import. Moreover, Transco and Sulpetro agreed to extend the term of the import through October 31, 1994. This will increase the total volumes available for importation by 250 Bcf.[4]

The new agreement also provides that beginning November 1, 1984, the import price will be determined according to a two part rate consisting of: (1) A monthly demand charge of $18.24 per Mcf, subject to adjustment to equal the demand charge that Sulpetro will pay TransCanada Pipelines Limited for transporting the gas sold to Transco, and (2) a commodity charge subject to monthly adjustment pursuant to a formula based on equally weighted changes in the prices of No. 2 distillate oil and No. 6 residual oil in New York Harbor published in Platt's Oilgram, resulting in a market competitive price. The amendment establishes a benchmark commodity price for May 1984 of approximately $2.83 per MMBtu, from which future adjustments will be calculated. According to Transco, at 100 percent load factor, that price would yield a cost at the international border of $3.43 per MMBtu. At 70 percent load factor, the effective price for May 1984 would be $3.69 per MMBtu. To ensure the marketability of the gas, Transco and Sulperto will meet every two years

[1] DOE/ERA Opinion and Order No. 46, issued on September 16, 1982, in ERA Docket No. 81–30–NG, *Transcontinental Gas Pipe Line Corporation* (1 ERA Para. 70,540, *Federal Energy Guidelines*).

[2] An application requesting authority to construct and operate this pipeline is currently pending at the Federal Energy Regulatory Commission (FERC) in Docket Nos. CP83–170–000 and CP83–170–001.

[3] Transco's present proposal modifies the proposal filed in Docket No. 81–30–NG which contemplated importing Canadian gas at Niagara Falls through a new Trans-Niagara Pipeline currently pending before the FERC in Docket No. CP82–125–003, as amended in Docket No. CP82–25–004.

[4] Inasmuch as Transco and Sulpetro do not presently have transportation arrangements for the additional 50,000 Mcf per day of contract demand, the agreement provides that the additional 250 Bcf dedicated to the contract shall expire (and the quantities shall revert to the previous levels) if either Transco or Sulpetro is unable to effectuate increased transportation arrangements by April 1, 1988. Also, the contract term would revert to the previous termination date of October 31, 1991.

to renegotiate the contract pricing terms, including the price level, the price adjustment formula and the rate structure. Either party may request additional price redeterminations if the base values last used in establishing the demand and commodity rates increase or decrease by more than 5 percent.

Under the amended agreement, the take-or-pay obligation is reduced to 70 percent of the contract demand, although Transco and Sulpetro have agreed to cooperate in resolving any economic hardships if Transco is unable to achieve the 70 percent take level during the contract years ending October 31, 1986. Further, the amendment provides that Transco may purchase gas dedicated to the contract either for its system supply or for direct sale to its customers, both direct and indirect. The ability to make purchases on behalf of customers as well as for system supply represents a new feature in Transco's import arrangement, and is a significant modification to its existing authorization. The requested amendments are to become effective upon receipt of all necessary United States and Canadian governmental approvals.

In support of its application, Transco asserted that the new contract provisions will improve flexibility and responsiveness to market changes and are consistent with the Secretary of Energy's new policy guidelines for the importation of natural gas.[5] In particular, Transco noted that the new demand/commodity pricing structure adopted in the amended agreement effects a significant price reduction and is sensitive to changes in prices of relevant competing fuels. Transco also stated that the additional volumes of gas will enhance delivery capability and offset the anticipated declining supply of natural gas from existing domestic sources.

II. Interventions and Procedural Motions

On July 27, 1984, the ERA issued a notice of Transco's application, inviting protests or motions to intervene, which were to be filed by September 5, 1984.[6]

The ERA has received eight timely motions to intervene and two late motions from Foothills Pipe Lines (Yukon) Ltd. (Foothills) and Northern Border Pipeline Company (Northern Border) which were filed on October 5, and October 23, 1984, respectively.[7] There was no opposition to any of the motions for intervention. Further, with regard to Foothills, and Northern Border's late filings, no delay to the proceeding or prejudice to any party will result from their being granted intervention. Accordingly, the late filings are accepted and this order grants all motions to intervene.

None of the intervenors opposed Transco's application or expressed an opinion on its merits with regard to the issue of the competitiveness of the import arrangement. In its intervention, Ohio Interstate Pipeline Company (Ohio Interstate), which is sponsoring a project competitive with NIPS and TransCanada Pipeline Ltd's proposal for transporting Canadian gas for export at Niagara Falls (including Transco's import volumes), requested that the ERA adopt procedures to evaluate the cost benefits of its alternative for delivering that gas to northeastern markets by means of a United States west-to-east pipeline route (the U.S. Route).[8]

Foothills, a Canadian natural gas pipeline company which owns and operates the prebuild Canadian segments of the ANGTS, did not generally object to the issuance of the authorization requested by Transco. However, as the proposed Canadian transporter of new imports using the prebuild ANGTS facilities under both the U.S. Route and MIDCON projects, Foothills requested that to the extent the authorization pertains to imports which will involve the construction of new domestic facilities, it should be conditioned to require further review following a decision by the FERC on the transportation alternatives being considered in *Boundary Gas, Inc., et al.* In addition, Foothills asserted that the conditional authorization should not approve Niagara Falls or any other delivery point as the place of entry for those imports which will involve the construction of new domestic facilities because the FERC has exclusive jurisdiction to initially determine the place of entry for such imports.

Northern Border, a sponsor of the U.S. Route pipeline project, did not oppose approval of additional Canadian imports by Transco, but requested that final authorization be deferred until the FERC and NEB have completed their separate proceedings on the competing proposals to transport gas from Canada. Northern Border asserts that the NEB and FERC approvals could require amendments to the terms of Transco's gas purchase contract. Furthermore, it contends that the FERC has the exclusive authority to determine the point of imports where certification and construction of new U.S. pipeline facilities are involved.

Brooklyn Union Gas Company (Brooklyn Union), a distributor customer of Transco, commented on the revised contract provision permitting Transco the option of purchasing Canadian gas on behalf of its customers rather than for its own system supply. Brooklyn Union requested that any authorization issued herein be conditioned to require Transco to provide the ERA with specific information regarding each proposed purchase of gas on behalf of a direct or indirect customer, and that before the import takes place, public notice be given inviting comments on each proposed transaction.

By letter dated October 22, 1984, Transco informed the ERA that Brooklyn Union's concerns about Transco's proposed marketing flexibility had been satisfactorily resolved by the parties and the request for conditional authorization was withdrawn. However, according to Transco, Brooklyn Union's agreement to the resolution was contingent upon its continuing to qualify as an eligible participant in spot market arrangements on Transco's system. If and when it no longer qualifies, Transco stated that Brooklyn Union requested that the flexible marketing authority be suspended until the question of eligibility to participate is resolved through further negotiations with Transco or further proceedings before the ERA. Transco agreed to such a limitation. On October 25, 1984, Brooklyn Union stated in a letter that Transco accurately represented their position on this matter.

On October 19, 1984, Ohio Interstate, pursuant to Section 590.302 of the ERA's procedural rules, filed a motion

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[5] 49 FR 6684, February 22, 1984.

[6] 49 FR 31322, August 6, 1984.

[7] Motions were filed by The Brooklyn Union Gas Company, Ohio Interstate Pipeline Company, Columbia Gas Transmission Corporation, Tennessee Gas Pipeline Company, TransCanada PipeLines Limited, North Carolina Natural Gas Corporation, Northern Border Pipeline Company, Foothills Pipe Lines Ltd., Public Service Company of North Carolina, Inc., and Washington Gas Light Company and Frederick Gas Company, Inc. (joint movants).

[8] The NIPS application along with other applications involving construction of facilities, transportation and sales arrangements relating to imports at Niagara Falls are currently pending before the FERC in the consolidated proceedings of *Boundary, Gas, Inc., et al.* Docket Nos. CP–81–107–000, *et al.* TransCanada Pipelines Ltd. presently has pending before the Canadian National Energy Board (NEB) an application to expand its pipeline system in order to transport Alberta gas by a Canadian route to eastern U.S. markets. The gas would be transported eastward by TransCanada, Great Lakes Gas Transmission Company and Union Gas Limited to an interconnection with the proposed NIPS facilities. A competing proposal to that of TransCanada for the transmission of Canadian gas to the U.S. market has been filed with the NEB by Foothills. In addition to being considered in consolidated proceedings before the FERC, the U.S. Route, NIPS and a third competing project known as the MIDCONtinental Transportation System (MIDCON) will be heard on a consolidated basis by the NEB. *See* August 20, 1984, *Report on NEB Pursuant to s. 14(1) of the NEB Act.*

requesting that the ERA condition final approval of Transco's application with respect to volumes to be transported through NIPS on the outcome of the NEB and FERC proceedings.[9] Ohio Interstate contends that after those proceedings are concluded and the appropriate facilities have been certified to deliver the gas involved, the ERA will be better able to determine whether to exercise its authority to disapprove the designated point of entry for the import. The firm also filed a motion under § 590.312 requesting the opportunity to make an oral presentation to address this issue, unless the motion is granted without such presentation.

III. Response to the Comments and Motions

Foothills and Northern Border, in their motions to intervene, and Ohio Interstate, in a separate motion, requested that we await the outcome of the ongoing NEB and FERC proceedings on the competing proposals to transport Canadian gas to the northeastern U.S. before giving final approval for Transco to import Sulpetro volumes that would be shipped through NIPS. Ohio Interstate also requested that we conduct additional proceedings in this docket to examine the cost benefits of its proposed transportation alternative for delivery of this gas.

The parties have made motions and requests pertaining to matters that the Secretary of Energy has delegated to the FERC,[10] and that are presently and appropriately being considered by the FERC.[11] We are therefore denying each of these requests.

We are concerned with the competitiveness of an import arrangement. Despite requesting that we defer final approval of this application until we have reviewed the results of the NEB and FERC proceedings, the parties have not demonstrated that there is any reason to believe that this import arrangement will cease to be competitive at the time the gas begins to flow through the new facilities. The arrangement is structured in a way that allows it to remain competitive over the life of the contract through price adjustments and renegotiation provisions. The parties have not indicated how the FERC or NEB selection of one particular transportation route over another will so affect the import arrangement that it will not be responsive to the market.

Should the adjustment mechanisms in this contract fail to allow appropriate responses to the marketplace, as a consequence of decisions on transportation alternatives, the parties have appropriate remedies available to them before this agency and others. Further, should decisions on transportation require Transco to amend its authorization, parties would have the opportunity to comment on any new arrangement at that time. There is no need to condition the authorization to anticipate speculative and unlikely impacts of decisions yet to be made.

Brooklyn Union first sought to require a proceeding prior to each purchase by Transco on behalf of its customers. It has since reached a settlement with Transco and now seeks a condition in Transco's authorization that would suspend imports on behalf of Transco's direct and indirect customers only if Brooklyn Union no longer qualifies as a eligible participant in spot market arrangements on Transco's system.

While Transco and Brooklyn Union have resolved Brooklyn Union's immediate concerns, the type of condition proposed would run afoul of the goals and objectives of the policy of this agency, as promulgated by the Secretary of Energy las February. That policy, which provides guidelines for the review of gas import applications, places a premium on the ability of commercial parties to craft import arrangements with a minimum of governmental obstacles and interference. In establishing the regulatory considerations for assessing whether a proposed gas import is in the public interest, the on-going competitiveness of the proposed import arrangement is the paramount regulatory issue. The test for an import arrangement is that it be buyer-seller negotiated and that its terms insure that the gas will be supplied on a competitive basis over the duration of the contract. Under this policy, the government defers to the workings of the market for the selling price, recognizing that buyers and sellers will optimize the benefits for the parties involved.

Transco has proposed a creative approach to the needs and opportunities of its market. It has negotiated an import arrangement that provides a supplemental and competitively priced gas supply to its overall system. It has also seized an opportunity to make direct sales of part of its imported volumes. Such sales allow Transco to utilize gas not needed for system requirements to serve specific customer needs in its market. This, additionally, gives Transco the flexibility to manage its overall supply in the most competitive manner.

No intervenor, including Brooklyn Union, raised any questions or objections about the competitiveness of Transco's import supply arrangement. The arrangement includes a price calculated to remain competitive with alternative energy sources in the markets Transco will serve with this gas. Presumably this price will be competitive whether utilized in system-wide sales or in direct sales transactions. In view of this, there is no obvious rationale for suspending Transco's flexible marketing authority or for further proceedings if Brooklyn Union's status as a customer changes.

To suspend Transco's authority to import gas for direct sales upon such an occurrence would inject the government unnecessarily into the workings of the market and impose the very type of regulatory hurdle that this agency has sought to remove. This proceeding has addressed the question of the public interest of Transco's import arrangement and has found that the gas Transco wishes to import will provide a competitive supply of energy. The agreement reached by Transco and Brooklyn Union represents the kind of accommodation we would expect the marketplace to make. Further, any concerns surrounding possible changes in Brooklyn Union's eligibility as a customer in Transco's spot marketing programs are appropriately a matter for the the two parties to resolve.

For these reasons, Brooklyn Union's request to condition Transco's authorization on Brooklyn Union's ability to qualify for Transco's spot marketing programs is denied. Spot and direct sales of gas are a new and expanding area of activity in the natural gas industry and signal the opening of gas markets to greater competition. To the extent that imported gas is available and can compete in the spot and direct sales markets, U.S. consumers benefit.

IV. Environmental Determination

As previously explained in Order 46, this import involves two separate transportation arrangements. Under the first arrangement, the gas is being transported by Tennessee and Consolidated through their existing U.S. pipeline facilities until the initiation of

[9] The same motion was filed in the following other proceedings pending before the ERA involving imports through the proposed NIPS facilities; Transcontinental Gas Pipeline Corporation, *et al.*, Docket 81–02–NG; Transcontinental Gas Pipe Line Corporation, Docket No. 81–29–NG; Texas Eastern Transmission Corporation, Docket Nos. 82–05–NG and 82–07–NG; and Tennessee Gas Pipeline Company, Docket No. 82–10–NG.

[10] *See* Delegation Order No. 0204–112, (49 FR 6690, February 22, 1984).

[11] *See* "Order Consolidating Applications, Prescribing Hearing and Granting Petitions to Intervene," issued on October 2, 1984, by FERC in *Boundary Gas, Inc., et al.*

service on the proposed NIPS facilities, expected to be operation by November 1, 1987. Thereafter, transportation services will be provided through October 31, 1994, on the proposed NIPS facilities, the certification of which is presently pending at the FERC. Our decision in Order 46 was final to the extent Tennessee or Consolidated delivers the import volumes through existing facilities.[12] With respect to those volumes utilizing facilities yet to be constructed, approval was conditioned upon subsequent completion of an environmental analysis of the new pipeline project and the issuance of a final opinion and order. Accordingly, this same condition adopted in the earlier proceeding continues to apply to the import authorization as amended by this order.

V. Decision

Transco's application has been evaluated in accordance with the Administrator's authority to determine if the proposed import arrangement meets the public interest requirements of section 3 of the Natural Gas Act. The Administrator is guided by the Secretary of Energy's policy relating to the regulation of natural gas imports. Under these policy guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test.

No single elements of an import arrangement determines its competitiveness. Rather, each contractual arrangement is considered in its entirety. The project as presently structured (1) provides that the price of the imported natural gas will be competitive with the prices of the major alternate fuels in the area served by Transco, and (2) enables Transco to reopen the contract every two years to adapt the contractual sales price to market conditions at the time. Specifically, Transco asserts that the monthly commodity pricing formula of an average of No. 2 and No. 6 fuel oils is sensitive to changes in prices of relevant competing fuels. Furthermore, when the pricing terms are renegotiated, the contract requires the seller and buyer to

* * * have regard to prevailing prices of natural gas and alternative forms of energy which are competitively and incrementally available and to the premium quality of natural gas less the cost of transportation and any other transportation and distribution costs * * *.[13]

In addition, the contract arrangement allows Transco greater flexibility, because of reduced take-or-pay requirements, to use other, cheaper sources of gas as they become available. Transco has satisfactorily domonstrated that its renegotiated gas purchase contract is sufficiently flexible, when viewed as a whole, to enable it to respond to its markets.

Some of the flexibility of this import arrangement is due to the operation of a sport sales mechanism. Sport sales are new to the natural gas industry, and raise new issues for consideration. There are other spot sales transactions before us in other proceedings, and we anticipate more applications in the future. We are putting the parties on notice that there may be need in the future to revisit the spot sale issue in this case in light of decisions made in other proceedings on spot sales.

After taking into consideration all information in the record of this proceeding, I find that Transco's import arrangement is competitive and fulfills the policy objectives of the Secretary of Energy. Accordingly, approval of the present applications is not inconsistent with the public interest and should be granted.

Order

For the reasons set forth above, pursuant to section 3 of the Natural Gas Act, it is hereby ordered that:

A. The import authorization previously granted to Transcontinental Gas Pipe Line Corporation (Transco) by DOE/ERA Opinion and Order No. 46. (Order 46) issued September 16, 1982, in ERA Docket No. 81-30-NG, is hereby amended to (1) extend it for an additional three years, until October 31, 1994, and (2) permit Transco to import up to 125,000 Mcf of Canadian gas per day during the period beginning November 1, 1987, through October 31, 1994, in accordance with the terms and conditions of Transco's amended gas purchase agreement with Sulpetro Limited dated June 28, 1984.

B. Ordering Paragraph B of Order 46 is hereby deleted.

C. In Ordering Paragraph C of Order 46, the phrase "Trans-Niagara Pipeline" is hereby amended to read "Niagara Interstate Pipeline System or any competitive alternative pipeline."

D. With respect to the natural gas authorized by Order 46, as amended herein, Transco shall file with the ERA in the month following each calendar quarter, quarterly reports showing, by month, the quantities of gas imported and the average price paid per MMBtu. Such reports shall include, as a separate item, identification of purchases made on behalf of Transco's direct or indirect customers and their applicable import price.

E. Except as modified by Ordering Paragraphs A, B, C, and D, all other terms and conditions in Order 46 shall continue to apply to the imports authorized herein.

F. The motions for leave to intervene, as set forth in this Opinion and Order, are hereby granted, subject to the administrative procedures in 10 CFR Part 590, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motion for leave to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

G. The motions to defer final approval on the nonenvironmental aspects of the import, or to hold further proceedings, are denied.

Issued in Washington, D.C., October 31, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84-29231 Filed 11-6-84; 8:45 am]

BILLING CODE 6450-01-M

[12] Since no construction was required for this service, the DOE determined that granting the authorization to import the requested volumes of natural gas was not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act.

[13] *Application of Transcontinental Gas Pipeline Corporation to Amend Import Authorization*, ERA Docket No. 84-06-NG, July 20, 1984, Appendix A, p. 6.

[ERA Docket No. 84-10-NG]

The Washington Water Power Co.; Order Granting Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Issuance of Opinion and Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on October 31, 1984, the ERA Administrator issued an Opinion and Order granting The Washington Water Power Company (Washington Water Power) authority to import Canadian natural gas from Amoco Canada. The approval authorizes Washington Water Power to import up to 15,000 Mcf of Canadian natural gas per day for a period of two years at a price of $2.70 (U.S.) per MMBtu.

A copy of the Opinion and Order is attached.

FOR FURTHER INFORMATION CONTACT:
Tom Dukes, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9590.
Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, S.W., (202) 252-6667.

Issued in Washington, D.C., on November 1, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

The Washington Water Power Co. (ERA Docket No. 84-10-NG). Order Granting Authorization To Import Natural Gas From Canada; DOE/ERA Opinion and Order No. 62

October 31, 1984.

Background

On September 14, 1984, The Washington Water Power Company (Washington Water Power) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to Section 3 of the Natural Gas Act, to import up to 15,000 Mcf per day of Canadian natural gas for a term of two years from November 1, 1984, through October 31, 1986. Washington Water Power, a combination electric and gas utility, entered into a contract with Amoco Canada Petroleum Company Ltd. (Amoco Canada) of Calgary, Alberta, Canada, to obtain the gas at a price of $2.70 (U.S.) per MMBtu. The applicant is obligated to take or pay for approximately 40 percent of maximum daily quantities, provided adequate pipeline capacity is available. The agreement would allow the parties to extend the contract for additional one-year periods on the condition that the contract price is redetermined 60 days prior to the beginning of any additional period.

Washington Water Power, whose principal place of business is in Spokane, Washington, intends to sell the gas to one industrial and two institutional customers located in northeastern Washington State. Westcoast Transmission Co., Ltd. (Westcoast) would transport the gas from Amoco's Pointed Mountain Field in British Columbia to its interconnection with the facilities of Northwest Pipeline Corporation (Northwest) at the international border between Canada and the United States in the vicinity of Sumas, Washington. Northwest would then transport the gas to the applicant's service area in northeast Washington. Northwest holds a blanket certificate from the Federal Energy Regulatory Commission (FERC) to transport natural gas. Washington Water Power's existing distribution system will be used to complete the ultimate delivery of the gas.

According to the applicant, the proposed gas import will help reduce the fixed costs of its system by adding new, high-volume users to its base—an economic benefit to the existing 75,000 customers. In addition, no new facilities will be required to implement the proposed import.

Washington Water Power further asserts in its application that the gas is competitive and not inconsistent with the public interest. It supports this by comparing the current $3.81 per MMBtu cost it pays to purchase gas from Northwest to the proposed rate, a difference of approximately $1.11 (U.S.) per MMBtu. The $2.70 per MMBtu price would also be $0.55 per MMBtu lower than the composite cost of fuels the proposed new customers presently use. It is further asserted by Washington Water Power that the importation of Canadian gas will in no way impair its ability to continue rendering natural gas service at reasonable rates.

II. Interventions and Comments

A notice of Washington Water Power's application was issued on September 28, 1984.[1] The notice invited protests and petitions to intervene, which were to be filed by October 24, 1984. One timely petition to intervene was filed by Northwest, and one late notice of intervention was filed on October 26, 1984, by the Washington Utilities and Transportation Commission in support of the application. Northwest did not oppose granting the import authorization as long as the gas is used for the purposes stated by Washington Water Power. Furthermore, Northwest requested no additional procedures but merely intervened to protect its interest. However, Northwest did question Washington Water Power's ability to maintain the low cost of transportation service during the contract period. Northwest was of the opinion that it may not be able to transport gas to Washington Water Power under its FERC blanket certificate but may have to seek a case-specific authorization under Section 7(c) of the Natural Gas Act at higher rates than presently being charged. This order grants intervention to Northwest and to the Washington Utilities and Transportation Commission.

III. Decision

Washington Water Power's application has been evaluated in accordance with the Administrator's authority to determine if the proposed import arrangement meets the public interest requirements of section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest."[2] The Administrator is guided by the Secretary of Energy's policy relating to the regulation of natural gas imports.[3] Under these policy guidelines, the competitiveness of an import arrangement in the markets served is the primary consideration for meeting the public interest test. The need for the import and the security of the import supply are other considerations.

Washington Water Power's arrangements comports with this public interest test. The terms and conditions of the contract between Washington Water Power and its supplier, Amoco Canada, are flexible and provide assurance that the imported gas will remain competitive over the contract period. The volumes will be imported on a short-term basis and at a proposed rate substantially less than the $3.81 per MMBtu currently charged that applicant by Northwest. Under the contract the parties are required to redetermine the price prior to any extension of the contract term. These and the other contract terms and conditions, taken together, demonstrate that the arrangement is competitive.

As set forth in the gas import policy statement, the question of the need for an import is answered by its competitiveness. The security of this import supply is not a major issue as the gas is to be purchased on a short-term basis. Washington Water Power has also demonstrated that its supply of natural gas would be reliable inasmuch as its annual requirement is insignificant compared to Amoco Canada's estimated 58 Bcf of recoverable reserves. Finally, the proposed import involves only existing facilities.[4]

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[1] 49 FR 39210, October 4, 1984.

[2] 15 U.S.C. 717b.

[3] 49 FR 6684, February 22, 1984.

[4] Because the proposed importation of gas will use existing pipeline facilities, DOE has determined that granting this application is not a Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and therefore an environmental impact statement or environmental assessment is not required.

After taking into consideration all information in the record of this proceeding, I find that the authorization requested by Washington Water Power is not inconsistent with the public interest and thus should be granted.

Order

For the reasons set forth above, pursuant to Section 3 of the Natural gas Act, it is ordered that:

A. Washington Water Power is authorized to import up to 15,000 Mcf of Canadian natural gas per day for a two-year period beginning on the date of first delivery, and to continue thereafter on a year-to-year basis until terminated by either party, or until a maximum of 11 Bcf has been imported, whichever occurs first, in accordance with the pricing and other provisions established in the contract submitted as part of its application.

B. Washington Water Power shall notify the ERA in writing of the date of first delivery within two weeks after deliveries begin.

C. Washington Water Power shall file with the ERA the terms of any renegotiated price that may become effective after the initial 24-month period within two weeks after its effective date.

D. The petitions for leave to intervene, as set forth in this Opinion and Order, are hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petition for leave to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., October 31, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 84-29230 Filed 11-6-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84-762-000]

Colorado Interstate Gas Co., Request Under Blanket Authorization

October 31, 1984.

Take notice that on September 28, 1984, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-762-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct a sales tap to effect the delivery of natural gas to an existing customer, Peoples Natural Gas Company (Peoples), under the certificate issued in Docket No. CP83-21-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG states that the proposed Bayou Gulch delivery point would be located on CIG's 20-inch Denver to Colorado Springs main transmission line in Douglas County, Colorado. It is submitted that the new facility would provide for the delivery of up to 750 Mcf of gas daily and an annual requirement of 75,000 Mcf.

CIG explains that the proposed annual maximum quantity of natural gas to be delivered at the new delivery point would be for People's general system supply, Priority 1.

CIG asserts that the addition of this new delivery point would not result in an increase in Peoples' existing contract demand or quantity entitlement and that such service can be accomplished without detriment to CIG's other customers. It is further stated that the delivery of gas at the proposed new delivery point would have a negligible effect on CIG's peak day and annual deliveries.

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. 84-29198 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-8-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

October 31, 1984.

Take notice that on October 4, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP85-8-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Sohio Oil Company, (Sohio) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 12 billion Btu equivalent of natural gas per day for Sohio through June 30, 1985. Columbia states that the gas to be transported would be purchased from ANR Production Company (ANR) and would be used as boiler fuel and process gas in Sohio's Toledo, Ohio, plant.

It is indicated that Sohio has made arrangements to purchase this gas from ANR. Columbia states that it would receive gas from ANR and redeliver the gas to Columbia Gas of Ohio, Inc. (COH), the distribution company serving Sohio, near Toledo, Ohio. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) 40.11 cents per dt equivalent for storage and transmission, exclusive of company-use and unaccounted-for gas, or (2) 44.93 cents per dt equivalent for storage, transmission and gathering, exclusive of company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS-1. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS-1.

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. 84-29199 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-27-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

October 31, 1984.

Take notice that on October 12, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP-85-27-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Uniroyal, Inc. (Uniroyal), under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 183 million Btu equivalent of natural gas per day for Uniroyal through June 30, 1985. Columbia states that the gas to be transported would be purchased from Energy Management, Inc. (EMI), and would be used as boiler fuel and process gas in Uniroyal's Port Clinton, Ohio, plant.

It is indicated that Columbia has released certain gas supplies of EMI and that these supplies are subject to the ceiling price provisions of Sections 103, 107, and 108 of the Natural Gas Policy Act of 1978. It is further indicated that Uniroyal has made arrangements to purchase this released gas from EMI. Columbia states that it would receive the gas from EMI and redeliver the gas to Columbia Gas of Ohio, Inc. (COH), the distribution company serving Uniroyal, near Port Clinton, Ohio. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) 40.11 cents per dt equivalent, for storage and transmission, exclusive of company-use and unaccounted-for gas, or (2) 44.93 cents per dt equivalent for storage, transmission and gathering exclusive of company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS-1. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas, as set forth in Columbia's Rate Schedule TS-1.

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 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. 84-29200 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-14-000]

El Paso Natural Gas Co., Request Under Blanket Authorization

October 31, 1984.

Take notice that on October 9, 1984, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP85-14-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon certain miscellaneous minor gas sales facilites, and any jurisdictional services rendered thereby, under the abandonment authorization issued in Docket No. CP82-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

El Paso proposes to abandon forty-four minor gas sales facilities consisting of taps, meters and appurtenant facilities involving field and transmission measuring and regulations station equipment as well as mainline taps for rendering service to various customers for commercial, residential and agricultural uses. It is explained that these sales facilities have been identified by El Paso in a periodical review whose purpose was to determine whether any miscellaneous minor gas sales facility has been non-operative for any extended period of time. It is stated that El Paso's resale customers served by such facilities have confirmed that the facilities are no longer requried to provide service to end-users. A listing of the facilities follows:

Name	Facilities proposed to be abandoned	Location	Distributor
1. Adobe Oil Company Meter	Single 2⅜-inch O.D. Meter	Pecos County, TX	Warpec Pipe Line, Inc.
2. Amerada Petroleum Company Meter	do	Ward County, TX	do
3. Arizona Water Company S-35 Tap	Single 1-inch O.D. Tap	Pinal County, AZ	Southwest Gas Corp.
4. Arizona Water Company S-36 Tap	do	do	do
5. Arizona Water Company S-37Tap	do	do	do
6. Ashland Oil Company Tap	do	Midland County, TX	Westar Transmission Co.
7. Baker, Harry J. Tap	do	Pima County, AZ	Southwest Gas Corp.
8. Branscum, Thurlo Tap	do	Lamb County, TX	Westar Transmission Co.
9. Campbell Avenue Tap	do	Pima County, AZ	Southwest Gas Corp.
10. Cooper, S.N. C-5 Meter	Single Positive Displacement Type 250B meter	do	do
11. Cooper, M.M. S-1 Tap	Single 1-inch O.D. Tap	Pinal County, AZ	do
12. Courthouse Tap	Single 2⅜-inch O.D. Tap	El Paso, TX	Southern Union Gas Co.
13. Dewey, Thorton G. Tap	Single 1-inch O.D. Tap	Randall County, TX	Westar Transmission Co.
14. Duke, H.A. Tap	do	Lea County, NM	Southern Union Gas Co.
15. Fennell, R.K. Tap	do	Lamb County, TX	Westar Transmission Co.
16. Fergus, E.F. T-3 Tap	do	Pinal County, AZ	Southwest Gas Corp.
17. Floyd, Ottus C. S-6 Tap	do	do	do
18. Gardner, Gene Tap	Dual 1-inch O.D. Tap	Luna County, NM	Gas Company of New Mexico.
19. Geitz, C.M. No. 2 Tap	Single 1-inch O.D. Tap	Graham County, AZ	City of Safford.
20. Getty Oil Company—WDU Lease Fuel #1 Meter.	Single 2⅜-inch O.D. Meter	Lea County, NM	Getty Oil Compnay.
21. Gifford, Joe Tap	Single 1-inch O.D. Tap	Luna County, NM	Gas Company of New Mexico.
22. Hamilton, P.W. S-21 Tap	do	Pinal County, AZ	Southwest Gas Corp.

Name	Facilities proposed to be abandoned	Location	Distributor
23. Heidel, F.L. No. 2 Tap	do	Lea County, NM	Southern Union Gas Co.
24. Hodges and Vinning Tap	do	Lamb County, TX	Westar Transmission Co.
25. Johnson, J.W. Tap	Dual 1-inch O.D. Tap	Luna County, NM	Gas Company of New Mexico.
26. Khola, Viola C. C-27 Tap	do	Pinal County, AZ	Southwest Gas Corp.
27. Kinney, J.L. C-38 Tap	Single 1-inch O.D. Tap	do	do
28. Lackey, E.C. Tap	do	Lea County, NM	Southern Union Gas Co.
29. Lewis, Tommie M. Tap	do	do	Gas Company of New Mexico.
30. Luse and Ice Meter	Single 2⅜-inch O.D. Meter	Ward County, TX	Warpec Pipe Line, Inc.
31. Luse, W.P. and C.O. Ice Company Meter	do	Pecos County, TX	do
32. Marana Irrigation Company No. 10 Tap	Single 1-inch O.D. Tap	Pima County, AZ	Southwest Gas Corp.
33. McCraw, C.E. Tap	do	Lea County, NM	Southern Union Gas Co.
34. Mission Mine Meter	Positive Displacement Type 500B Meter	Pima County, AZ	Southwest Gas Corp.
35. Patton, D.W. Tap	Single 1-inch O.D. Tap	Lea County, NM	Southern Union Gas Co.
36. Rehoboth Mission Tap	Dual 2⅜—inch O.D. Tap	McKinley County, NM	do
37. Singh, John D. A-12 Tap	Single 1-inch O.D. Tap	Pinal County, AZ	Southwest Gas Corp.
38. Spears, C.B. Tap	do	Lea County, NM	Southern Union Gas Co.
39. Texaco, Inc. Tap	do	Upton County, TX	Westar Transmission Co.
40. Texaco TXL Station Tap	do	do	do
41. Thompson, W.E. (Joe Scott and Son) Tap	do	do TX	do
42. Towne, J.L. Tap	Single 1-inch O.D. Tap	Lea County, NM	Southern Union Gas Co.
43. Tumacori Meter	Single 2⅜-inch O.D. Meter	Santa Cruz County, AZ	Citizens Utilities Co.
44. Wiggins City Gate C-12 Meter	Single 4½ inch O.D. Meter	Pinal County, AZ	Southwest Gas Corp.

El Paso proposes to remove and place in stock in salvable materials and to scrap the nonsalvable items without material change in its average cost-of-service. It is explained that the subject taps and meters would be retired as a minor item of property, the book costs of which would be accounted for by inclusion in the retirement unit of which it is a part when such unit is retired.

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. 84-29197 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-745-000]

Lone Star Gas Co., a Division of ENSERCH Corp.; Request Under Blanket Authorization

October 31, 1984.

Take notice that on September 26, 1984, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP84-745-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap and appurtenant facilities under the certificate issued in Docket Nos. CP83-59-000 and CP83-59-001, 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 proposes to construct and operate the sales tap and appurtenant facilities for the sale and delivery of up to 100 Mcf of gas per year to its new residential customer located in McCurtain County, Oklahoma. Lone Star states that the residential customer would receive service from Line E32-? at Station No. 1715+40.

It is stated that the proposed sale would be at Lone Star's residential rate, as approved by the Oklahoma Corporation Commission. It is further stated that the requested volume of gas for the new customer would not have any significant impact on Lone Star's peak day or annual system operations.

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. 84-29201 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-1-000]

Michigan Gas Storage Co.; Request Under Blanket Authorization

October 31, 1984.

Take notice that on October 1, 1984, Michigan Gas Storage Company (Storage Company), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP85-1-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Michigan Paperboard Corporation (Michigan Paper) under the certificate issued in Docket No. CP84-451-000 pursuant to section 7 of the Natural Gas Act, all Commission and open for public inspection.

Specifically, Storage Company requests authority to transport gas on behalf of Michigan Paper pursuant to a transportation agreement dated September 21, 1984, between Storage Company and Michigan Paper. It is stated that pursuant to the transportation agreement, Storage Company receives gas for Michigan Paper from Panhandle Eastern Pipe Line Company (Panhandle) at the inlet of Storage Company's Freedom compressor station located in Freedom Township, Washtenaw County, Michigan, transports the gas through that station, and redelivers it to Panhandle at the outlet of the station. Storage Company proposes to transport up to 4,000 Mcf of gas per day on an interruptible basis. Storage Company is informed that

Panhandle would request authorization to provide the additional transportation service required for delivery to Michigan Paper in Battle Creek, Michigan.

Storage Company would be compensated in accordance with its Rate Schedule T–2, presently 3.25 cents per million Btu, for all volumes of gas delivered to Panhandle at the outlet of the Freedom compressor station. It is explained that the initial term of the transportation is 24 months; however, either party may terminate the service by giving 30-day prior written notice.

Additionally, Storage Company requests flexible authority to add or delete sources of supply. Storage Company states that, within 30 days of the addition or deletion of any gas supplier thereunder, it would file the following information:

(1) A copy of the gas purchase contract between the seller and the end-user;

(2) A statement as to whether the supply is attributable to gas under contract to and are released by a pipeline or distributor and if so, identification of the parties, and specification of the current contract price;

(3) A statement of the Natural Gas Policy Act of 1978 (NGPA) pricing categories of the added supply, if released gas, and the volumes attributable to each category;

(4) A statement that the gas is not committed or dedicated within the meaning of NGPA Section 2(18);

(5) The location of the receipt/delivery points being added or deleted and the appropriate transportation charge resulting from the addition or deletion of receipt or delivery points (for deletions, the name of the producer/supplier would be provided);

(6) Where an intermediary participates in the transaction between the seller and the end-user, the information required by § 157.209(c)(1)(ix) of the Regulations.

(7) The identity of any other pipeline involved in the transportataion.

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. 84–29202 Filed 11–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA85–1–59–000 and TA85–1–59–001]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

October 31, 1984.

Take notice that on October 26, 1984, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1

Thirty-Fifth Revised Sheet No. 4a
Twenty-Sixth Revised Sheet No. 4b
Fifth Revised Sheet No. 4c

Original Volume No. 2

Thirty-Fifth Revised Sheet No. 1c

Such revised tariff sheets are required in order that Northern may place into effect the proposed rates on December 27, 1984 to reflect:

(1) The estimated increase in the cost of purchased gas pursuant to Paragraph 18 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1;

(2) The decrease in the surcharge to amortize the unrecovered cost of purchased gas account and also certain cost and revenue tracking adjustments pursuant to Commission Orders in Docket Nos. RP80–88, RP81–52 and RP82–71;

(3) The increase in costs of transportation of gas through the Alaska Natural Gas Transportation System (ANGTS) pursuant to Paragraph 21 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1;

(4) No change in Northern's costs associated with Research and Development Expenditures or in the Gas Research Institute unit charge pursuant to Paragraph 19 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1.

The Company states that copies of the filing have been mailed to each of the Gas Utility 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 November 8, 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. 84–29203 Filed 11–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–17–000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

October 31, 1984.

Take notice that on October 17, 1984, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85–17–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abondon by reclaim approximately 1.0 mile, by sale approximately 0.6 mile, and in place approximately 3.6 miles of 8-inch lateral line and appurtenant facilities in Neosho and Wilson Counties, Kansas, and the transportation of gas through said facilities unsed the abandonment authorization issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest Central states that its Sutcliffe 8-inch pipeline and appurtenant facilities are no longer required as a part of its transmission system since the pipeline was originally purchased from Eastern Kansas Gas Company in 1958 and is obsolete. Northwest Central states that the domestic customers located on this pipeline have agreed to the termination of service, and Northwest Central has made arrangements for them to be served by an alternative fuel.

The estimated cost of the facilities being reclaimed is $13,860, and those facilities have an estimated salvage value of $6,550, it is claimed.

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. 84-29204 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-6-000]

Tennessee Gas Pipeline Co.; a Division of Tenneco Inc.; Request Under Blanket Authorization

October 31, 1984.

Take notice that on October 3, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-6-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish a new delivery point for and reassign gas volumes among delivery points to its customer, Nashville Gas Company (Nashville), under the certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

Tennessee proposes to establish the Fairview delivery point near Tennessee's mainline valve 559-1 + 18.3 miles in Dickson County, Tennessee. Tennessee states that such facilities would consist of a 2-inch hot tap, a 2-inch metering tube and all appurtenant facilities at a total cost of $39,000 and that all cost of the proposed facilities would be borne by Tennessee. Tennessee proposes to amend its contract with Nashville to provide for the following deliveries of gas:

Delivery point	Maximum daily quality (Mcf at 14.73 psig)
Nashville No. 1 (emergency sales)	
Nashville No. 2	148,525
Ashland City	3,800
Whitehouse	1,500
Fairview	750

Tennessee estimates that the quantities delivered to Nashville through the proposed facilities at the Fairview delivery point would be about 750 Mcf per day and further states that all volumes delivered to Nashville would be from Tennessee's general system supply and would be within Nashville's certificated entitlements. Tennessee notes that its tariff does not prohibit the construction of the proposed delivery point.

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. 84-29205 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-147-005]

ANR Pipeline Co.; Tariff Revision Pursuant to Order Amending Certificate of Public Convenience and Necessity

November 2, 1984.

Take notice that on October 25, 1984, ANR Pipeline Company (ANR) (formerly Michigan Wisconsin Pipe Line Company) tendered for filing Second Revised Sheet Nos. 457, 459, 461 and 469 under Rate Schedule X-47 of its F.E.R.C. Gas Tariff, First Revised Volume No. 2.

Rate Schedule X-47 reflects an existing exchange agreement between ANR, Wisconsin Gas Company (Wisconsin Gas), and Midwestern Gas Transmission Company (Midwestern) originally authorized by the Commission at Docket No. CP74-147.

ANR states that this tariff filing is made to reflect the extension of the term of this exchange agreement until March 31, 1984, pursuant to the Commission's approval in Docket No. CP74-147-003, of an amendment to the exchange agreement between ANR, Wisconsin Gas, and Midwestern and of the related liquefied natural gas sale and exchange arrangement between Wisconsin Gas and Northern States Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 9, 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 to the proceeding 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. 84-29302 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-4-000]

Baltimore Gas and Electric Co.; Application

November 2, 1984.

Take notice that on October 19, 1984, Baltimore Gas and Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $425 million of short-term unsecured promissory notes and commercial paper with final maturity no later than December 31, 1986.

Any person desiring to be heard or to make any protest with reference to said Application should on or before November 26, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file motions to intervene in accordance with the Commission's rules. The Application is on file with the

Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29303 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI67-248]

Beacon Gasoline Co.; Petition for Declaratory Order

November 2, 1984.

Take notice that on September 17, 1984, Beacon Gasoline Company (Beacon), P.O. Box 1156, Minden, Louisiana 71055, filed a petition for declaratory order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure requesting that the Commission issue an order declaring that Beacon's activities and facilities are excluded from Commission jurisdiction under section 1(b) of the Natural Gas Act (15 U.S.C. 717 *et seq.*) as gathering. Beacon also requests that the Ceritificate of Public Convenience and Necessity issued in Docket No.CI67-248 be terminated as moot.

Beacon states that it owns and operates a refrigeration gas processing plant in Louisiana which fractionates ethane propane, and natural gasoline from natural gas.

In association with its plant Beacon operates about 135 miles of line in Webster and Claiborn parishes, Louisiana and in Columbia and Lafayette Counties, Arkansas. Beacon states that generally title to the gas which it processes remains with the producer from the wellhead to plant tailgate, but in a few instances it purchases the gas to the wellhead and resells it at the tailgate. It is Beacon's position that its activities and facilities are exempt from Comission jurisdiction because they satisfy the gathering exemption under section 1(b) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 23, 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 385.214 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. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29304 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-62-000]

Carolina Power & Light Co.; Filing

November 1, 1984.

The filing Company submits the following:

Take notice that on October 24, 1984, Carolina Power & Light Company (CP&L) tendered for filing amendments to the exhibits shown below of the Power Coordination Agreement (PCA) between the Company and the North Carolina Eastern Municipal Power Agency (NCEMPA).

Exhibit PCA-I-26
Exhibit PCA-I-61
Section 5.1

The amendments to both exhibits are minor changes to correct typographical errors that occurred during preparation of the PCA. The amendment to section 6.1 of the Purchase, Construction and Ownership Agreement is provided only for informational purposes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 19, 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. 84-29305 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC85-1-000]

Centel Corp.; Filing

November 2, 1984.

The filing company submits the following:

Take notice that Centel Corporation on October 16, 1984, tendered for filing an application seeking authority from the Federal Energy Regulatory Commission for the disposition by sale of 12.29 miles of 115 kV electric transmission line and right of way easement to Midwest Energy, Inc., 111 East Eleventh Street, Hays, Kansas 67601.

The route of the transmission line is 12.29 miles north from a substation owned by Midwest Energy, Inc., at Hays, Kansas, to a termination point at the Saline River Road in the NW¼, Section 16, Township 11S, Range 18W, Country of Ellis, State of Kansas. Midwest Energy, Inc., has relocated their substation to this termination point and have, therefore, proposed that Centel Corporation sell that portion of 115kV transmission line.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29306 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2133-000]

Charles A. Markel; Application

November 2, 1984.

Take notice that on October 1, 1984, Charles A. Markel filed an application pursuant to section 205(b) of the Federal Power Act to hold the following positions:

Treasurer—Louisville Gas and Electric Company
Treasurer—Ohio Valley Transmission Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 20, 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. 84-29307 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-23-000]

Colorado Interstate Gas Co.; Application

November 1, 1984.

Take notice that on October 11, 1984, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-23-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for NGL Production Company (NGL), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG proposes to transport up to 5,000 Mcf of natural gas per day on a best efforts basis for the account of NGL pursuant to a gas transportation agreement (Agreement) dated September 21, 1984.

CIG states that it would transport the gas for the account of NGL from existing points of interconnection between the Montana-Dakota Utilities Co. pipeline and the CIG pipeline in Park County, Wyoming, and Fremont County, Wyoming, to Northwest Pipeline Company (Northwest) in Sweetwater County, Wyoming, or at existing interconnections between Northwest and Mountain Fuel Resources Inc. (Mountain Fuel) in Sweetwater County, Wyoming, and Uintah County, Utah, subject to mutual agreement of Northwest, CIG, and Mountain Fuel.

CIG proposes to charge NGL its systemwide transportation rate which is currently 36.08 cents per Mcf. In addition, it is explained, NGL would be liable for lost and unaccounted-for gas and its proportionate share of fuel gas. CIG states that the proposed end-use of this gas is to replace fuel and shrinkage resulting from the operation of NGL's gas processing.

CIG does not propose to construct any facilities in conjunction with this application.

CIG explains that the term of the proposed service is two years and from month to month thereafter until terminated by either party upon 30 days written notice.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee or this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29308 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-63-000]

Dayton Power & Light Co.; Filing

November 1, 1984.

The filing Company submits the following:

Take notice that on October 25, 1984, Dayton Power & Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of Waynesfield (Waynesfield), Ohio.

DP&L states that the proposed Agreement allows Waynesfield to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate Schedules to deliver the energy requirements to DP&L for delivery to Waynesfield.

DP&L requests an effective date of November 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 19, 1984. Protests will be considered by the Commission 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. 84-29309 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-718-000]

El Paso Natural Gas Co.; Application

November 1, 1984.

Take notice that on September 18, 1984, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP84-718-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain certificated transportation, exchange and sale arrangements and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Pioneer Transmission Corporation (Pioneer Transmission), Westar Transmission Company (Westar) and Caprock Pipeline Company (Caprock) in place of the abandoned arrangements, all as more fully set forth in the application of file with the Commission and open to public inspection.

El Paso proposes to abandon certain existing arrangements with, individually, Pioneer Natural Gas Company (Pioneer Natural), Pioneer Production Corporation (Pioneer

Production) and Caprock, which arrangements generally provide for the exchange of natural gas, the transportation of natural gas by El Paso for Pioneer Natural and the sale of natural gas by El Paso to Pioneer Natural. It is explained that these arrangements are rendered pursuant to El Paso's Special Rate Schedules FS–25, FS–26, FS–27, FS–28, FS–29 and FS–30 of its FERC Gas tariff, Original Volume 2A.

El Paso explains that these arrangements, pursuant to the special rate schedules, are as follows:

(1) Special Rate Schedule FS–26 provides for the exchange of gas delivered by Pioneer Production to El Paso in the San Juan, New Mexico, area and redelivered by El Paso at certain delivery points in Texas.

(2) Special Rate Schedule FS–27 provides for the transportation of gas delivered to El Paso by Caprock in Moore County, Texas, for redelivery at certain delivery points in Texas.

(3) Special Rate Schedule FS–28 provides for El Paso to transport gas received from Pioneer Production at El Paso's Dumas compressor station, Moore County, Texas, to a point downstream from the Dumas compressor station.

(4) Special Rate Schedule FS–29 provides for the transportation of gas received by El Paso from Pioneer Natural at the Plains compressor station for redelivery to Pioneer Natural at various points on El Paso's Dumas line. This rate schedule also provides for the transportation of volumes of gas in excess of the requirements at the delivery points for Special Rate Schedules FS–26, FS–27 and FS–28, and for the sale of certain excess volumes of gas to Pioneer Natural.

(5) Special Rate Schedules FS–25 and FS–30 provide for the sale to Westar and Pioneer Natural, respectively, of excess volumes of gas delivered by El Paso under Special Rate Schedules FS–26, FS–27, FS–28 and FS–29.

El Paso further proposes to replace the abandoned arrangements with four separate natural gas transportation agreements with Pioneer Transmission (the San Juan agreement), Westar (the Bivins gas agreement and the Gaines County agreement) and Caprock (the Helium gas agreement) which agreements, it is asserted, are more representative of the current operational services, charges and administrative arrangements of the parties.

El Paso states that the proposed San Juan agreement provides for the back haul transportation of gas for Pioneer Transmission from the San Juan, New Mexico, area to El Paso's Plains compressor station. It is explained that Pioneer Transmission would pay El Paso the "Back Haul Charge" for deliveries in Texas as set forth on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff Third Revised Volume No. 2 and that Pioneer Transmission would also pay El Paso any required gathering and/or processing of the gas according to El Paso's "Production Area Charge—Field Gathering," and/or "Production Area Charge—Processing" as set forth on Sheet No. 1–D.2 of El Paso's FERC Third Revised Gas Tariff Volume No. 2.

El Paso further states that the proposed Bivins gas agreement provides for the transportation of gas for the account of Westar from a receipt point in Moore County, Texas, to delivery points in Moore, Gray and Randall Counties, Texas. It is explained that Westar would pay El Paso for the transportation service the "Short Haul Charge" as set forth on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff Third Revised Volume No. 2 and that Westar would also pay El Paso for any required dehydration of the gas according to the "Production Area Charge—Dehydration Only" on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that the proposed Gaines County agreement provides for the back haul transportation of natural gas for Westar from receipt points in Yoakum and Winkler Counties, Texas, to various delivery points along El Paso's Dumas line. El Paso submits that Westar would pay El Paso for the transportation service the "Back Haul Charge" set forth on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff Third Revised Volume No. 2.

It is indicated that the proposed Helium gas agreement provides for the transportation of gas for the account of Caprock from a receipt point in Moore County, Texas, to various delivery points in Potter and Randall Counties, Texas and that Caprock would pay El Paso for the transportation service the "Short Haul Charge" set forth on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff Third Revised Volume No. 2.

El Paso states that the Commission order issued August 21, 1969, in Docket No. CP69–23 (42 FPC 562) which authorized, among other things, the arrangements proposed to be abandoned, also, by ordering paragraph (E), directed it to ". . . convert the resale rate schedules being accepted for filing to its Volume No. 1 at the end of the primary term or within six months, whichever is later." El Paso asserts that its proposal is to comply with the Commission's directive. El Paso further asserts that since its proposal eliminates any sales to the Pioneer group, Volume No. 2 of its FERC Gas Tariff is the appropriate tariff to utilize for this service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.21), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the Certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–29310 Filed 11–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–68–000]

Gulf States Utilities Co.; Filing

November 1, 1984

The filing Company submits the following:

Take notice that on October 26, 1984, Gulf States Utilities Company (Gulf States) tendered for filing a notice of concellation of its Agreement, for

Electric Service with Deep East Texas Electric Cooperative, Inc., dated October 26, 1971 and accepted November 10, 1971. Gulf States indicates that service was provided on a temporary basis to enable Deep East Texas to make repairs on its 12.5 KV line, and was terminated on February 3, 1972.

Copies of the filing were served upon the Public Utility Commission of Texas Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 19, 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. 84-29311 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-22-000]

The Inland Gas Company, Inc.; Application

November 1, 1984.

Take notice that on October 11, 1984, The Inland Gas Company, Inc. (Inland), 340-17th Street, Ashland, Kentucky 41101, filed in Docket No. CP84-22-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authoring the construction and operation of certain natural gas facilities and a point of delivery to Rental Uniform Services, Inc. (Rental), all as more fully set forth in the application on file with the Commission and open to public inspection.

Inland proposes to construct and operate a hot tap and measuring and regulating facilities in Boyd County, Kentucky, in order to establish a point of delivery to Rental, a new direct sale customer.

It is explained that Rental is constructing a large uniform processing plant in Boyd County, Kentucky, which would require the requested gas service and that the initial gas service would be 24 Mcf of gas per day. Inland states that the natural gas would be used for space heating and high pressure boiler fuel and that Rental's new plant will employ about 50 people.

The facilities proposed herein to serve Rentals are estimated to cost about $18,200, which would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own reivew of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Inland to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29312 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-67-000]

Interstate Power Co.; Filing

November 1, 1984.

The filing Company submits the following:

Take notice that on October 26, 1984, Interstate Power Company (Interstate) tendered for filing an amendment, dated August 13, 1984, to the electric service agreement between the Company and the City of Blue Earth, Minnesota (City), which amends Interstate Rate Schedule FERC No. 116. The Amendment provides for the delivery of firm power and energy the Company receives from Missouri Basin Municipal Power Agency (MBMPA) for delivery to the City. The Company's standard wheeling rate, as approved in Docket No. ER-76-555, will apply.

Interstate requests an effective date of October 31, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 19, 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. 84-29313 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-6-000]

Kansas Gas and Electric Co.; Application

November 2, 1984.

Take notice that on October 22, 1984, Kansas Gas and Electric Company (Applicant) filed an application with the Commission pursuant to section 204 of the Federal Power Act seeking authority to borrow from time to time, through December 31, 1987, from any bank or banks, trust company or trust companies, or through the issuance of unsecured promissory notes in the form of commercial paper with maturity of not more than one (1) year, such amounts of money not to exceed $150,000,000 in the aggregate. All notes will have final maturities of not later than December 31, 1987.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1984 file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants 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. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29314 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-66-008]

Mississippi River Transmission Corp.; Rate Change Filing

November 2, 1984.

Take notice that on October 25, 1984, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Second Substitute Seventh Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Said tariff sheet is proposed to be effective as of October 1, 1984.

Mississippi states that Second Substitute Seventh Revised Sheet No. 4 is being submitted pursuant to Article X of its Stipulation and Agreement at Docket No. RP83-66. Such article provides for Mississippi to restate its Base Settlement Tariff Rates effective October 1, 1984 to reflect Mississippi's actual pipeline sales during the twelve month period ending September 30, 1984 in the event those sales exceed 147.0 BCF. Second Substitute Seventh Revised Sheet No. 4 reflects a reduction of $.0175/Mcf in the commodity component of Mississippi's Rate Schedule CD-1 rates and to the single part rate under Rate Schedules SGS-1 and PI-1. Mississippi states that the overall cost impact on its jurisdictional customers resulting from the base rate restatement is a reduction of approximately $2.4 million annually.

Also submitted for filing is Substitute Eighth Revised Sheet No. 4, carrying an effective date of October 5, 1984. Mississippi states that Eighth Revised Sheet No. 4, filed as part of its motion to make rates effective at Docket No. PR84-63, has been changed to Substitute Eighth Revised Sheet No. 4 to reflect only proper sheet pagination changes brought about by the instant rate restatement filing. Mississippi states that other than the revised sheet designation, Substitute Eighth Revised Sheet No. 4 reflects no change in the rates and charges from those contained in the motion filing.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 9, 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. 84-29315 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-57-000]

Natural Gas Pipeline Company of America; Application

November 2, 1984.

Take notice that on October 24, 1984, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, P.O. Box 1208, Lombard, Illinois 60148, filed in Docket No. CP85-57-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing best-efforts sales of natural gas through a marketing program which would provide Applicant with greater marketing flexibility, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests Commission authorization to implement a marketing program which provides applicant blanket authorization to make best-efforts sales, up to the volume which its aggregate customer purchases fall short of their entitlements, based on a running total of such shortfall determined on a monthly basis, subject to the same purchaser eligibility requirements as other non-traditional marketing vehicles and subject to specific pricing conditions.

Applicant states that the proposed marketing program is designed

(i) To give Applicant the pricing and market flexibility required to compete with non-traditional marketing vehicles,

(ii) To deal with the potential of declining sales to its firm customers resulting from non-traditional marketing vehicles, and

(iii) To assist Applicant in market and supply planning by enabling it to offset sales declines which may occur in existing markets.

This program, it is said, would benefit Applicant's customers in that it would enhance Applicant's ability to plan for an adequate long-term gas supply without incurring large take-or-pay payments during periods of decreased demand. The proposal, it is said, is also consistent with the Commission's recent movement toward increased competition to foster lower gas prices and also accords Applicant the same pricing flexibility as its competitors.

Applicant requests blanket authorization to effectuate sales of natural gas to eligible purchasers, to the extent it is able to meet competition in the marketplace, in quantities reflecting the shortfall in actual purchases by Applicant's firm customers from their aggregate entitlement levels. It is said that such a program would assist Applicant's supply planning in that Applicant can acquire supply to meet projected customer requirements and thereby provide a greater assurance of continued service while at the same time having available an alternative marketing vehicle if customers fail to purchase their entitlements.

Applicant states that under its proposed program, Applicant would be permitted to sell volumes which represent the difference between (a) the greater of (i) Applicant's entitlements effective as of April 1, 1985, or (ii) then-effective entitlements and (b) its actual sales (if lower). It is said that decreases in entitlements would be reflected in this calculation only after a two-year delay to allow Applicant to adjust its supply. It is said further that Applicant's entitlements, as established under section 22 of the General Terms and Conditions of its FERC Gas Tariff, Volume No. 1, are stated on a monthly basis. Applicant states that it would maintain a running total of the shortfall, determined each month, in aggregate actual sales (including authorized overrun sales) from the applicable entitlements.

Applicant states further that it would be authorized to make total sales under

this program to eligible purchasers, in volumes not to exceed the cumulative aggregate shortfall, as of the time of the sale.

It is said that the delay in recognizing any decreases in entitlements for two service years facilitates long-term planning by providing Applicant with a guideline as to the base supply it must be prepared to deliver on a long-term basis. Applicant's customers, it is said, are free to nominate annually either increases or decreases in their existing entitlement levels. It is further said that under this program, Applicant would have flexibility to seek alternative sales outlets for supply acquired to meet the customers' earlier requests in circumstances where the customers nominate decreased entitlements or fail to take their entitlements.

Applicant states that it would be permitted in its descretion to sell gas under this program to any purchaser which would be eligible to acquire gas under any pipeline or producer special marketing program, any pipeline discount pricing program or other non-traditional marketing vehicle or to Applicant's existing customers which have taken their full entitlements that month.

It is said that in order to assure Applicant's ability to compete with the numerous producer and pipeline special marketing programs and discount programs, it must have pricing flexibility similar to that enjoyed by the producers and other pipelines. It is said further that Applicant proposes that it have pricing flexibility to respond to market conditions within certain limitations. Applicant states that the ceiling price for sales for resale in interstate commerce under this program would be Applicant's then-effective commodity rate. Applicant states further that for non-jurisdictional direct sales Applicant would be free to charge the market price, based on its negotiations with the purchaser. It is said that in no event would Applicant market gas under this program at a price below its weighted average cost of gas as reflected in its purchase gas adjustment effective as of the date of the sale, plus an increment of 5.0 cents per Mcf.

Applicant explains that since these sales would be made in order to maintain Applicant's projected sales levels in circumstances where Applicant's customer fail to take their entitlements, Applicant's stockholders are at risk for any amounts by which the price for gas under this marketing program falls below Applicant's commodity rate. Applicant indicates that since any sales under this program are made in lieu of sales to Applicant's firm customers in circumstances where those customers fail to purchase their entitlements or reduce the level of their entitlements, Applicant would retain the revenue from such sales except that for any sale to a non-jurisdictional purchaser made at a level above Applicant's commodity rate, Applicant would retain one-half of the revenues above the commodity rate and credit the remaining one-half to Account No. 191 to benefit its customers.

It is said that all such sales would be short-term in nature, fully interruptible and subordinate to the requirements of Applicant's existing customers within their existing entitlement including requests for interruptible service under Rate Schedule AOR.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certifiate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commssion on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29316 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-521-001]

Panhandle Eastern Pipe Line Co.; Amendment to Request Under Blanket Authorization

November 1, 1984.

Take notice that on October 24, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-521-001 an amendment to the authorization granted in Docket No. CP84-521-000 pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes the transportation of natural gas on behalf of Michigan Paperboard Corporation (Paperboard) only through facilities owned and operated by Panhandle, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated May 1, 1984, Panhandle proposed the transportation of natural gas on behalf of Paperboard which service was deemed authorized pursuant to § 157.205 of the Commission's Regulations on September 5, 1984. It is further stated that Panhandle, Paperboard and Battle Creek Gas Company (Battle Creek) entered into an amendment to the agreement dated October 23, 1984, in order to make clear and specifically state that the transportation service provided by Panhandle is limited to the facilities owned and operated by Panhandle. It is explained that Panhandle receives gas for the account of Paperboard at an existing point of interconnection between Panhandle and Union Texas Products Corporation in Major County, Oklahoma, and transports and delivers such gas to the suction side of the Freedom compressor station which is owned and operated by Michigan Gas Storage Company (Storage Company). It is further explained that the gas is compressed by Storage Company and redelivered to Panhandle on the discharge side of the Freedom compressor station. Panhandle, it is stated, transports and redelivers such gas to existing points of interconnection with Battle Creek which then makes ultimate delivery to Paperboard for use in its Angell Street

plant. It is asserted that Paperboard or Battle Creek is solely responsible for the arrangement of and payment for the use of the Freedom compressor station.

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. 84-29289 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-522-001]

Panhandle Eastern Pipe Line Co.; Amendment to Request Under Blanket Authorization

November 1, 1984.

Take notice that on October 16, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O Box 1642, Houston, Texas 77001, filed in Docket No. CP84-522-001 an amendment to the authorization granted in Docket No. CP84-522-000 pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Panhandle proposes the transportation of natural gas on behalf of St. Regis Corporation (St. Regis) only through facilities owned and operated by Panhandle, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that pursuant to a transportation agreement dated May 2, 1984, Panhandle proposed the transportation of natural gas on behalf of St. Regis which service was deemed authorized pursuant to § 157.205 of the Commission's Regulations on September 5, 1984. It is further stated that Panhandle, St. Regis and Battle Creek Gas Company (Battle Creek) entered into an amendment to the agreement dated October 12, 1984, in order to make clear and specifically state that the transportation service provided by Panhandle is limited to the facilities owned and operated by Panhandle. It is explained that Panhandle receives gas for the account of St. Regis at an existing point of interconnection between Panhandle and Union Texas Products Corporation in Major County, Oklahoma, and transports and delivers such gas to the suction side of the Freedom compressor station which is owned and operated by Michigan Gas (Storage Company). It is further explained that the gas is compressed by Storage Company and redelivered to Panhandle on the discharge side of the Freedom compressor station. Panhandle, it is stated, transports and redelivers such gas to existing points of interconnection with Battle Creek which then makes ultimate delivery to St. Regis for use in its Angell Street plant. It is asserted that St. Regis or Battle Creek is solely responsible for the arrangement of and payment for use of the Freedom compressor station.

Any person or the Commission's staff may, withing 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. 84-29290 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-4-000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

November 1, 1984.

Take notice that on October 3, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-4-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Kaiser Aluminum and Chemical Corporation (Kaiser) under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to provide transportation for up to 400 Mcf of gas per day on behalf of Kaiser, an existing direct industrial sales customer of Panhandle, on an interruptible basis pursuant to a transportation agreement dated July 24, 1984, between Panhandle and Kaiser. Panhandle explains that the term of the authorization as herein sought is from the date automatic authorization expires until the earlier of (1) eighteen months from the effective date of the agreement, (2) termination of authorization as provided by Subpart F of Part 157 of the Commission's Regulations, or (3) termination of the agreement by either of the parties.

Panhandle states that it would receive the gas from a point of interconnection to be constructed between Kaiser Energy, Inc. (Kaiser), and Panhandle in Custer County, Oklahoma and redeliver the gas, less a four percent reduction for fuel, to Kaiser for use at its Refractory Plant in Audrain County, Missouri.

Panhandle proposes to charge for its services the rate provided in its currently effective OST tariff, of 84.0 cents per million Btu.

In addition, Panhandle requests flexible authority to add or delete sources of supply or receipt/delivery points. Any changes in sources or receipt/delivery points are intended to be on behalf of the same end-user at the same end-user location and within the maximum daily and annual volumes authorized in this docket, it is submitted.

Furthermore, Panhandle agrees that within 30 days of the addition or deletion of any gas suppliers and/or receipt/delivery points to file all pertinent information required.

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. 84-29291 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-18-000]

Point Arguello Natural Gas Line Co.; Application

November 1, 1984.

Take notice that on October 9, 1984, Point Arguello Natural Gas Line Company (PANGL), P.O. Box 7141, San Francisco, California 94120-7141, filed in Docket No. CP85-18-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a natural gas pipeline system to transport natural gas produced in the Point Arguello field located in offshore California, to a gas processing plant onshore near Gaviota, California, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the Point Arguello field consists of lease tracts in the Santa Maria offshore basin, Santa Barbara, California, and that the field has significant petroleum and natural gas resources. It is further stated that the proposed pipeline system is designed to serve gas producers in the Point Arguello field and that the owners of existing leases in the Point Arguello field or their affiliates are partners in the PANGL. It is averred that each lease owner would have access to the pipeline system and that a partnership agreement dated September 1, 1984, creating the PANGL provides that new partners would be admitted to the company in a manner which avoids any special economic advantage to any existing partners. It is further averred that such agreement provides that nonpartners would have access to the pipeline system on an equitable and nondiscriminating basis.

It is stated that the partners of the PANGL and their percentage ownership interest are as follows:

Partner	Percentage ownership interest
Champlin Arguello Pipeline, Inc	6.06521
Chevron Pipeline Company	26.31522
Harvest Corporation	1.30435
Koch Exploration Company	4.34783
Oxbow Energy, Inc	1.84783
Phillips Petroleum Company	26.31522
Simmons Santa Barbara, Ltd	1.19565
Sisquoc Gas Pipeline Company	9.95652
Sun Offshore Gathering Company	8.52174
Texaco Harvest Gas Pipeline Company, Inc	14.13043
Total	100.00000

It is also stated that the proposed pipeline system would consist of two segments of 20-inch pipe; one is approximately 10 miles of offshore pipeline beginning at the Platform Hermosa in the Point Arguello field to a point onshore at Point Concepcion, California, and the other segment consists of approximately 16 miles of onshore pipeline beginning at Point Concepcion, California, and travels in an easterly direction terminating at the gas processing plant in Gaviota, California.

PANGL states that the total cost of the proposed pipeline system is estimated to cost $42,400,000. It is further stated that each partner would advance funds for the design, engineering and construction of the system, as required, in proportion to each partner's ownership interest in the PANGL. The design construction, maintenance and repair of the pipeline system would be supervised by Chevron Pipe Line Company, for the benefit of the PANGL partnership, pursuant to a construction management agreement and an operating agreement both dated September 1, 1984. It is averred that the proposed pipeline system would have a design capacity of 160,000 Mcf of natural gas per day. It is further averred that the proposed pipeline system would be compatible with the immediate and long-term protection of the environment and would be constructed, operated and maintained so as to comply with all environmental laws.

It is stated that gas transported by the PANGL system would be delivered for processing at the Gaviota Plant and that the deliveries would be for the account of shippers and that the disposition of the gas at the plant would be determined by the shippers. It is further stated that transportation service would be rendered in accordance with a tariff, which is currently under revision, and would be furnished to the Commission within 45 days of this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for PANGL to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29292 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-64-000]

Public Service Company of New Hampshire; Termination

November 2, 1984.

The filing Company submits the following:

Take notice that on October 25, 1984, the Public Service Company of New Hampshire (PSNH) tendered for filing a notice of termination for Rate Schedules 65, 67, 68 and 69.

PSNH states that in each case, the contract forming the basis of the rate schedule has expired on its own terms. Specifically, Rate Schedule 65 expired in 1975, Rate Schedule 67 in 1976, Rate Schedule 68 in 1973 and Rate Schedule 69 in 1974.

PSNH further states that with respect to Rate Schedule 67, the Hartford Electric Light Company was merged into the Connecticut Light and Power Company, effective July 1, 1982 and therefore no notice is required for it.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 20, 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. 84-29293 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-339-001]

Texas Eastern Transmission Corp.; Petition To Amend

November 1, 1984.

Take notice that on September 26, 1984, Texas Eastern Transmission Corporation (Petitioner), Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP79-339-001 a petition to amend the Commission's order issued May 30, 1980, in Docket No. CP79-339-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize an extension of term of the transportation and exchange service presently being provided to The Brooklyn Union Gas Company (Brooklyn Union) until December 31, 1986, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it began transportation and exchange of up to 30,000 dt equivalent of natural gas per day for Brooklyn Union on July 28, 1979. It is explained that Petitioner receives the gas from Algonquin Gas Transmission Company by displacement at Petitioner's M and R Station No 1078 or at other mutually agreeable points of interconnection and that Petitioner then exchanges and/or transports the gas to Transcontinental Gas Pipe Line Corporation (Transco), for the account of Brooklyn Union, at a point of interconnection between Petitioner and Transco (M and R Station No. 919) or at other mutually agreeable points of interconnection. Transco would then deliver the gas to Brooklyn Union at existing points of interconnection between Brooklyn Union and Transco, it is submitted.

Petitioner requests that the extension be pursuant to a new letter agreement dated August 30, 1984. The agreement, it is stated, is based on Petitioner's Rate Schedule X-113 which is on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natual Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29294 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-624-001]

Transcontinental Gas Pipe Line Corp.; Amendment to Request Under Blanket Authorization

November 1, 1984.

Take notice that on October 5, 1984, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP84-624-001 a petition to amend the authorization in Docket No. CP84-624-000 pursuant to the prior notice procedure prescribed in § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport end-user gas on behalf of Allied Corporation (Allied), Archer-Danies-Midland Company (Archer), T.J. Baker Chemical Company (Baker), The Celotex Corporation (Celotex), M&M Mars (M&M), Schering Corporation (Schering) and U.S. Metals Refining Company, a Division of Amax Copper, Inc. (U.S. Metals) (collectively referred to as the Seven End Users), all of whom are being represented by Energy Marketing Exchange, Inc. (EME), under the authorization issued in Docket No. CP82-426-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Transco would receive the gas at points of receipt at the Sun TCB Plant in the Canales Field, Jim Wells County, Texas, and at the Sun-Starr Plant in Starr County, Texas, in addition to receipt of gas at the interconnection with GHR Transmission Company in the Agua Dulce Field, Nueces County, Texas, and would redeliver, on an interruptible basis, equivalent quantities (less quantities retained for compressor fuel and line loss make-up) to the existing points of delivery between Transco and Elizabethtown Gas Company (Elizabethtown). It is stated that in turn, Elizabethtown would deliver such gas to the Seven End Users as follows:

To Allied at its plant in Elizabeth, New Jersey—on a peak day 390 dt equivalent; on an average day 390 dt equivalent; and on an annual basis 143,350 dt equivalent.

To Archer at its plant in Elizabeth, New Jersey—on a peak day 105 dt equivalent; on an average day 105 dt equivalent; and on an annual basis 38,325 dt equivalent.

To Baker at its plant in Phillipsburg, New Jersey—on a peak day 2,200 dt equivalent; on an average day 800 dt equivalent; and on an annual basis 280,000 dt equivalent.

To Celotex at its plant in Perth Amboy, New Jersey—on a peak day 1,200 dt equivalent; on an average day 1,000 dt equivalent; and on an annual basis 365,000 dt equivalent.

To M&M at its plant in Hackettstown, New Jersey—on a peak day 1,200 dt equivalent; on an average day 1,000 dt equivalent; and on an annual basis 365,000 dt equivalent.

To Schering at its plant in Kenilworth, New Jersey—on a peak day 460 dt equivalent; on an average day 460 dt equivalent; and on an annual basis 168,000 dt equivalent.

To Schering at its plant in Union, New Jersey—on a peak day 460 dt equivalent; on an average day 460 dt equivalent; and on an annual basis 168,000 dt equivalent.

To U.S. Metals at its plant in Carteret, New Jersey—on a peak day 1,650 dt equivalent; on an average day 1,600 dt equivalent; and on an annual basis 584,000 dt equivalent.

It is stated that the total volume of gas to be transported to the Seven End Users' plants on a peak day is 7,665 dt equivalent; on an average day is 5,815 dt equivalent; and on an annual basis is 2,111,675 dt equivalent. Such transportation would continue through June 30, 1985. Transco states that the

terms and conditions of transportation for the Seven End Users would be the same as for the end users as stated in the original request in Docket No. CP84–624–000.

Any person or the Commissions'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 Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest if filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–29295 Filed 11–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–760–000]

Trunkline Gas Co.; Application

November 1, 1984.

Take notice that on September 28, 1984, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84–760–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Amoco Gas Company (Amoco), all as more fully set forth in the the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to their transportation agreement, Trunkline would transport, on a firm basis, up to 5,000 Mcf of natural gas per day from offshore Louisiana to its existing interconnection with Amoco in Waller County, Texas.

No new facilities are required in transporting these gas supplies, it is asserted.

Trunkline states that it would charge a firm monthly rate of $37,600 for the transportation service and that the service will continue for an initial period of five years and yearly thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1984, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Kenneth L. Plumb,

Secretary.

[FR Doc. 84–29296 Filed 11–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–761–000]

Trunkline Gas Co.; Application

November 1, 1984.

Take notice that on September 28, 1984, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84–761–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to transport for Panhandle up to 6,000 Mcf of gas per day on a firm basis pursuant to a transportation agreement dated June 21, 1984, as amended September 20, 1984. It is stated that Trunkline would receive gas for Panhandle's account in High Island Area Block A–343, offshore Texas, and transport the gas to Panhandle at an existing point of interconnection in section 1, Township 15 North, Range 7 East, Douglas County, Illinois. Trunkline states that it would use its capacity in the High Island Offshore System, U–T Offshore System and Natural Gas Pipeline Company of America systems to transport the subject gas. It is indicated that the term of this proposed service would be until June 21, 1994, and year to year thereafter, unless cancelled by either party with one year's prior written notice.

It is stated that Panhandle would pay Trunkline a firm monthly transportation charge of $91,243. Trunkline indicates that existing capacity and facilities would be used for the proposed transportation service.

Trunkline indicates that it has been providing the subject transportation service for Panhandle pursuant to Part 284 of the Commission's Regulations, as reported in Docket No. ST84–1042.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1984, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion

for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29297 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-65-000]

Union Electric Co.; Filing

November 1, 1984.

The filing Company submits the following:

Take notice that on October 25, 1984, Union Electric Company (Union) tendered for filing Fifth Revised Schedule II to the Interchange Agreement dated April 11, 1967 between Union and Missouri Public Service Company.

Said Agreements provide for revisions in reservation charges for Short-Term Power and System Participation Power under said Interchange Agreement and to comply with FERC Order No. 84.

Union requests an effective date of April 1, 1984 for the Amendment and revised Schedule.

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 395.211, 385.214). All such motions or protests should be filed on or before November 19, 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. 84-29298 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-28-002]

United Gas Pipe Line Co.; Petition To Amend

November 1, 1984.

Take notice that on October 1, 1984, United Gas Pipe Line Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-28-002 a petition to amend the order issued October 20, 1975,[1] in Docket No. CP76-28 pursuant to section 7 of the Natural Gas Act so as to authorize United to increase its maximum daily quantity of natural gas deliveries for the account of Shell Oil Company (Shell), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the authorization granted in Docket No. CP-76-28 and Petitioner's Rate Schedule X-95, Petitioner transports 5,000 Mcf of natural gas per day for the account of Shell. It is stated that the gas is delivered to Petitioner at mutually agreeable primary and/or alternate points of delivery at interconnections between Petitioner's lines and Shell's sources of supply at Gibson and Humphrey Fields, Terrebonne Parish, Louisiana; Shell's complex in Norco, St. Charles Parish, Louisiana; and Shell's North Terrebonne Plant and Exxon's Lirette Plant, Terrebonne Parish, Louisiana.

Petitioner states that the point of redelivery for such gas is at the outlet side of several measuring and regulating stations where Petitioner presently delivers gas to Mobile Gas Service Corporation in Mobile County, Alabama, or at such other points where United would deliver gas under the service agreement with Shell dated December 29, 1971, or any superseding service agreement. Petitioner asserts that it would make gas deliveries to such points to the extent that its existing facilities are able to accommodate.

Petitioner states that it currently performs the delivery service for Shell pursuant to a gas transportation agreement between Petitioner and Shell dated June 27, 1975. Petitioner requests that the Commission order issued October 20, 1975, in Docket No. CP76-28 be amended to reflect the May 11, 1984, amendment to the agreement, so as to authorize Petitioner to increase its maximum daily quantity of natural gas deliveries for the account of Shell from 5,000 Mcf per day to volumes not exceeding 7,500 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 21, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make 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. 84-29299 Filed 11-6-84; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER85-66-000]

Washington Water Power Co.; Filing

November 1, 1984.

The filing Company submits the following:

Take notice that on October 26, 1984, Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a Lake Union Replacement Energy Sales Agreement dated September 28, 1984, between Washington and the City of Seattle, Department of Lighting (Seattle). Washington states that the standby energy shall be made available by Washington to Seattle for the period February 1985 through June 1985 at Seattle's option to accept the deliveries.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 19, 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 fil with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-29300 Filed 11-6-84; 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 filing Applications for Refund from funds obtained as the result of DOE enforcement proceedings involving actual or alleged crude oil pricing violations.

DATE AND ADDRESS: Applications for refund must be postmarked by February 5, 1985, should conspicuously display a reference to case number HEF-0472, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as the result of DOE enforcement proceedings involving actual or alleged crude oil pricing violations. These proceedings were culminated by the issuance of consent orders, remedial orders, or court-approved stipulated settlements with 194 firms and individuals. Pursuant to these orders, the parties have been required to make refunds totaling approximately $78.9 million. The name of each firm or individual, and the refund amount required by their corresponding consent order, remedial order, or stipulated settlement are listed in the Appendix to the Decision and Order which follows this Notice.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be postmarked by February 5, 1985, and should be sent to the address set forth at the beginning of this notice. Applications for refunds in excess of $100 must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: October 29, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 29, 1984.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Case: A. Johnson & Company, Inc. and others listed in Appendix.

Dates of Filing: March 20, 1984 (Ernest E. Allerkamp, Flying Diamond Oil Co., Kastman Oil Co., Southern Crude Oil Resources, Inc., and Pacific Oil Co., Inc.); December 29, 1983 (Cotton Petroleum Corp.); October 13, 1983 (all others).

Case Numbers: HEF-0472, and others listed in Appendix.

This proceeding involves Petitions for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration (ERA) with the Office of Hearings and Appeals (OHA) pursuant to the provisions of 10 CFR Part 205, Subpart V. Under those procedural regulations, ERA may request that OHA formulate and implement a specially-designed process to distribute funds received as a result of enforcement proceedings in order to remedy the effects of alleged or actual violations of Department of Energy (DOE) regulations. ERA filed the petitions in this proceeding in connection with consent orders, remedial orders, and court-approved stipulated settlements which it entered into with A. Johnson & Company, Inc. and 193 other firms and individuals. The name of each firm or individual, and the refund amount required by the corresponding consent order, remedial order, or stipulated settlement are listed in the Appendix to this Decision and Order. (*1*) Pursuant to these orders, these parties have been required to make refunds totaling approximately $78.9 million for violations and alleged violations of DOE pricing regulations. Most of those funds have already been paid to DOE and are being held in escrow under the jurisdiction of DOE pending receipt of instructions from OHA regarding their final distribution. (*2*) These cases have been consolidated for purposes of this decision, because each involves actual or alleged crude oil pricing violations, and because the issues concerning the identification of injured parties are similar.

I. Regulatory Background

The parties in each of these cases were subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150 and 10 CFR Part 212. DOE and its predecessor agencies conducted audits and investigations of these parties which revealed actual or alleged violations of the Mandatory Petroleum Price Regulations with respect to the sale of crude oil.

Those regulations generally required crude oil producers to determine the first sale price of crude oil based on the level of production from a property during a specified base period, i.e. the base production control level (BPCL). *See* 6 CFR § 150.354; 10 CFR 212.72-.74. The term "property" was defined as the right to produce crude oil which arises from a lease or fee interest. 6 CFR 150.354(b)(2); 10 CFR § 212.72. Crude oil production that did not exceed the BPCL for a particular property was generally subject to the lower tier ("old" oil) ceiling price rule. 6 CFR 150.354; 10 CFR 212.73. Crude oil production that exceeded the BPCL ("new" oil) could generally be sold without regard to the ceiling price rule before February 1, 1976, and at the upper tier ceiling price level after that date. 6 CFR 150.354(c)(2); 10 CFR 212.74(a). Before February 1, 1976, in months in which new oil could be sold as "released" oil at prices in excess of the applicable lower tier ceiling price level. 6 CFR 150.354(c)(3); 10 CFR 212.74(b). Additionally, crude oil produced from a "stripper well property" could generally be sold at market price levels. Producers and resellers of crude oil were generally required to certify in writing to each purchaser in the distribution chain the respective volumes of the various categories of price-controlled domestic crude oil included in each purchase. 10 CFR 212.131 (a) (4), (b) (1). Each refiner was required to report these certifications to DOE and its predecessors when the refiner processed the crude oil. See CFR 211.67.

The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. As discussed above, the federal regulations on the price of crude oil created a price disparity between, on the one hand, foreign crude and uncontrolled domestic crude oil, and old and upper-tier (price-controlled) oil on the other hand. These price controls had an unequal effect on refiners because some refiners had greater access to the cheap old oil than

others. Firms which had little or no access to price-controlled oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent firms, with little, or no access to price-controlled domestic reserves, experienced crude oil acquisition costs much higher than those generally experienced by the industry. To remedy these imbalances, DOE established the Entitlements Program. 39 FR 31650 (1974); 39 FR 39740 (1974). Under the Entitlements Program, refiners with proportionally greater access to cheap price-controlled oil made cash payments, in the form of the purchase of entitlements, to refiners with less access to price-controlled oil.

The basic purpose of the Entitlements Program was to spread the benefit of access to old price-controlled oil and the burden of dependence on uncontrolled oil among all sectors of the petroleum industry, all regions of the country, and among all consumers of petroleum products, while retaining the incentives for increased production and anti-inflationary measures which the two-tier price system provided.

Cities Service Co. v. *FEA*, 525 F.2d 1016, 1021 (Temp. Emer. Ct. App. 1975) (footnote omitteed).

II. Factual Background

The types of regulatory violations allegedly or actually committed by the parties to the settlements and remedial orders encompassed in this proceeding fall into four categories. Most of the alleged violations involve producers of crude oil, as defined in 10 CFR 212.31, who allegedly incorrectly certified "old" price-controlled crude oil as "new" or "stripper well" oil, which was subject to less stringent price controls. These firms allegedy overcharged purchasers by an amount per barrel which equals the difference between the "new" on "stripper well" prices and the maximum price permitted for "old" oil. The second type of violation involves producers who allegedly sold "old" oil at levels in excess of the applicable ceiling price permitted by the regulations. The third type of violation concerns resellers who allegedly miscertified "oil" crude oil which they sold at higher "new" or world market level (uncontrolled) oil prices. The fourth type of violation concerns refiners who obtained greater entitlements benefits than they were entitled to receive because they failed to report or incorrectly reported crude oil which they received.

In most of these cases, the Government agreed to terminate the pending investigations, administrative proceedings or court litigation through a consent order or court-approved stipulation of settlement, and the parties agreed to pay a stipulated sum of money to the DOE. Notices of some of the consent orders were published in the Federal Register.(*3*) Interested parties were provided an opportunity to comment on the terms of the consent orders and to submit written notices to ERA of potential claims against the settlement funds. In a number of cases DOE also issued press releases concerning the consent orders. In a few of these cases the funds were remitted to the DOE as the result of a final remedial order or court-approved stipulation of settlement. The dates of the publication of the final consent orders and remedial orders, and the dates of the court orders approving the settlements, are set forth in the Appendix to this decision. In some cases parties have submitted claims for a portion of the funds.(*4*)

On February 3 and June 8, 1984, we issued Proposed Decisions and Orders which tentatively set forth procedures to distribute refunds to parties who were injured by the 194 firms, actual or alleged violations. 49 FR 6542 (February 22, 1984); 49 FR 26140 (June 26, 1984). In the proposed decisions we described a two-stage process for the distribution of the funds made available by the settlements and remedial orders. We proposed to refund money in the first stage to identifiable purchasers of crude oil who were injured by the firms' partices. We stated that a second stage of the refund procedure may be necessary if funds remain after meritorious claims are paid in the first stage.

This decision establishes procedures for filing claims in the first stage of the refund proceeding. We will describe the information that a claimant should submit in order to demonstrate that it is eligible to receive a portion of the funds. In establishing these requirements, we will address comments filed in response to the first-stage proposals in the February 3 and June 8 decisions. We will not, however, determine procedures for a second stage of the refund process in this decision. It is premature for us to address the issues raised by commenters regarding the disposition of any remaining funds until all the first-stage claims have been paid.

III. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures in light of the comments we received. We have determined that it is appropriate to establish such a proceeding with respect to the settlement and remedial order funds. In our proposed decisions and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See, e.g., Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982). We will therefore grant ERA's petitions and assume jurisdiction over the distribution of these funds.

IV. Refund Procedures

A. Refunds to Injured Parties

We have previously established refund procedures for consent orders involving the same type of crude oil-related violations as those which are the subject of the present proceedings. In *Office of Enforcement: In the Matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982), 47 Fed. Reg. 2196 (January 14, 1982) (hereinafter cited as *Alkek*) and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82.553 (1982), 47 FR 16381 (April 16, 1982) (hereinafter cited as *Adams*), which involved consent orders and remedial orders with 58 firms, we established a two-stage refund procedure for consent order and remedial order funds received as a result of alleged crude oil regulatory violations. Because the types of alleged violations that underlie the present proceeding are substantially the same as those that were the subject of the *Alkek* and *Adams* proceedings, we have determined that it is appropriate to formulate a two-stage refund proceeding modeled after those proceedings. We therefore propose to establish first-stage refund procedures in which we will accept first-stage refund applications to be adjudicated in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek* and *Adams* determinations.

B. Applications for Refund

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our proposed decisions, we have decided to now accept applications for refund for portions of the settlement and remedial order funds. *See* 10 CFR 205.283. Any person who filed a refund application in the *Alkek* or *Adams* refund proceedings, which is pending as of the date of issuance of this decision, will be deemed to have submitted a similar application in this proceeding.

An application must be in writing, signed by the applicant, and specify the settlement or remedial order fund to which it pertains, along with the appropriate case number. An applicant should indicate from whom the crude oil

was purchased, and, if the applicant was not a direct purchaser, it should also indicate the basis for its belief that it was injured by the alleged regulatory violations that form the basis underlying this proceeding. In addition, a claimant who was subject to the DOE regulations must show that it was unable to pass through to its customers the price increases caused by the actual or alleged violations. Each applicant should report any past or present involvement as a party in DOE enforcement actions. If these actions have terminated, the applicant should furnish a copy of a final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. The applicant is under a continuing obligation to keep OHA informed of any change in status during which its application for refund is being considered. *See* 10 CFR 205.9(d). Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

All applications should be sent to: Johnson Refund Proceeding, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Applications for refund of a portion of the settlement and remedial order funds must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

V. Conclusion

The refund mechanisms and procedures outlined above for first-stage claims filed with DOE will be adopted. With respect to the second-stage of the refund process, as in previous cases, we shall hold in abeyance our determination as to appropriate second-stage procedures until we know how much money will remain after successful first-stage claimants are paid. *See Office of Enforcement,* 9 DOE ¶ 82,508 (1982).

It Is Therefore Ordered That:

(1) The Petitions for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case Nos. HEF–0472 and other listed in the Appendix be granted.

(2) Applications for Refunds from the funds remitted to the Department of Energy by A. Johnson & Company, Inc. and other listed in the Appendix pursuant to the consent orders, remedial orders, and stipulations of settlement may not be filed.

(3) All applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: October 29, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Notes

(*1*) Of the 194 cases listed in the Appendix, all but six were part of a Petition for the Implementation of Special Refund Procedures filed by the ERA on October 13, 1983. One petition involving Cotton Petroleum Corporation was filed on December 29, 1983. Petitions involving Ernest E. Allerkamp, Flying Diamond Oil Co., Kastman Oil Co., Southern Crude Oil Resources, Inc., and Pacific Oil Co., Inc., were filed on March 20, 1984. Copies of the respective refund orders and supporting materials filed by the ERA may be obtained from the OHA Public Docket Room. As the majority of these orders contain little specific information regarding the crude oil pricing violations that were alleged before settlement, we have not included in this decision specific identification of the violations underlying these consent orders, remedial orders, and stipulated settlements.

(*2*) Some of the orders require payments to be made in installments through 1984. All funds are deposited as collected into escrow accounts which, along with accrued interest, totaled approximately $100 million as of March 30, 1984.

(*3*) DOE procedural regulations require the publication for public comment in the **Federal Register** of consent orders which call for the payment of sums exceeding $500,000. *See* 10 CFR § 205.199J(b).

(*4*) All claims received by ERA were included in the materials which it filed with its October 13, 1983, December 29, 1983, and March 20, 1984, Petitions for the Implementation of Special Refund Procedures. All of those claimants will receive a copy of this Decision and Order.

APPENDIX

Case name	Case	Amount	Reference
A. Johnson & Co., Inc	HEF–0472	$124,564	46 FR 29502 (1981).
Adco Producing Co., Inc	HEF–0313	99,522	45 FR 82989 (1980).
Adolph Coors Co	HEF–0283	10,000	(1)
Al Brown Oil Operator	HEF–0334	31,203	44 FR 63137 (1979).
Alpar Resources, Inc	HEF–0314	313,000	46 FR 47252 (1981).
Amax Petroleum Corp	HEF–0315	182,450	2 DOE Par. 83,004 (1978).
Aminoil USA, Inc	HEF–0317	2,600,000	45 FR 67716 (1980).
Arizona Fuel Corp	HEF–0463	490,441	681 F. 2d 797 (TECA 1982).
Armour Oil Co	HEF–0278	225,000	(1)
Art Machin & Associates	HEF–0395	25,000	(1)
Atlantic Oil Co	HEF–0318	5,476	45 FR 65281 (1980).
Atlantic Oil Corp	HEF–0319	60,000	45 FR 50852 (1980).
Axis Petroleum Co	HEF–0320	52,541	(1)
B & M Operating Co., Inc	HEF–0321	410,000	(1)
Barnhardt	HEF–0322	630,000	46 FR 22926 (1981).
Barton, A.L.	HEF–0279	100,000	(1)
Bass Enterprises Production Co	HEF–0323	497,500	46 FR 38120 (1981).
Baxter, Murphy H	HEF–0324	200,000	46 FR 21411 (1981).
Belco Petroleum Corp	HEF–0325	100,497	44 FR 42311 (1979).
Berg, Laney, & Brown	HEF–0326	240,000	45 FR 58945 (1980).
Bettis, Boyle & Stovall	HEF–0327	50,000	46 FR 40781 (1981).
Big Six Drilling Co	HEF–0330	50,000	45 FR 40202 (1980).
Big-Tex Crude Oil Co	HEF–0280	400,000	46 FR 35722 (1981).
Biglane Operating Co	HEF–0329	65,701	45 FR 34342 (1980).
Bill Forney, Inc	HEF–0362	480,000	(1)

APPENDIX—Continued

Case name	Case	Amount	Reference
Blackwood & Nichols Co., Ltd	HEF-0331	160,000	46 FR 31045 (1981).
Bock & Bacon	HEF-0332	180,000	46 FR 45408 (1981).
Bolin Oil Co	HEF-0333	27,500	46 FR 33084 (1981).
Buxton, F.M.	HEF-0335	50,285	8 DOE Par. 83,027 (1981).
C & K Petroleum, Inc	HEF-0336	285,000	(1)
C.D. Hollingsworth & Associates	HEF-0375	147,111	(1)
C.N. Operating Co	HEF-0337	325,000	46 FR 42503 (1981).
Cajun Energy, Inc	HEF-0281	45,000	46 FR 42096 (1981).
Caulkings Oil Co	HEF-0338	37,248	(1)
Centura, Inc	HEF-0339	115,000	46 FR 40790 (1981).
Century Oil Management, Inc	HEF-0340	324,316	44 FR 67408 (1979).
Cobra Oil & Gas Corp	HEF-0342	30,000	46 FR 45409 (1981).
Coffield Pipeline Co	HEF-0282	85,000	46 FR 35723 (1981).
Comanche Oil Co	HEF-0343	170,000	46 FR 35331 (1981).
Cooper & Brain, Inc	HEF-0344	465,212	45 FR 27466 (1980).
Cotton Petroleum Corp	HEF-0486	1,156,493	(N.D. Okla. Sept. 8, 1983).
Cross Oil & Ref. Co. Arkansas	HEF-0464	800,000	46 FR 29305 (1981).
Culpepper Oil Co	HEF-0346	355,000	(1)
Da Vinci Co., Inc	HEF-0284	500,000	45 FR 52863 (1980).
Declata International, Inc	HEF-0347	134,357	45 FR 46159 (1980).
Depco, Inc	HEF-0348	335,000	(1)
Diamond Shamrock Corp	HEF-0465	10,301	46 FR 45667 (1981).
Dolley, Chester F	HEF-0349	214,046	45 FR 84282 (1980).
Earth Resources	HEF-0466	626,000	45 FR 81256 (1980).
Eddy Refining Co	HEF-0467	24,892	46 FR 22259(1981).
Edwards Producing Co., Inc	HEF-0352	106,732	45 FR 29878 (1980).
El Paso Natural Gas Co	HEF-0353	430,100	45 FR 59942 (1980).
Elm City Filling Stations	HEF-0468	106,770	(1)
Encorp, Inc	HEF-0285	5,000	46 FR 28898 (1981).
Energy Acquisition	HEF-0354	299,000	(1)
Energy Development of California	HEF-0355	41,000	44 FR 67498 (1979).
Energy Services, Inc	HEF-0356	750,000	47 FR 19401 (1982).
Engle Enterprises, Inc	HEF-0286	20,000	(1)
Equipment, Inc	HEF-0357	10,000	(1)
Ernest E. Allerkamp	HEF-0469	444,060	(1)
Estate of Claire-Benz-Stoddard	HEF-0341	50,000	44 FR 38995 (1979).
Estate of Loyce Phillips	HEF-0423	36,840	(1)
Exchange Oil & Gas Corp	HEF-0358	151,006	46 FR 35332 (1981).
Farmers Union Central Exchange	HEF-0359	150,000	46 FR 24227 (1981).
Ferguson Oil Co	HEF-0360	98,323	6 DOE Par. 83,003 (1980).
Fletcher Oil & Refining Co	HEF-0469	41,210	46 FR 43484 (1981).
Florida Gas Exploration Co	HEF-0361	890,141	(S.D.Tex. Apr. 20, 1961).
Flying Diamond Oil Co	HEF-0490	155,538	(D. Utah, Jan. 26, 1964).
Franks, John	HEF-0363	289,015	9 DOE Par. 83,041 (1982).
Franks, John & Duggan, Don H	HEF-0350	144,499	9 DOE Par. 83,041 (1982).
Freeport Minerals Co	HEF-0364	10,508	44 FR 34631 (1979).
Geer Tank Trucks, Inc	HEF-0287	5,000	46 FR 43484 (1981).
General Exploration Co	HEF-0365	100,000	46 FR 12263 (1981).
Golden Eagle Oil Co	HEF-0470	300,000	(1)
Gonsoulin Energy Corp	HEF-0288	96,000	(1)
Grace Petroleum Corp	HEF-0366	1,450,000	46 FR 45667 (1981).
Guam Oil & Refining Co	HEF-0471	2,500,000	47 FR 19733 (1982).
Hankamer, Curtis	HEF-0367	410,000	46 FR 27995 (1981).
Hanover Management Co	HEF-0368	175,000	44 FR 66022 (1979).
Hassie Hunt Exploration Co	HEF-0370	158,608	(1)
Hawn Bros	HEF-0371	70,000	45 FR 54412 (1980).
Hawthorne Oil & Gas Corp	HEF-0372	520,000	48 FR 28817 (1983).
Hewitt & Dougherty	HEF-0373	180,000	44 FR 48746 (1979).
HNG Oil Co	HEF-0374	379,616	(1)
Houston Oil & Minerals Corp	HEF-0376	3,985,000	46 FR 37751 (1981).
Howell Drilling, Inc	HEF-0377	28,500	45 FR 53205 (1980).
Hudson & Hudson	HEF-0378	750,000	48 FR 22614 (1983).
Hunt Oil Co	HEF-0380	14,162	10 DOE Par. 83,016 (1982).
Hunt, D.H	HEF-0381	996,540	46 FR 61499 (1981).
Independent Oil Producers Agency	HEF-0290	290,185	46 FR 23107 (1981).
Inland Crude Purchasing Corp	HEF-0291	21,000	(1)
Johnson, E. Lyle	HEF-0384	44,051	(2)
Karchmer Pipe & Supply, Inc	HEF-0386	107,000	45 FR 50624 (1980).
Kastman Oil Co	HEF-0492	50,000	(1)
Kimbark Operating Co	HEF-0387	11,000	46 FR 25339 (1981).
Kirkpatrick Oil & Gas Co	HEF-0388	260,000	8 DOE Par. 83,004 (1981).
Lebsack Oil Production, Inc	HEF-0390	18,500	(1)
Lenoir M. Josey, Inc	HEF-0385	262,500	(1)
Lindsey, W.W. & Elliott, W.E	HEF-0391	25,000	(1)
Lobo Oil Corp	HEF-0392	205,072	23 FERC Par. 61,252 (1983).
Loeb, Herman	HEF-0393	72,993	(1)
Lyons Petroleum, Inc	HEF-0394	192,620	46 FR 26680 (1981).
Mackellar, Inc	HEF-0396	38,485	(1)
Marion Corp	HEF-0475	703,570	46 FR 26370 (1981).
Marshall Pipe & Supply Co	HEF-0397	52,000	46 FR 47254 (1981)
MCBO Oil Co	HEF-0398	90,000	(1)
McCormick Oil & Gas Corp	HEF-0399	92,000	(1)
Meason Optg. Co	HEF-0400	68,120	44 FR 43506 (1979).
Mertz, Bruce	HEF-0401	62,098	44 FR 45662 (1979).
Mesa Petroleum Co	HEF-0402	340,000	45 FR 70970 (1980).
Mid-Plains Petroleum Co	HEF-0297	120,000	(1)
Mitchell, William	HEF-0403	72,993	(1)
Moncrief, W.A. Jr	HEF-0404	1,100,000	44 FR 39581 (1979).
Moore & Miller	HEF-0405	30,111	46 FR 38954 (1981).
Mosbacher Production Co	HEF-0406	80,000	45 FR 49640 (1980).
Do	HEF-0407	180,000	46 FR 24623 (1981).
Mountain Fuel Supply Co	HEF-0408	275,000	45 FR 70969 (1980).

APPENDIX—Continued

Case name	Case	Amount	Reference
Mustang Fuel Corp	HEF-0298	800,000	48 FR 27129 (1983).
National Coop Refinery Association	HEF-0409	95,000	46 FR 22426 (1981).
Nevada Refining Co	HEF-0476	137,621	[1]
NFC Petroleum Corp	HEF-0410	249,684	[1]
Nielson Enterprises, Inc	HEF-0411	325,000	46 FR 20588 (1981).
North Central Oil Corp	HEF-0412	750,000	46 FR 50407 (1981).
Northeast Natural Gas Co	HEF-04113	86,604	44 FR 43508 (1979)
NRG Oil Co	HEF-0300	114,375	[1]
Oil California Exploration, Inc	HEF-0414	145,369	45 FR 47783 (1980).
Oilco	HEF-0301	5,000	[1]
OKC Corp	HEF-0477	600,000	46 FR 28473 (1981).
Osage Oil & Transportation, Inc	HEF-0302	177,000	[1]
Oxnard Refining Co	HEF-0478	789,108	46 FR 28473 (1981).
Panhandle Eastern Pipeline Co	HEF-0265	542,455	45 FR 15976 (1980).
Park, Robert E	HEF-0415	100,000	46 FR 5047 (1981).
Pauley Petroleum, Inc	HEF-0416	27,242	[1]
Pawnee Petroleum Corp	HEF-0417	676,562	46 FR 55754 (1981).
Payne, Inc	HEF-0418	440,000	45 FR 54414 (1980).
Payne-Johnston & Byars	HEF-0419	89,000	[1]
Petroleum Consulting Services	HEF-0303	125,000	[1]
Petroleum Corp. of Texas	HEF-0420	100,000	44 FR 45664 (1979).
Petrominerals Corp	HEF-0304	21,250	[1]
Phillips Oil Operating Co	HEF-0421	43,000	46 FR 28897 (1981).
Phillips, B.F., Jr	HEF-0422	36,248	46 FR 24622 (1981).
Prudential Drilling Do	HEF-0424	162,500	[1]
R. Lacy, Inc	HEF-0294	48,000	45 FR 55807 (1980).
Do	HEF-0389	20,000	44 FR 68950 (1979).
R.H. Seigfried, Inc	HEF-0435	85,000	[1]
Ray M. Huffington, Inc	HEF-0379	180,000	[1]
Riddle Oil Co	HEF-0425	1,100,000	46 FR 51429 (1981).
Roark & Hooker	HEF-0426	300,000	46 FR 12264 (1981).
Robinson Energy Corp	HEF-0427	601,000	47 FR 19402 (1982).
Rose, Hubert	HEF-0428	75,000	44 FR 43507 (1979).
Ross Production Co	HEF-0429	100,000	45 FR 30672 (1980).
Rupe Oil Co., Inc	HEF-0430	35,000	46 FR 17248 (1981).
Ryder Truck Rental, Inc	HEF-0305	130,000	46 FR 30173 (1981).
Santa Fe Energy Products Co	HEF-0306	48,462	[1]
Sater, Ronald E	HEF-0431	62,098	44 FR 45662 (1979).
Sauder, Earl W	HEF-0432	296,622	[1]
Search Drilling Co	HEF-0433	94,205	46 FR 9986 (1981).
Secor Petroleum Co., Inc	HEF-0307	47,500	[1]
Seminole Refining, Inc	HEF-0479	1,330,000	45 FR 55519 (1980).
Shenadoah Oil Corp	HEF-0434	115,500	45 FR 58397 (1980).
Signal Petroleum	HEF-0437	1,500,000	47 FR 55267 (1982).
Southern Crude Oil Resources	HEF-0495	135,000	[1]
Southern Union/Midland-Lea	HEF-0308	300,000	[1]
Southland Drilling & Product	HEF-0438	23,014	[1]
Stevens Oil Co	HEF-0439	100,000	46 FR 35725 (1981).
Sundance Oil Co	HEF-0440	800,000	(D. Colo. Sept. 23, 1982).
Superior Oil Co	HEF-0441	9,800,000	46 FR 28474 (1981).
Tauber Oil Co	HEF-0309	575,000	48 FR 16316 (1983).
Texas American Petrochemicals	HEF-0310	10,000	[1]
Texas Oil & Gas Corp	HEF-0442	1,718,800	45 FR 13803 (1980).
Texas Pacific Oil Co., Inc	HEF-0496	500,000	48 FR 43379 (1983).
Texas Recovert Co	HEF-0443	81,335	[1]
Texland Petroleum	HEF-0444	280,000	[1]
Toco Corp	HEF-0445	892,588	45 FR 74019 (1980).
Todd & Saunders, Inc	HEF-0446	98,000	[1]
Transpac Petroleum Inc	HEF-0447	50,000	[1]
Travelers Oil Co	HEF-0448	125,332	45 FR 49325 (1980).
Twin Montana, Inc	HEF-0449	116,994	[1]
Do	HEF-0450	1,489,130	48 FR 22785 (1983).
TXO Oil Co	HEF-0311	150,000	[1]
Vallecitos Oil Co	HEF-0451	268,072	45 FR 47785 (1980).
Van Horn, James M., Operator	HEF-0452	50,000	[1]
Varn Petroleum Co	HEF-0453	150,000	46 FR 26812 (1981).
Venture Trading Co	HEF-0312	17,946	[1]
Virginia Dare Oil Co	HEF-0454	45,000	[1]
Wadsworth Oil Co	HEF-0455	62,413	[1]
Walker, Kenneth	HEF-0292	495,000	[1]
Wall, Earl E	HEF-0456	335,000	[1]
Western Avenue Properties	HEF-0458	40,000	[1]
William Herbert Hunt Trust Est	HEF-0382	136,937	[1]
William S. Exploration	HEF-0459	13,000,000	47 FR 36265 (1982).
Wilsire Oil Co. of Texas	HEF-0460	40,632	[1]
Windfohr Oil	HEF-0461	223,500	[1]
Woods, Dalton J	HEF-0462	93,546	22 FERC Par. 62175 (1983).

[1] Not published.
[2] No appeal filed.

[FR Doc. 84-29329 Filed 11-6-84; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Third 500-kV Intertie Transmission Line; Southern Oregon to Central California; Intent to Prepare an Environmental Impact Statement

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, the Western Area Power Administration (Western), Department of Energy (DOE), intends to prepare an environmental impact statement (EIS) for the design, construction, operation, and maintenance of the Third Alternating Current (AC) Intertie transmission line. Western will coordinate with the Bonneville Power Administration (BPA) in preparation of the EIS.

Background

For nearly 2 decades, the Pacific Northwest-Southwest Intertie (Intertie), consisting of two 500-kV AC lines and one 800-kV direct current line, has successfully enabled utilities to exchange resources between California and the Northwest, including British Columbia. The savings to all entities utilizing the Intertie has significantly exceeded costs.

Currently, many utilities in the Northwest have relatively low-cost surplus generation as a result of reduced load growth, conservation efforts, and the addition of new resources. Conversely, California has had a continuing demand for more power because of increased load growth. The present Intertie system is inadequate to transmit all the surplus power available in the Northwest which California could not use. Because of the existing Northwest surplus, escalating power costs in California during the past decade, and interest in reducing power costs to the consumer, many utilities and agencies in the West have been investigating and planning potential upgrades to the existing facilities and the addition of new interties.

More recently, the need for additional interties has been clearly illustrated. The frequency of outages on the Intertie is a major concern to all interconnected utilities in the region. Studies show that expanding the Intertie system by adding a third 500-kV AC transmission line (Third AC Intertie) would provide a cost effective means of increasing both the reliability of the existing Intertie and the electrical transfer capacity of the total Intertie system. The increased electrical transfer capacity would allow for greater transfers of surplus generation to displace more expensive energy and thereby reduce the power costs to the consumers in various regions. The Third AC Intertie would also provide a means of enhancing exchanges of surplus firm and economy energy among the utilities in the West. Recognizing the above, Congress passed H.R. 5653, which was signed into law as Pub. L. 98–360 by the President on July 16, 1984, authorizing the Secretary of Energy to construct or participate in the construction of the Third AC Intertie.

Proposed Facilities: As now being planned, the major features of the Third AC Intertie will consist of a new 500-kV AC line from southern Oregon to a new substation near Redding, California, where it would interconnect with Western's existing Central Valley Project 230-kV system. The right-of-way presently occupied by a double circuit 230-kV line would be used and the system would be upgraded to 500 kV between Redding and a substation near Tracy, California. A new section of 500-kV system interconnection would be constructed from Tracy to the Pacific Gas and Electric Company's existing 500-kV Tesla Substation. Another possible component of the project, the need for which will be determined during system studies, is a 500-kV cross-tie to connect the existing Round Mountain Substation with the new Intertie. Alternatives that will be addressed include siting and routing alternatives, system alternatives and other intertie proposals, and no action.

Meetings: Western and BPA will conduct a series of public scoping meetings during November and December 1984, in northern and central California and southern Oregon. The purposes of the meetings are: (1) to inform private citizens and organizations, Federal, State, and local agencies, and public and private utilities of the proposed action; and (2) to receive comments and information which will help Western identify the environmental issues that will be addressed in the EIS. The dates and locations of the meetings will be announced in local newspapers and the Federal Register.

FOR FURTHER INFORMATION CONTACT: Anyone desiring further information on this proposal or wishing to be included on a mailing list to receive project-related information should send their requests to: Nancy Weintraub, Environmental Manager, Sacramento Area Office, Western Area Power Administration, U.S. Department of Energy, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4034, FTS 468–4034.

Issued at Golden, Colorado: October 19, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84–29233 Filed 11–6–84; 8:45 am]

BILLING CODE 6450–01–M

Floodplain/Wetlands Involvement Determination for the Saguaro-Tucson 115-kV Transmission Line Reconductor Project

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Floodplain/Wetlands Involvement and Opportunity for Comment.

SUMMARY: The Western Area Power Administration (Western), U.S. Department of Energy (DOE), proposes to reconductor the existing 35-mile long Saguaro-Tucson 115-kV transmission line. Preliminary studies have indicated that future load growth, and the additional load associated with the ongoing Central Arizona Project, will cause overloading of the existing conductors under certain generation levels and line outage conditions. Reconductoring the existing transmission line with larger conductors will increase capacity, thus permitting the accommodation of the additional load. Line voltage will remain unchanged.

The project will involve the replacing of the existing conductors with new larger conductors, X-bracing all HS structures, strengthening guy wires and anchors on all angle and deadend structures, and replacement of present insulators on large angle and deadend structures with higher electrical and mechanical strength insulators. Most of the present wood pole structures on the Saguaro-Tucson transmission line are in good condition, the structures having recently been inspected, treated, and in some cases replaced under Western's Wood Pole Rehabilitation Program. A few structures may be replaced or modified as identified during the course of the project. All work associated with the reconductor project will occur on Western's existing right-of-way and access roads. It is anticipated that the award of contract will be made in March of 1986, with a scheduled inservice date of April 1987.

Pursuant to the DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR 1022), Western has determined that this project would involve activities

within a floodplain/wetlands area. The existing right-of-way is located within the floodplain of the Santa Cruz River, an intermittent watercourse, for most of its length. Western will prepare a floodplain/wetlands assessment as an integral part of the environmental assessment covering the project.

Planned work activities within the floodplain will include all of those detailed above. Some structure poles may be replaced, and some structures may be considered for floodproofing measures such as deeper foundations and/or casements. Vehicular traffic would occur all along the right-of-way and along access roads. With the exception of possible pole replacement or structure modification on a case-by-case basis, no excavation or grading would occur as part of the proposed action.

Further information on this project is available from Western at the address provided below. Public comments or suggestions on the action are invited.

DATE: Comments are due on or before November 23, 1984.

ADDRESS: Send written comments or suggestions to: Mr. Charles W. Saylor, Environmental Specialist, Boulder City Area Office, Western Area Power Administration, U.S. Department of Energy, P.O. Box 200, Boulder City, NV 89005, (702) 293–8844 or FTS 598–7844.

FOR FURTHER INFORMATION CONTACT: Gary W. Frey, Director of Envirnomental Affairs, Western Area Power Administration, U.S. Department of Energy, P.O. Box 3402, Golden, CO 80401, (303) 231–1527 or FTS 327–1527.

Issued at Golden Colorado, October 30, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84–29234 Filed 11–6–84; 8:45 am]

BILLING CODE 6450–01–M

Record of Decision To Construct the Great Falls-Conrad 230-kV Transmission Line Project, Montana

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Record of Decision to Construct the Great Falls-Conrad 230-kV Transmission Line Project, Montana.

SUMMARY: The Western Area Power Administration (Western) has made the decision to constuct the Great Falls-Conrad 230-kilovolt (kV) Transmission Line following the environmentally preferred alternative identified in the draft and final environmental impact statements (EIS). The transmission line will be constructed with single-pole structures made of concrete, steel, or a combination of these materials. Two new substations will be constructed as part of the project. Western will proceed with land acquisition, construction, and subsequent operation and maintenance of the proposed facilities. The availability of the draft and final EIS for the project was announced in the Federal Register by the Environmental Protection Agency on March 8, 1984, and July 27, 1984, respectively.

Western has adopted the mitigation measures listed in the EIS. A specific mitigation plan for cultural resource impacts will be developed in consultation with the Montana State Historic Preservation Officer (SHPO) and this plan will be implemented before construction activities commence. In addition, any site specific mitigation requirements identified during construction will be addressed by Western and coordinated with appropriate Federal, State and local agencies. General mitigation measures are discussed later in this document.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, Telephone: (406) 657–6532.

SUPPLEMENTYARY INFORMATION: The electrical needs of the Conrad-Shelby-Browning area in north central Montana are presently served by a single 115-kV transmission loop originating in Great Falls running through Cut Bank and terminating in Havre. Power system simulation studies indicate, and actual operational experience has demonstrated, an urgent need for improvements to the high voltage transmission system in the area. Under present conditions an outage on the Great Falls-Conrad section of the existing loop could result in low voltage, overload, and loss of load conditions. Routine maintenance of the existing 115-kV loop will become increasinlgy difficult to accomplish due to the inability to remove sections of the transmission line from service. Even with the existing system intact, system voltages and facility loadings in the area are unacceptable, resulting in increasingly severe and frequent low voltage conditions and service interruptions.

Subtransmission service between Great Falls and Conrad is supplied by a 69-kV system. Because of the length of the 69-kV subtransmission system between Great Falls and Conrad, the resulting high impedance of the 69-kV system makes the loads at the extremities of the system vulnerable to poor voltage regulation.

The proposed action would provide continued service to area loads, improve system reliability, extend the capability of the underlying subtransmission system, contribute to energy conservation by reducing line losses on the existing high voltage and 69-kV system, and provide flexibility for future expansion of the area electrical transmission system.

Planning for the proposed project began in the summer of 1981. In December 1981, Western conducted nine scoping meetings with Federal, State and County agencies, and the general public. Public scoping meeting were held in Great Falls, Choteau, and Conrad, Montana. The primary concerns identified during the scoping meetings were: (1) the need for the project and how it relates to existing and planned utility facilities in the project area; (2) the environmental studies which would be conducted and the methodology for selecting a preferred corridor; (3) right-of-way acquisition procedures and the extent to which individual landowners would be informed and involved in decisionmaking; (4) impacts to agricultural land use and how they would be mitigated; (5) design, construction and routing alternatives, including underground construction, double-circuiting, paralleling existing transmission lines, and construction of a line of sufficient capacity to preclude additional transmission line construction in the near future; (6) cultural resources; and (7) threatened and endangered species.

Following the scoping meetings, Western evaluated the resources within the study area to identify transmission line corridors. Areas of opportunity, least impact, avoidance, and exclusion were identified in the study area. The factors considered in this phase of the siting study included: (1) archeological and historical sites; (2) areas of religious significance to Native Americans; (3) wildlife and fisheries resources, particularly waterfowl concentration areas; (4) land use patterns, especially agricultural and residential; (5) geology and soils; (6) paleontological resources; and (7) visual resources.

After alternative corridors were identified, Western conducted a series of public planning workshops to solicit input from landowners and other interested groups and individuals. The planning workshops were held in Great Falls, Choteau, and Conrad in October 1982. An environmentally preferred corridor was then selected, based on an impact assessment process.

Western presented the environmentally preferred corridor and preliminary design concepts for the proposed transmission line during a second series of public planning worshops in February 1983. Based upon input received at these workshops, significant refinements were made to one of the preferred corridor links and Western held an additional public planning workshop to present those refinements in Great Falls in March 1983.

The draft EIS was issued in February 1984, evaluating Western's proposed action, reasonable alternatives to the proposed action, and the environmental impacts of the proposal and alternatives. Public hearings on the draft EIS were conducted in Great Falls, Choteau, and Conrad in March 1984, and written and oral comments were received. Two oral comments and 12 written comments were received during the 45-day draft EIS public review period. The final EIS was issued in July 1984.

Description of Alternatives

1. No Action—Western would construct no transmission facilities between Great Falls and Conrad.

2. Energy Conservation—Western encourages energy conservation which eliminates wasteful, uneconomic, or unnecessary uses of energy resulting in the reduction of energy consumption and documented adverse environmental impacts.

3. Alternative Generation Sources—Area utilities and agencies were queried as to their plans for new electric generation in the project area.

4. Alternative Transmission Systems and Technologies—Western evaluated the possibility of fulfilling the needs discussed earlier by means of other existing or planned transmission/distribution system, or by means of alternative technologies, such as direct current (DC) versus alternating current (AC) and overhead versus underground construction.

5. Design Alternatives—Western considered various voltage levels, structure types, and conductors.

A. Voltage Level—Three voltage levels were studied: 115-, 161-, and 230-kV. All of these voltage levels presently exist in the transmission system in the Great Falls area.

B. Structure Types—Single-pole construction using either concrete, steel, or a combination of those materials, steel lattice, and wood-pole H-frame structures were alternatives considered by Western.

C. Conductors—Three conductor sizes were considered for the project: 795 kcmil, 954 kcmil, and 1272 kcmil ACSR. Also specular (normal) and non-specular (dulled finish) conductors were evaluated.

6. Routing Alternatives—Fifty-six alternative routing corridors were evaluated. These ranged from 95.4 miles to 74.1 miles in length and were composed of a total of 48 corridor links, each 6,000 feet wide.

Basic of Decision

The no action alternative would result in low voltage, overload, and loss of load on the Great Falls-Cut Bank-Havre 115-kV transmission loop, increasingly frequent and severe service interruptions, and overloaded lines and poor voltage regulation on the 69-kV subtransmission system between Great Falls and Conrad.

Energy conservation measures could not significantly reduce existing area loads to offset projected load growth in the area.

The Montana Power Company plans to construct a 330-megawatt (MW) coal-fired generating plant east of Great Falls in the 1995–96 period, and a 100-MW hydroelectric plant at Carter Ferry on the Missouri River sometime after the year 2000. Although these new sources might require additional transmission lines into the Great Falls area, they would not provide the necessary support to the system to be served by the proposed action. The U.S. Army Corps of Engineers and Bureau of Reclamation have identified potential low-head hydroelectric generation sites at the Gibson and Sun River diversion dams in Teton County, Montana. The total potential capacity for these sites is between 10.6 and 13.6 MW which would not justify deferral or eliminate the need for the proposed action.

Western markets and delivers bulk power within the project area by means of the previously described 115-kV loop. Western owns the Havre-Shelby portion of that loop, and presently has contractual rights to use spare transmission capacity available in other portions of the loop which are owned by other utilities. Portions of the loop are already loaded to capacity and can no longer provide adequate, reliable service to area loads. Other area utilities have indicated they have no future plans to construct new transmission facilities to correct this problem since their existing facilities are adequate to meet their own load/resource obligations.

In comparison to an AC transmission system, a DC system is generally not economical except for transferring large blocks of power over long distance (i.e., 300 or more miles). In addition, the environmental consequences of a DC transmission line would be similar to those of an AC line.

Underground construction of a 230-kV transmission line between Great Falls and Conrad would be technically feasible; however, costs would be about 8 to 10 times greater than overhead construction. The environmental impacts and operation and maintenance problems associated with an underground system would be greater than an overhead line.

Due to its relatively high cost-to-power transfer capability ratio, 161-kV construction was ruled out at a fairly early stage in project planning. The selection of project voltage was then between 115-kV and 230-kV. Based upon an analysis of system performance which compared voltage regulation, outage performance, and loss efficiency, the 230-kV alternative was superior under both system intact and outage conditions. The 230-kV alternative would result in about one-half of the system losses of the 115-kV alternative and also provide more capacity should additional transmission be required for the area's electrical loads in the future.

Western selected the single-pole structure type because costs, argiculture conflicts and visual impacts would be less than for steel lattice structures, and it would have a longer service life and greater span length than wood pole H-frame structures.

In order to lessen the visual of the line, Western will use non-specular conductors. Economics and performance in terms of line losses and electromagnetic interference resulted in the selection of 954 kcmil conductor.

A resource inventory of the environmental study area identified exclusion and avoidance areas, and areas of least potential impact and opportunity for transmission line routing. Fifty-six alternative corridors 6,000 feet wide selected and studied along with substation siting areas at Ashuelot, Fairfield, and Bole. The corridors were made up of 48 links and were divided into three systems: (1) Great Falls-Ashuelot Substation Site-Conrad; (2) Great Falls-Fairfield Substation Site-Conrad; and (3) Great Falls-Bole Substation Site-Conrad. The corridor links within each system were compared and ranked by an interdisciplinary environmental study team resulting in the identification of the environmentally preferred alternative corridor. The environmentally preferred corridor was identified as Western's preference in the draft and final EIS.

Mitigation

All practicable means to avoid or minimize environmental harm from Western's preferred alternative were identified in the draft and final EIS. Western will incorporate these measures in the proposed project and special environmental requirements for sensitive or fragile areas will be included in the project construction specifications including requirements for right-of-way clearing and site preparation, structure erection, conductor stringing, timing of construction, and the protection of archeological and historical resources. Western will adopt any additional feasible site specific mitigation measures identified and agreed upon during consultation with other Federal and State agencies.

Western project inspectors will be fully familiarized with the project mitigation measures and will insure their implementation during construction. When crossings of Federal and State lands are involved, Western will insure that agency representatives are able to perform necessary monitoring functions. The mitigating measures which have been adopted are generally self-executing through Western's standard construction specifications and procedures.

Both the U.S. Fish and Wildlife Service (FWS) and Montana Department of Fish, Wildlife and Parks (DFWP) have expressed concern over potential hazard areas for waterfowl mortality due to in-flight collisions with the transmission line. At least two areas of concern have been identified. Western, in consultation with FWS and DFWP, will conduct a 2-year post construction monitoring study of areas of concern to ascertain the potential for significant waterfowl mortality. Where significant mortality hazards are identified, Western will undertake measures to mitigate losses to waterfowl populations. Specific measures will be identified through consultation with the resource agencies.

A cultural resource mitigation plan will be developed in consultation with the SHPO and Advisory Council on Historic Preservation. The project contruction specifications will provide that in the event previously undiscovered cultural resources are encountered during construction of the line, activities that could jeopardize those resources will be suspended until a qualified archeologist or historian can evaluate their significance and recommend appropriate action.

Integration With Other Requirements

Intergovernmental Cooperation—Under requirements of the Intergovernmental Coordination Act, Western notified the Montana State Clearinghouse of the proposed project by sending it copies of the draft and final EIS. Western coordinated project planning with other Federal and State agencies. The Montana Department of Natural Resources and Conservation (DNRC) was closely involved in the project in an advisory and review capacity. Representatives from DNRC attended project EIS scoping meetings, planning workshops, and public hearings; reviewed the draft and final EIS; and provided coordination with other State agencies. In addition, DNRC conducted an independent evaluation of the potential impacts of the proposed transmission line and substation facilities and prepared a report for the Montana Board of Natural Resources and Conservation (Board). The Board adopted Western's EIS and the DNRC report as the State's Draft and Final EIS. The DNRC report contained a number of conclusions and recommendations, with which Western generally agrees.

Western also conducted considerable coordination with the SHPO, DFWP, FWS, and local planning boards and commissions. Reasnsonable suggestions and concerns of affected landowners were incorporated into project planning wherever feasible.

Endangered Species—The FWS recommended that Western use aviation ball markers or some other effective means to increase the visibility of the overhead ground wires to bald eagles and peregrine falcons where the transmission line crosses riparian or wetland habitat. The purpose of such a measure would be to reduce the potential for in-flight collisions with the line by the two endangered birds. In addition, FWS has requested that all prairie dog towns located within one-half mile of the transmission line be surveyed for black-footed ferrets. Western is consulting with FWS to identify portions of the line where marking of the overhead ground wires would be prudent, and will conduct a black-footed ferret survey in prairie dog towns, as requested.

Floodplain/Wetlands—In response to Executive Order 11988, Floodplain Management (May 24, 1977), and Department of Energy's *Compliance with Floodplain/Wetlands Environmental Review Requirements* (10 CFR Part 1022), Western evaluated the potential effects of the project on floodplain/wetlands. Western located the preferred route to avoid floodplains and wetlands wherever possible. However, the 100-year floodplains of the Teton River and Muddy Creek could not be practically avoided by the preferred route or the alternatives. Western will make efforts to avoid locating transmission structures, access roads, and other facilities in floodplains/wetlands. If it is not possible to totally avoid floodplains or wetlands, Western will design structures and access roads according to State and local floodplain protection standards and implement erosion control measures including reseeding and the use of selective biodegradable soil stabilizing agents to minimize erosion impacts.

Western will obtain necessary permits in accordance with the Clean Air Act and Clean Water Act of 1977. Copies of this record of decision will be sent to the Montana State Clearinghouse, appropriate Federal and State agencies, and to other agencies, organizations, and individuals commenting on the draft or final EIS.

Issued at Golden, Colorado, September 12, 1984.

Robert L. McPhail,

Administrator.

[FR Doc. 84-29232 Filed 11-6-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66115; PH-FRL 2709-2]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: December 7, 1984.

ADDRESS: By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Lela Sykes, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2126).

SUPPLEMENTARY INFORMATION:

EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration	Product name	Registrant	Date registered
108-42	Rawleigh Super Kill Insect Killer	The W. T. Rawleigh Co., 223-225 E. Main St., Freeport, IL 61032	May 19, 1965.
239-602	Ortho Malathion 25 Wettable	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94804	May 9, 1952.
239-616	Ortho Malathion 5 Emulsive	Do	June 24, 1952.
239-736	Ortho Malathion 5 Dust	Do	Sept. 30, 1953.
239-761	Ortho Malathion 4 Dust	Do	May 26, 1954.
239-817	Ortho Malathion-Sulfur 4-50 Dust	Do	Oct. 8, 1965.
239-947	Ortho Malathion 8 Emulsive	Do	Apr. 10, 1957.
239-1019	Ortho Trithion 4 Emulsive	Do	Oct. 4, 1957.
239-1022	Ortho Perthane-Malathion 10-4 Dust	Do	Oct. 7, 1957.
239-1054	Ortho Trithion 4 Flowable	Do	Feb. 10, 1958.
239-1055	Ortho Trithion 25 Wettable	Do	Do.
239-1100	Ortho Malathion Sulfur 4-25 Dust	Do	Apr. 23, 1958.
239-1187	Ortho Trithion 3 Dust	Do	July 15, 1958.
239-1193	Ortho Trithion Sulfur 3-25 Dust	Do	July 22, 1958.
239-1314	Orthocide Malathion 75-1 Seed Protectant	Do	Apr. 20, 1959.
239-1335	Ortho Malathion 8 Flow Concentrate	Do	May 7, 1959.
239-1638	Ortho Malathion 5 Emulsive XB	Do	June 23, 1961.
239-1796	Ortho Malathion 6 Dust	Do	Mar. 5, 1963.
239-2361	Ortho Malathion 8 Seed Protectant	Do	July 17, 1972.
240-184	MO-DI Vapona Fly Bait	Daly-Herring Co., P.O. Box 428, Kinston, NC 28501	Sept. 8, 1972.
241-210	Cygon V Fly Spray	American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540.	Jan. 7, 1970.
279-2144	Vapona 2 E.C	FMC Corp., Agricultural Chemical Division, 2000 Market St., Philadelphia, PA 19103.	Sept. 21, 1964.
402-83	Hilco Rid Vaporizing Insect Spray	Hill Manufacturing Co., 1500 Jonesboro Rd., SE., Atlanta, GA 30315	Feb. 28,1964.
402-89	No. 444 Hilco Blitz	Do	May 23, 1966.
464-477	Dow Propachlor 65W Herbicide	Dow Chemical, U.S.A., P.O. Box 1706, Midland, MI 48640	June 27, 1973.
464-478	Bexton 20G Propachlor Herbicide	Do	Do.
464-484	Dow Propachlor-Atrazine 20G Herbicide	Do	Aug. 23, 1973.
539-239	Sears Lawn Chinch Bug Granules (containing Trithion)	Sears Roebuck and Company, Sears Tower, Dept. 766/68th Floor, Chicago, IL 60684.	June 12, 1968.
539-242	Sears Lawn Fertilizer with Chinch Bug Killer	Do	June 18, 1968.
541-205	Puritan #4583	Puritan Chemical Co., 916 Ashby St., NW., Atlanta, GA 30318	Aug. 2, 1971.
642-87	Thompson's Malathion 50%	Thompson Chemicals Corp., 23529 South Figueroa St., Wilmington, CA 90744	Oct. 13, 1954.
829-179	SA-50 Vapona E.C	Southern Agricultural Insecticide, Inc., P.O. Box 218 Palmetto, FL 33561	Sept. 28, 1967.
869-22	Green Light Mosquito and Fly Spray	Green Light Co., P.O. Box 6845, San Antonio, TX 78209	Sept. 3, 1965.
1007-40	Pfizer Malathion Compound	Pfipharmecs Division Pfizer, Inc., 235 East 42nd St., New York, NY 10017	Aug. 24, 1965.
1007-74	Pfizer Cable Oil Contains 10% Malathion	Do	June 14, 1971.
1111-147	Instanticide	Hockwald Chemicals Div. of Oxford Chemicals, Inc., P.O. Box 80202, Atlanta, GA 30366.	Dec. 13, 1972.
1183-15	Corvel Flyte Dip	Corvel A Div. of Eli Lilly and Company, 740 South Alabama St., Indianapolis, IN 46285.	Mar. 29, 1966.
1270-91	Zep Fly Trap Now with Rapid Acting DDVP	Zep Manufacturing Co., P.O. Box 2015, Atlanta, GA 30301	Nov. 18, 1965.
1471-39	Greenfield New Scented Insect Spray	Elanco Products Co., P.O. Box 1750, Indianapolis, IN 46206	Nov. 20, 1963.
1748-39	Certox 50% Malathion Oil Soluble Concentrate	York Chemical Co., Inc., 118 Fulton Ave., Garden City Park, NY 11040	Jan. 6, 1959.
1748-41	Certox Malathion 50% Emulsifiable Concentrate	Do	Oct. 23, 1957.
2098-21	Emco Fly Bait—Contains DDVP	Empire Chemical Co., Inc., 715 Lamar St., Los Angeles, CA 90031	Feb. 5, 1970.
2342-825	New Improved Livestock and Barn Spary	Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, OK 73125	Aug. 9, 1973.
2342-921	K-M Face Fly Spray	Do	Do.
3051-69	Cythion 57 Insecticide Premium Grade Malathion	Agricultural Products Co., P.O. Box 698, Mesquite, NM 88048	Jan. 2, 1970.
3213-23	Vita Plus Vapona Stock Spray	Vita Plus Corp., 1508 W. Badger Rd., Madison, WI 53713	Apr. 6, 1964.
3213-26	Vita Plus Insecticide Ciodrin-Vapona Stock Spray	Do	Mar. 23, 1966.
4236-3	Roach Tabz	Bandwagon, Inc., 54 Industrial Way, Wilmington, MA 01887	May 25, 1964.
4828-58	Sweep Municipal Insecticide for Outside Use Fog or Spray	ABCO Inc., 230 Industry Blvd., North Huntington, PA 15642	Mar. 17, 1969.
4887-84	DK-11 Emulsifiable Concentrate	Stephenson Chemical Co., Inc., P.O. Box 87188, College Park, GA 30337	July 20, 1962.
4887-147	Stephenson Dursban-DDVP E.C. Insecticide	Do	Oct. 6, 1971.
4887-160	Stephenson Chemical DDVP-14%	Do	Aug. 31, 1972.
4931-98	Good-Life Va-Drin Back Rubber Fly Spray	Good-Life, Inc., P.O. Box 687, Effingham, IL 62401	Oct. 10, 1966.
4981-28	Redwood's Vapona Insecticide Oil Concertate	Redwood Chemical, Inc., P.O. Box 45916, Houston, TX 77045	Feb. 4, 1965.
5576-31	Endweed	Regal Supply and Chemical, P.O. Box 1955, El Paso, TX 79950	Jan. 13, 1975.
5576-32	Strilate	Do	Dec. 10, 1974.
5967-44	Diazinon Dust No. 4	Moyer Chemical Co., 4672 W. Jennifer, Suite 103, Fresno, CA 93711	June 23, 1964.
6859-3	Alfords Insect Dust	Alford Home Products, Inc., P.O. Box 339, Middlesex, NC 27557	Dec. 29, 1971.
7425-4	Milo Mothproofer	R. R. Street and Co., 625 Enterprise Drive, Oak Brook, IL 60521	Nov. 22, 1971.
8203-19.	Diazol 50 E	ICI Americas, Inc., Wilmington, DE 19897	Oct. 31, 1975.
8203-20	Diazol 50 W	Do	Mar. 11, 1975.
8421-1	Dichlorvos Aircraft Disinsection Cartridge	Wix Corp., P.O. Box 1967, Gastonia, NC 28052	July 9, 1968.
8773-8	Phillips 66 Miller Killer	American Fertilizer and Chemical Co., P.O. Box 96, Henderson, CO 80640	Sept. 14, 1972.
9990-1	Dichlorvos Aircraft Disinsection Cartridge	National Communicable Disease Center, P.O. Box 769, Savannah, GA 31402	Feb. 14, 1968.
10359-2	Super Jet Fog	Bernz-O-Matic, 740 Driving Park Ave., Rochester, NY 14613	Aug. 30, 1972.
11214-2	Target Malathion 5E	Target Chemical Co., 17710 Studebaker Rd., Cerritos, CA 90701	Mar. 14, 1973.
11214-5	Du Vap Ready To Use Clean Out Formulation	Do	Oct. 15, 1973.
11214-9	Malathion 8E	Do	May 29, 1974.
11885-5	Master Mix Sugar Fly Bait	Central Soya, P.O. Box 1400, Fort Wayne, IN 46801-1400	Feb. 14, 1975.

The Agency has agreed that each cancellation shall be effective December 7, 1984, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Registration Support and Emergency Response Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66115]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. (751, 7 U.S.C. 136))

Dated: October 23, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84–28811 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240043; FRL–2709–8]

Pesticides; Special Local Need Registrations; Voluntary Cancellations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA is correcting a notice that inadvertently listed as cancelled a section 24(c) registration of a pesticide product.

EFFECTIVE DATE: November 7, 1984.

FOR FURTHER INFORMATION CONTACT:

Lela Sykes, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: In FR Doc. 84–15956 appearing at page 25302 in the Federal Register of June 20, 1984, EPA listed various cancellations of section 24(c) registrations for pesticide products. One of the cancellations was in error: CA 77 0133 for Rebelate Systemic Insecticide and Cygon 267 Systemic Insecticide by the State of California, Dept. of Food and Agriculture, Tulare Co., registered 5–18–77. This document gives notice that registration CA 77 0133 remains in effect.

(Sec. 6(a)(1) of FIFRA, as amended, 86 Stat. 973, 89 Stat. 751 (7 U.S.C. 136))

Dated: October 26, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84–29047 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[PP 3G2932/T467; PH-FRL 2709-3]

Zoecon Corp.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the insecticide (alpha RS,2R)-fluvalinate [(RS)-alpha-cyano-3-phenoxybenzyl (R)-2-[2-chloro-4-(trifluoro-methyl)-anilino]-3-methyl-butanoate] in or on certain raw agricultural commodities. These temporary tolerances were requested by Zonecon Corporation.

DATE: These temporary tolerances expire September 17, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M street. SW., Washington, DC 20460.

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2690).

SUPPLEMENTARY INFORMATION: Zoecon Corporation, P.O. Box 10975, Palo Alto, CA 94304, has requested, in pesticide petition PP 3G2932 the establishment of temporary tolerances for the combined residues of the insecticide (alpha RS.2R)-fluvalinate[(RS)-alpha-cyano-3-phenoxybenzyl (R)-2-2[2-chloro-4-(trifluoromethyl)-anilino]-3-methyl-butanoate] in or on the raw agricultural commodities apples and broccoli at 2.0 parts per million (ppm); brussels sprouts at 1.0 ppm; cauliflower at 0.5 ppm; potatoes, meat, milk, fat and meat byproducts of cattle, horses, goats, and sheep at 0.1 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 20954-EUP-27 and 20954-EUP-28, which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Zoecon Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire September 17, 1986. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be

revoked if the experimental use permits are revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Managment and Budget has exempted this notice from the requirements of section 3 of Executive Eorder 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j))).

Dated: October 23, 1984.

Robert V. Brown,

Acting Director, Registration Division. Office of Pesticide Programs.

[FR Doc. 84–28810 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP 42056; FRL–2711–1]

Commonwealth of Northern Mariana Islands; Intent To Approve State Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent To Approve State Plan for Certification of Pesticide Applicators.

SUMMARY: The Commonwealth of the Northern Mariana Islands has submitted to EPA a plan for the certification of commercial and private applicators of restricted use pesticides. Notice is hereby given of the intention of the Regional Administrator, EPA Region IX, to approve this plan. A summary of the plan appears below. Interested persons are invited to comment.

DATE: Comments should be submitted on or before December 7, 1984.

ADDRESSES: Address comments, identified by the control number OPP 42056, to: Kathryn Papalia, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91405.

Copies of the plan are available for review at the following locations:

1. Library, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91405.
2. Division of Environmental Quality, Department of Public Health and Environmental Services, Dr. Torres Hospital, Saipan, CM 96950.

FOR FURTHER INFORMATION CONTACT: Kathryn Papalia (415–974–8119).

SUPPLEMENTARY INFORMATION: The Department of Public Health and Environmental Services of the Commonwealth of the Mariana Islands has been designated as the Territorial lead agency for the administration, implementation, and coordination of the pesticide applicator certification program.

Legal authority for the program is contained in the "Commonwealth Environmental Quality Protection Act." Regulations implementing the law are final and contained in the certification plan submitted for EPA approval.

Summary of Plan

The Department of Public Health and Environmental Services will certify private and commercial applicators. However, commercial applicators will be certified only in Agriculture Pest Control—Plant category. Initial certification for commercial applicators will be based on the successful completion of a written examination. Private applicator initial certification will be based on the successful completion of either a written or oral examination.

Recertification is required of all applicators every three years. Successful completion of another examination and/or demonstration of proficiency designed to insure that the applicator continues to meet the requirements of changing technology will be required before a certificate is renewed.

The plan contains standards of competency for both private and commercial applicators and provisions for denial, suspension, or revocation of certification.

It is estimated that four to eight commercial applicators and six to twelve private applicators will initially apply for certification.

Copies of the plan are available at the addresses given above. EPA solicits comments on the plan.

Dated: October 23, 1984.

Judith E. Ayres,

Regional Administrator, Region IX.

[FR Doc. 84–29111 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP 42030B; FRL–2711–2]

Territory of Guam; Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency grants final approval of the Territory of Guam State Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides (Guam State Plan).

EFFECTIVE DATE: November 7, 1984.

FOR FURTHER INFORMATION CONTACT: Kathryn Papalia, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91405, (415–974–8119).

SUPPLEMENTARY INFORMATION: Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan to EPA for approval. Any State certification program shall be maintained according to the State Plan approved by EPA.

A Notice of Contingent Approval of the Guam State Plan by EPA was published in the **Federal Register** of November 17, 1976 (41 FR 50712). This approval was contingent upon the enactment of legislation and promulgation of regulations implementing this new legislation. The legislation has been enacted and the regulations have been promulgated. EPA finds that all criteria for an approvable State plan have been met.

EPA is following the Congressional intent of FIFRA that States shall certify applicators of restricted use pesticides and hereby grants final approval to the Guam State Plan.

Dated: October 23, 1984.

Judith E. Ayres,

Regional Administrator, Region IX.

[FR Doc. 84–29112 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP 42038; FRL–2711–3]

Territory of American Samoa; Submission of State Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Grant Contingent Approval of State Plan.

SUMMARY: The Territory of American Samoa has submitted to EPA for contingent approval a plan for the certification of commercial and private applicators of restricted use pesticides. Notice is hereby given of the intention of the Regional Administrator, EPA Region IX, to approve this plan on a contingency basis. A summary of the plan appears below. Interested persons are invited to comment.

DATE: Comments should be submitted on or before December 7, 1984.

ADDRESSES: Address comments, identified by the control number OPP 42058, to: Kathryn Papalia, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91405.

Copies of the plan are available for review at the following locations:

1. Library, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91405.
2. Environmental Quality Commission, Office of the Governor, American Samoa Government, Pago Pago, American Samoa 96799.

FOR FURTHER INFORMATION CONTACT: Kathryn Papalia, (415–974–8119).

SUPPLEMENTARY INFORMATION: The Director of Agriculture of American Samoa is responsible under the American Samoa Pesticide Act of 1979 for the certification of private and commercial applicators. The Territorial Environmental Quality Commission will serve as a liaison between the Director of Agriculture and EPA. In this capacity the Commission will be responsible for compiling reports as required by EPA regulations.

Draft regulations implementing the certification program are contained in the plan. It is anticipated that these regulations will be promulgated in 1985. Final approval of the plan is contingent on the promulgation of these regulations.

Summary of Plan

The Director of Agriculture will certify private and commercial applicators. Recertification is required every 3 years for private applicators and every 2 years for commercial applicators. The Commercial applicator categories in the plan are the same as those established by EPA at 40 CFR 171.3(b).

The plan contains standards of competency for both private and commercial applicators and provisions for denial, suspension, or revocation of certification.

It is estimated that 52 commercial applicators and 200 private applicators will initially apply for certification.

Copies of the plan are available at the addresses given above. EPA solicits comments on the plan.

Dated: October 23, 1984.

Judith E. Ayres,

Regional Administrator, Region IX.

[FR Doc. 84–29113 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP 42057; FRL–2710–8]

Trust Territory of the Pacific Islands; Intent To Approve State Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Approve State Plan.

SUMMARY: The Trust Territory of the Pacific Islands has submitted to EPA a plan for the certification of commercial and private applicators of restricted use pesticides. Notice is hereby given of the intention of the Regional Administrator, EPA, Region IX, to approve this plan. A summary of the plan appears below. Interested persons are invited to comment.

DATE: Comments should be submitted on or before December 7, 1984.

ADDRESSES: Address comments, identified by the control number OPP 42057, to: Kathryn Papalia, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91405.

Copies of the plan are available for review at the following locations:

1. Library, Environmental Protection Agency, 215 Fremont St., San Francisco, CA 91504.
2. Environmental Protection Board, Bureau of Health Services, Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950.

FOR FURTHER INFORMATION CONTACT: Kathy Papalia, (415–974–8119).

SUPPLEMENTARY INFORMATION: The Environmental Protection Board of the Trust Territory of the Pacific Islands has been designated the Territorial lead agency for the administration, implementation, and coordination of the pesticide applicator certification program.

Legal authority for the program is contained in Pub. L. 4C–78, "Trust Territory Environmental Quality Protection Act" and amendments thereto (Public Laws 5–2, 5–20, 7–19, 7–64, and 7–90). Regulations implementing the law are final and contained in the certification plan submitted for EPA approval.

Summary of Plan

Under the certification plan, the Environmental Protection Board will have authority to certify private and commercial applicators. However, commercial applicators will be certified only in the Agricultural Pest Control—Plant category. Initial certification for commercial applicators will be based on the successful completion of a written examination. Private applicators seeking initial certification will have the option of taking a written examination or an oral examination combined with performance testing.

In order to assure that applicators continue to meet the requirements of changing technology, recertification will be required at intervals to be determined by the Environmental Protection Board. To qualify for recertification, applicators shall be required to pass an updated examination.

The plan contains standards of competency for both private and commercial applicators and provisions for denial, suspension, or revocation of certification.

It is estimated that few, if any, private applicators will initially apply for certification. Twelve commercial applicators are expected initially to seek certification.

Copies of the plan are available at the addresses given above. EPA solicits comments on the plan.

Dated: October 23, 1984.

Judith E. Ayres,

Regional Administrator, Region IX.

[FR Doc. 84–29118 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00184; PH–FRL 2711–7]

Administrator's Pesticide Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to discuss legislative issues relating to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). General activities of the Office of Pesticide Programs (OPP) may be discussed. The meeting will be open to the public. The APAC will hold a planning session prior to this meeting. The planning session will also be open to the public.

DATE: The meeting will take place on Wednesday, December 5, 1984, at 9:00 a.m. and adjourn by 4:30 p.m. The planning session will be held on Tuesday, December 4, from 1:30 p.m. to 4:30 p.m.

ADDRESS: The meeting will be held in: Room M–3906–3908, Environmental Protection Agency, 401 M. Street SW., Washington, D.C. 20460.

The planning session will be held in Room M–2123 at the above address.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–636, 401 M Street SW., Washington, D.C. 20460 (202–382–7801).

SUPPLEMENTARY INFORMATION: The APAC will begin with opening remarks by Dr. Sam Gusman, Chairperson for the APAC and Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. William D. Ruckelshaus, EPA Administrator, will address the Committee and be present for a discussion of potential amendments to current pesticide legislation. A more detailed agenda will be available at a later date.

The meeting and the planning session will be open to the public, and time will be set aside for public comments concerning potential amendments to FIFRA. Any member of the public wishing to present an oral or written statement relating to the Committee's topics of discussion for this meeting or for the planning session should contact the APAC Executive Secretary at the address or telephone number listed above.

Dated: October 31, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84–29119 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[EPA Project No. HI 83–03; A–9–FRL–2712–3]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to Hawaiian Electric Co.

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on May 8, 1984 the Environmental Protection Agency issued a PSD permit to the applicant named above granting approval to construct three 2.5-megawatt diesel generators to be located at Hawaiian Electric Company's Keahole generating station on the island of Hawaii. This permit has been issued under EPA's PSD regulations (40 CFR 52.21) and is subject to certain conditions, including an allowable emission rate as follows: SO_2 at 42.3 tons/year and NO_x at 128 tons/year.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Rhonda Rothschild (M–5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974–7413, FTS 454–7413.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include: for SO_2: the use of fuel oil with a sulfur content no greater than 0.5% by weight and for NO_x: injection timing retard of 4°. Air Quality Impact modeling was required for S_2 and NO_x. Continuous monitoring is not required and the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 7, 1985.

Dated: October 26, 1984.

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 84–29241 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–2712–6]

Science Advisory Board, Environmental Engineering Committee; Open Meeting

Under Pub. L. 92–463, notice is here by given that a two-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board will be held in Conference Room 1112, Crystal Mall #2, U.S. Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, Virginia, on November 27–28, 1984. The meeting will begin at 9:00 a.m. on both days and adjourn at approximately 1:00 p.m. on November 28th.

The agenda for the meeting will include review of Agency criteria for the banning of certain wastes from landfills, continued review of a probabilistic methodology for analyzing water quality effects of urban runoff, and discussions with the Assistant Administrator for Research and Development.

The meeting will be preceded, on November 26, by a one-day meeting of a Subcommittee reviewing a probabilistic methodology for analyzing water quality effects from urban runoff. This Subcommittee meeting will be held in Conference Room 3906, U.S. Environmental Protection Agency, WSM, 401 "M" Street SW., Washington, D.C., beginning at 10:30 a.m. and lasting until 5:00 p.m.

The meetings are open to the public. Any member of the public wishing to participate or obtain further information about the meetings should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Diector, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at the meetings. Written comments will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comments must contact Mr. Torno prior to November 21, 1984 in order to be placed on the agenda.

In order to minimize inconvenience due to EPA visitor control procedures, persons wishing to attend the meeting on November 26 are requested to call Mrs. Brenda Browne at (202) 382–2552, so that they may be included on a roster that will be prepared for the building security guards.

Dated: November 1, 1984.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–29239 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–2712–5]

Science Advisory Board, Environmental Health Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on November 28–29, 1984, in Conference Room 3906–3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:15 a.m. on November 28, 1984, and adjourn no later than 4:00 p.m. on November 29, 1984.

The principal purposes of the meeting will be: (1) To receive an informational briefing on overall Agency activities regarding polychlorinated dibenzo-p-dioxins; (2) to review and comment on the scientific adequacy of a draft Health Assessment Document (HAD) on polychlorinated dibenzo-p-dioxins prepared by the Office of Health and Environmental Assessment (OHEA). The Health Assessment Document is dated May 1984 (EPA–600/8–84–014A); (3) to discuss a report from the Health Assessment Document Subcommittee of the Environmental Health Committee with Office of Health and Environmental Assessment personnel; (4) to review a draft letter to the Administrator prepared by the Metals Subcommittee of the Environmental Health Committee at their October 22,

1984 meeting in Rochester, New York, regarding an Updated Mutagenicity and Carcinogenicity Assessment of Cadmium (EPA–600/8–83–025A; June, 1983, External Review Draft); (5) to review a draft letter to the Administrator prepared by the Chlorinated Organics Subcommittee of the Environmental Health Committee at their meeting in Madison, Wisconsin on November 8, 1984, regarding a Health Assessment Document for 1,2-Dichloroethane (Ethylene Dichloride; EPA–600/884–006A; April, 1984 External Review Draft); and (6) to plan and discuss upcoming issues of interest to the members.

For information on how to obtain copies of the draft Health Assessment Document for polychlorinated dibenzo-p-dioxins please write the Office of Research and Development Publications Office, Center for Environmental Research Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 or call (513) 684–7562. Members of the public wishing to submit a paper or make comments to the Environmental Health Committee regarding the document should contact Dr. Daniel Byrd, Executive Secretary to the Committee, by telephone at (202) 382–2560 or by mail to the address below, before c.o.b. November 23, 1984.

The meeting will be open to the public. Any member of the public wishing to attend, or desiring further information should contact as soon as possible either Dr. Byrd or Mrs. Patti Howard, by telephone at (202) 382–2552 or by mail to: Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street, SW. Washington, D.C. 20460, but no later than c.o.b. November 26, 1984.

Dated: October 31, 1984.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 84–29240 Filed 11–6–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 1, 1984.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of this submission are available from Doris Peacock, Agency Clearance Officer, (202) 632–7512. Persons wishing to comment on this information collection should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–4814.

OMB Number: 3060–0286.

Title: Section 81.74, Notice of involuntary discontinuance, reduction, or impairment of service.

Action: Extension.

Respondents: Individuals or households, state or local governments, businesses (including small businesses), and non-profit institutions.

Estimated Annual Burden: 160 Respondents; 160 Hours.

William J. Tricarico,

Secretary.

[FR Doc. 84–29338 Filed 11–6–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–728–DR]

Major Disaster and Related Determinations; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–728–DR), dated October 31, 1984, and related determinations.

DATED: October 31, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice: Notice is hereby given that, in a letter of October 31, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from severe storms and flooding beginning on October 18, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are here by authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. If requested and necessary, you also are authorized to provide Public Assistance in the affected areas when these requirements are known and an acceptable State commitment for these purposes is provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Alton S. Ray of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

Iberia and Vermilion Parishes for Individual Assistance.

Lafayette and St. Martin Parishes as adjacent parishes for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–29226 Filed 11–6–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

Formation of; Acquisition by; or Merger of Bank Holding Companies; Campbell Bancshares

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than November 30, 1984.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Campbell Bancshares,* Campbell, California; to become a bank holding company by acquiring 100 percent of the voting shares of Campbell National Bank, Campbell, California (in organization).

Board of Governors of the Federal Reserve System, November 2, 1984.

James McAfee

Associate Secretary of the Board.

[FR Doc. 84-29347 Filed 11-6-84; 8:45 am]

BILLING CODE 6210-01-M

Application To Engage de Novo in Permissible Nonbanking Activities; NBD Bancorp, Inc.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 26, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.,* Detroit Michigan, to expand *de novo* the activities of its wholly-owned subsidiary, American Business Finance, Inc., Detroit, Michigan, and to continue to engage in commerical finance activities, including making, acquiring or servicing loans or other extensions of credit for its own account or for the account of others, such as would be made by a commercial finance company. The geographic scope will be expanded to include the entire United States.

Board of Governors of the Federal Reserve System, November 2, 1984.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 84-29348 Filed 11-6-84; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0531]

1985 Private Sector Adjustment Factor

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Approval of a Private Sector Adjustment Factor for 1985.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") has approved a Private Sector Adjustment Factor ("PSAF") for 1985 of $61.1 millon. This represents an increase of $2.3 million, or approximately four percent, from the 1984 target PSAF of $58.8 million. The PSAF is a recovery of the imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the Federal Reserve's priced services been furnished by a private business firm.

EFFECTIVE DATE: January 1, 1985.

FOR FURTHER INFORMATION CONTACT: David L. Robinson, Associate Director (202/452-3606), or Anne Debeer, Assistant Director (202/452-3915), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Robert G. Ballen, Attorney (202/452-3265), Legal Divsion, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: *Background*—The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires that in establishing fee schedules for priced services, the Federal Reserve recover the imputed taxes that would have been paid and the return on capital that would have been provided had the Federal Reserve's priced services been furnished by a private business firm. The PSAF is intended to reflect these imputed costs.

The methodology previously adopted by the Board for calculating the PSAF for 1984 [1] WAS used to determine the PSAF for 1985. The PSAF is determined by applying the Federal Reserve's pre-tax cost of capital to the assets used by the Federal Reserve in the production of priced services. These assets are determined on a direct basis and include the net effect of those assets expected to be acquired and disposed of during the year. Short-term assets are assumed to be financed by short-term debt and long-term assets are assumed to be financed by a combination of equity and long-term debt. The ratio of long-term debt to equity and the rates for short-term debt, long-term debt, equity, and income taxes are based on the experience of the 25 largest U.S. bank holding companies. Also included in the PSAF are imputations for estimated sales taxes FDIC insurance assessment, and the expenses and fixed assets of the Board of Governors related to the development of priced services.

Asset Base—As indicated in Tables 1 and 2, priced service assets for 1985 that must be financed through the POSAF are projected to be $313.1 million, which reflects an increase of $7 million from 1984. This increase is attributable largely to the increase in planned 1985 capital expenditures.

Cost of Capital—Rates for those portions of the asset base financed by short and long-term debt are derived from the experience of the 25 largest U.S. bank holding companies for the period October 1983 to June 1984. (The bank holding companies with the

[1] 49 FR 11251 (March 26, 1984).

highest and lowest returns are eliminated from the sample in order to avoid distortions from institutions at the extremes.) The Board has approved the use of rates of 9.93 percent for short-term debt and 10.38 percent for long-term debt, which reflects the average rates paid by the bank holding companies in the sample. This compares with rates of 9.23 percent and 10.14 percent respectively for 1984.

Reference is also made to the experience of the 25 largest U.S. bank holding companies to determine the rate to apply to those portions of the asset base financed by equity. Using last year's method would result in a pre-tax rate of return on equity of 14.7 percent for 1985 compared with a rate of 20.9 percent for 1984. However, the Board believes that this 14.7 percent rate reflects abnormal performance during the period. In order to obtain a more representative cost of equity, the Board has determined to use a three year average of the experience of the 25 bank holding companies in the sample to determine the cost of equity for 1985. Use of the three year average results in a cost of equity of 20.55 percent for 1985. (It is not necessary to exclude the bank holding companies with the highest and lowest return on equity as has previously been done because three year averages smooth the results.)

Taxes—An income tax rate based on the taxes paid by the bank holding companies in the sample is used to approximate an imputed income tax rate for the Federal Reserve. The PSAF effective tax rate is based upon the taxes actually paid by these bank holding companies and takes no advantage for tax-exempt securities. If the 1984 procedure were used for 1985, the tax rate would be 33.7 percent as compared with 38.6 percent in 1984. However, in order to be consistent with the use of the three year average for the cost of equity, the Board has determined that for 1985 it is appropriate to use a three year average of taxes paid by the 25 largest U.S. bank holding companies. This results in a tax rate of 36.9 percent.

Other Imputed Costs—Other PSAF recoveries for sales taxes, an FDIC assessment and Board of Governors expenses rose from $8.0 million in 1984 to $10 million in 1985. This increase results primarily from an increase in sales taxes, which can be attributed, in part, to the capital expenditures planned for 1985. The FDIC assessment is down slightly, due to a reduction in float.

By order of the Board of Governors, November 2, 1984.

William W. Wiles,

Secretary of the Board.

TABLE 1.—CHANGES BETWEEN 1984 AND 1985 BALANCE SHEET

[Millions of dollars—average for year]

	1984	1985
Short-term assets:		
Imputed reserve requirements on clearing balances	$147.4	$156.0
Investment in marketable securities	1,080.6	1,144.0
Receivables [1]	23.7	24.4
Materials and supplies [1]	4.3	4.4
Prepaid expenses [1]	4.3	6.9
Net items in process of collection (float)	447.0	247.5
Total short-term assets	1,737.3	1,583.2
Long-term assets:		
Premises [1 2]	176.7	166.0
Furniture and equipment	95.6	110.2
Leases	0.9	0.7
Leasehold improvements [1]	1.5	1.2
Total long-term assets	274.7	278.1
Total assets	2,012.0	1,861.3
Short-term liabilities:		
Clearing balances	1,228.0	1,300.0
Balances arising from early credit of uncollected items	477.0	247.5
Short-term debt [3]	32.3	35.7
Total short-term liabilities	1,737.3	1,583.2
Long-term liabilities:		
Obligation under capital leases	0.9	0.7
Long-term debt [3]	87.1	92.9
Total long-term liabilities	88.0	93.6
Total liabilities	1,825.3	1,676.8
Equity [3]	186.7	184.5
Total liabilities and equity	2,012.0	1,861.3

[1] Financed through PSAF; other assets are self-financing.
[2] Includes allocations in Board of Governors' assets to priced services of $500 thousand for 1984 and $400 thousand for 1985.
[3] Imputed figures representing the means through which certain priced service assets are financed.
Note.—Details may not add to totals due to rounding.

TABLE 2.—DERIVATION OF THE 1985 PSAF

[In millions of dollars]

A. Assets to be financed: [1]	
Short-term	$35.7
Long-term	[2] 277.4
Total	313.1
B. Weighted average cost:	
1. Capital structure: [3]	
Short-term debt (percent)	11.4
Long-term debt (percent)	29.7
Equity (percent)	58.9
2. Financing rates/costs [3] Average rates paid by the bank holding companies included in the sample:	
Short-term debt (percent)	9.93
Long-term debt (percent)	10.38
Pre-tax equity [4] (percent)	20.55
3. Elements of capital costs:	
Short-term debt ($35.7×9.93%)	$3.5
Long-term debt [2] (92.9×10.38%)	9.7
Equity [2] (184.5×20.55%)	37.9
Total	51.1
C. Other required PSAF recoveries:	
Sales taxes	7.2
Federal deposit insurance assessment	1.1
Board of Governors expenses	1.7
Total	10.0
D. Total PSAF recoveries	61.1
As a percent of capital	19.51
As a percent of expenses [5]	15.20

[1] Priced service asset base is based on direct determination of asset method.
[2] Consists of total long-term assets less capital leases which are self-financing.
[3] All short-term assets are assumed to be financed by short-term debt. Of the total long-term assets, 33.5 percent are assumed to be financed by long-term debt, and 66.5 percent by equity.
[4] The pre-tax rate of return on equity is based on average after-tax rates of return on equity for the bank holding company sample, adjusted by the effective tax rate to yield the pre-tax rate of return on equity. The 1985 figure for pre-tax equity and the tax rate is based upon a three-year average of these rates.
[5] Systemwide 1985 budgeted priced expenses less shipping were $401.9 million.

TABLE 3.—CHANGES BETWEEN 1984 AND 1985 PSAF COMPONENTS

	1984	1985
I. Assets to be financed (millions):		
Current	$32.3	$35.7
Long-term	273.8	277.4
II. Cost of Capital (percent):		
Short-term debt rate	9.23	9.93
Long-term debt rate	10.14	10.38
Pre-tax equity rate [1]	20.90	20.55
Weighted average cost of capital	16.61	16.32
III. Tax rate [1] (percent)	38.6	36.9
IV. Capital structure (percent):		
Short-term debt	10.6	11.4
Long-term debt	28.4	29.7
Equity	61.0	58.9
V. Other required PSAF recoveries (millions):		
Sales taxes	$4.9	$7.2
Federal deposit insurance assessment	$1.2	$1.1
Board of governors expenses	$1.9	$1.7
PSAF		
Recovery	$58.8	$61.1
As percent of capital	19.21	19.51
As percent of expenses	15.25	15.20

[1] The 1985 figure for pre-tax equity and the tax rate is based on a three-year average of these rates:

	1981	1982	1983	Average
Pre-tax equity rate	23.6	21.6	16.8	20.55
Tax rate	38.3	38.5	33.9	36.9

Details may not add to totals due to rounding.

[FR Doc. 84-29346 Filed 11-6-84; 8:45 am]

BILLING CODE 6210-01-M

First State Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 29, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First State Financial Corporation,* Carrollton, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Carrollton, Carrollton, Alabama.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Bancorporation of Cleveland,* Cleveland, Texas; to acquire 100 percent of the voting shares of First Bank of Conroe, Texas, a *de novo* bank.

2. *Sulphur Springs Bancshares, Inc.,* Sulphur Springs, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The City National Bank of Sulphur Springs, Sulphur Springs, Texas.

Board of Governors of the Federal Reserve System, November 1, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-29216 Filed 11-6-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses of the National Committee on Vital and Health Statistics, pursuant to functions established by section 306(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 242k), will convene on Tuesday, November 27 and Wednesday, November 28, 1984 at 9:00 a.m. to 5:00 p.m. both days in Room 1137 of the DHHS North Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

The Subcommittee will hear presentations from experts bearing on several critical issues in disease classification, medical nomenclature, automated coding systems, and diagnostic related groups.

Further information regarding this meeting of the Subcommittee may be obtained by contacting William F. Stewart, National Center for Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7122.

Dated: October 26, 1984.

Robert A. Israel,

Acting Director, National Center for Health Statistics.

[FR Doc. 84-29344 Filed 11-6-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-84-1459]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The ninth meeting of the Committee on Contract Document Reform has been scheduled for Tuesday, November 27, 1984 at 9:30 a.m. in the Assistant Secretary for Public and Indian Housing Conference Room (4202) at the Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

The purpose of the meeting is to discuss and analyze suggested amendments to contract document clauses.

This meeting is open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Peter Tropp, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5561, [This is not a toll-free number].

Dated: November 2, 1984.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84-29350 Filed 11-6-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Filing of Survey Plat; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: Plats of survey of the lands described below accepted September 27, 1984, will be officially filed in the Montana State Office effective 8 a.m. on December 24, 1984.

Principal Meridian, Montana

T. 10 N., R. 2 E.

This plat represents the dependent resurvey of a portion of the east boundary, subdivisional lines, and certain mineral surveys, Township 10 North, Range 2, East, Principal Meridian, Montana. The area described in Broadwater County.

Principal Meridian, Montana

T. 10 N., R. 3 E.

This plat represents the dependent resurvey of a portion of the subdivisional lines; Mineral Survey Nos. 55, 337, 887; Homestead Entry Survey No. 510; and portions of Homestead Entry Survey No. 511 and Mineral Survey No. 57, Township 10 North, Range 3 East, Principal Meridian, Montana. The area described is in Broadwater County.

Principal Meridian, Montana

T. 11 N., R. 2 W.

This plat represents the dependent resurvey of a portion of the north boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 3 and 4, Township 11 North, Range 2 West, Principal Meridian, Montana. The area described is in Lewis and Clark County.

Principal Meridian, Montana

T. 9 N., R. 6 W.

This plat represents the dependent resurvey of a portion of the subdivisional lines and Mineral Survey No. 419, Township 9 North, Range 6 West, Principal Meridian, Montana. The area described is in Powell County.

These surveys were requested by the Regional Forester, Northern Region, Missoula, Montana.

Principal Meridian, Montana

T. 20 N., R. 33 E.

This plat, in four sheets, represents the dependent resurvey of a portion of the Fifth Standard Parallel North, through Ranges 32 and 33 East; a portion of the east and south boundaries; the west boundary; and a portion of the subdivisional lines; and the survey of the subdivision of sections 3, 6, 9, 12, 15, 19, 20, 21, 27, 28, 29, 31, 33, 34 and 35, Township 20 North, Range 33 East, Principal Meridian, Montana. The area described is in Garfield County.

This survey was requested by the Miles City District Office to facilitate their administrative needs.

Principal Meridian, Montana

T. 12 N., R. 15 W.

This plat, in four sheets, represents the dependent resurvey of a portion of the Third Standard Parallel North, through Ranges 14 and 15 West; a portion of the east, south, and west boundaries; a portion of the subdivisional lines; and certain boundaries of Mineral Surveys; and the survey of the subdivision of sections 1, 2, 8, 10, 12, 13, 14, 15, 17, 18, 20, 21, 24, 26, 30, and 32, Township 12 North, Range 15 West, Principal Meridian, Montana. The area described is in Granite and Missoula Counties.

This survey was requested by the Butte District Office to facilitate their administrative needs.

EFFECTIVE DATE: December 24, 1984.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: October 23, 1984.

Linda M. Wagner,

Chief, Branch of Records.

[FR Doc. 84-29237 Filed 11-6-84; 8:45 am]

BILLING CODE 4310-DN-M

[Serial No. I-15068]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 40-acre withdrawal for the Boise Project continue for an additional 100 years, which is the estimated life of the project with which the withdrawal is associated. The lands would remain closed to surface entry but have been and would remain open to the mining and mineral leasing laws.

DATE: Comments should be received on or before February 5, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Land Operations, Bureau of Land Management, 3380 Americans Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208–334–1597.

The Bureau of Reclamation proposes that the existing land withdrawal made by the Secretarial Order of June 27, 1912, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1967, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 2 N., R. 3 W.,
Sec. 24, NE1/4NW¼.

The area described contains 40 acres in Canyon County.

The purpose of the withdrawal is to protect a mineral material source which is used to maintain constructed Reclamation Projects in the area. The withdrawal segregates the land to the extent described in the summary paragraph. 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 in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Operations, in the Idaho State Office.

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: October 26, 1984.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 84-29236 Filed 11-6-84; 8:45 am]

BILLING CODE 4310-GG-M

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held at 10:00 a.m., Thursday, December 13, 1984.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92–463 and 94–579. The purpose of the meeting will be to discuss (1) range improvement projects, (2) the grazing fee review and evaluation report, (3) the range program.

The meeting is open to the public. Anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by December 10, 1984. Time will be provided at 1:00 p.m. for oral statements.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: October 30, 1984.

Jerry W. Goodman,

Associate District Manager.

[FR Doc. 84-29262 Filed 11-6-84; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Endangered Species; Receipt of Application for Permit; Rudolf H. Mattoni and Pets Unlimited

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Rudolf H. Mattoni, Beverly Hills, CA; PRT–685022

The applicant requests a permit to take (capture) six species of endangered butterflies native to California to establish a breeding colony of each for enhancement of propagation and survival.

Applicant: Pets Unlimited, Miami, FL; PRT–685199

The applicant requests a permit to import 2 male and 5 female tapirs (*Tapirus terrestris*) taken from the wild in Surinam for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT/APP number when submitting comments.

Dated: November 1, 1984.

R.K. Robinson,

Chief, Branch of Permits; Federal Wildlife Permit Office.

[FR Doc. 84–29218 Filed 11–6–84; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species; Receipt of Application for Permit; Memphis Zoological Garden and Aquarium, It al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Memphis Zoological Garden & Aquarium, Memphis, TN; APP# 3646BM

The applicant requests a permit to import a pair of captive-born lowland anoa (*Bubalus depressicornis*) from Leipzig Zoo, German Democratic Republic for enhancement of propagation.

Applicant: Dr. James E. Deacon, Univ. of Nevada, Las Vegas, NV; PRT–682900

The applicant requests a permit to take up to 100 (sacrifice 60/100, harass 40/100) each Ash Meadows Armagosa pupfish (*Cyprinodon nevadensis mionectus*) and Warm Springs pupfish (*C. n. pectoralis*), and up to 60 specimens of an unknown subspecies, for scientific research. The applicant also requests authorization to take (collect) 60 Pahrump killfish (*Empetrichthys latos*) for captive breeding and research.

Applicant: Quentin P. Nightingale, Brandywine, MD; PRT–684774

The applicant requests a permit to import one captive-bred sport-hunted bontebok (*Damaliscus dorcas dorcas*) trophy legally culled from a herd on Greenland Farms, Orange Free State, South Africa for enhancement of survival.

Applicant: Patuxent Wildlife Research Center, U.S. Fish & Wildlife Service, Laurel, MD: PRT–682928

The applicant requests an amendment of their current permit to take California condors (*Gymnogyps californianus*). The current permit authorizes, among other things, taking first and second clutch eggs from wild breeding pairs for captive breeding and/or future release to the wild. The applicant requests amendment to include third clutch chicks or eggs for the same purposes and also to better insure that the parent birds breed again the following season, thus maximizing wild productivity.

Applicant: Christopher P. Kofron, University of Zimbabwe, Mount Pleasant, Harare, Zimbabwe; PRT–685119

The applicant requests a permit to import blood samples taken from Nile crocodiles (*Crocodylus niloticuss*) for scientific research purposes.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT/APP number when submitting comments.

Dated: October 25, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84–29220 Filed 11–6–84; 8:45 am]

BILLING CODE 4310–55–M

Marine Mammals; Issuance of Permit; Denver Wildlife Research Center

On August 24, 1984, a notice was published in the **Federal Register** (Vol. 49, No. 166) that an application had been filed with the Fish and Wildlife Service by the Chief of the Marine Mammal Section of the USFWS—Denver Wildlife Research Center, San Simeon, CA, (PRT2–8430) for the renewal and amendment of a permit to continue the take of West Indian manatees (*Trichechus manatus*) in the southeastern USA and Puerto Rico, for scientific research purposes.

Notice is hereby given that on October 15, 1984, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: October 25, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84–29221 Filed 11–6–84; 8:45 am]

BILLING CODE 4310–55–M

Marine Mammals; Issuance of Permit for Marine Mammals; Milwaukee County Zoo

On September 13, 1984, a notice was published in the **Federal Register** (Vol. 49, FR 179) that an application had been filed with the Fish and Wildlife Service by Milwaukee County Zoo (APP# 2575BM) for a permit to import a female polar bear from the Ruhr Zoo, Gelsenkirchen, West Germany, for public display.

Notice is hereby given that on October 17, 1984, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 as amended (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours

at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: October 29, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-29219 Filed 11-6-84; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection

The proposed information collection is for use by the Commission in connection with investigation No. 332-195, The Effects if Semifinished Steel Imports on the U.S. Iron and Steel Scrap Industry instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of Proposals

(1) Number of forms submitted. Two.

(2) Title of forms: The Effects of Semifinished Steel Imports on the U.S. Iron and Steel Scrap Industry, Questionnaires for Producers and/or Purchasers of Semifinished Steel, and Iron and Steel Scrap Processors and Brokers.

(3) Type of request: new.

(4) Frequency of use: nonrecurring.

(5) Description of respondents: firms which produce and/or purchase semifinished steel and processors and brokers of iron and steel scrap.

(6) Estimated number of respondents: 142

(7) Estimated total number of hours to complete the forms: 2,120.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment

Copies of the proposed form and supporting documents may be obtained from James Lukes, (USITC, tel. no. 202-523-0279). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission (tel. no. 202-395-7231). If you anticipate commenting on a form but find that time to prepare will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436).

Issued: October 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-29324 Filed 11-6-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-23]

Certain Tomato Products From Greece

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), that industries in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports from Greece of certain tomato products,[2] provided for in items 141.65, 141.66, and 166.30 of the Tariff Schedules of the United States (TSUS), if the countervailing duty order covering those imports were to be revoked.[3]

Background

The outstanding countervailing duty order was issued on March 28, 1972, as a result of an investigation that was conducted by the U.S. Department of the Treasury after the Canners League of California filed a countervailing duty petition in 1970.

On March 16, 1982, the Delegation of the Commission of the European Communities requested the U.S. International Trade Commission to review the outstanding countervailing duty order under section 104(b)(1) of the act to determine whether an industry in the United States would be materially injured, or threatened with material injury, or the establishment of an industry would be materially retarded by reason of imports of certain tomato products if the outstanding countervailing duty order applicable to such imports were to be revoked. Accordingly, on June 5, 1984, the Commission instituted investigation No. 104-TAA-23, Certain Tomato Products from Greece.

Notice of the institution of the Commission's investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 13, 1984 (49 FR 24461). The hearing was held in Washington, DC on August 14, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on October 29, 1984. A public version of the Commission's report, *Certain Tomato Products from Greece* (investigation No. 104-TAA-23, USITC Publication 1594, 1984) contains the views of the Commission and information developed during the investigation.

Issued: October 29, 1984.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-29323 Filed 11-6-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-155 (Final)]

Choline Chloride From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C 1673d(b)(1)), that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of choline chloride,[2] provided for in item

[1] The record is defined in §207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The tomato products covered by the outstanding countervailing duty order are tomato paste and tomato sauce, provided for in item 141.65, peeled tomatoes, provided for in item 141.66, and tomato juice, provided for in item 166.30 of the TSUS.

[3] Commissioner Eckes made his determination with regard to one industry.

[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioners Lodwick and Rohr determined that an industry producing liquid choline chloride in the United States was materially injured and that an industry producing dry choline chloride was being threatened with material injury.

439.50 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective April 30, 1984, following a preliminary determination by the Department of Commerce that imports of choline chloride from Canada were being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on May 23, 1984 (49 FR 21810). The hearing was held in Washington, D.C. on July 24, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on October 26, 1984. A public version of the Commission's report, Choline Chloride from Canada (investigation No. 731–TA–155 (Final), USITC Publication 1595, October 1984) contains the views of the Commission and information developed during the investigation.

Issued: October 26, 1984.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–29320 Filed 11–6–84; 8:45 am]

Billing Code 7020–02–M

[Investigation Nos. 303–TA–15 and 701–TA–213 (Final)]

Potassium Chloride From Israel and Spain

Determinations

On the basis of the record [1] developed in investigation No. 303–TA–15 (Final), the Commission determines,[2] pursuant to section 303(a) of the Tariff Act of 1930 (19 U.S.C. 1303), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Israel of potassium chloride, provided for in item 480.50 of the Tariff Schedules of the United States (TSUS), upon which the Department of Commerce has found bounties or grants are being provided.

In addition, on the basis of the record [1] developed in investigation No. 701–TA–213 (Final), the Commission determines,[3] pursuant to section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Spain of potassium chloride, provided for in item 480.50 of the TSUS, upon which the Department of Commerce has found subsidies are being provided.

Background

On June 29, 1984, the U.S. Department of Commerce published in the Federal Register (49 FR 26776) its preliminary determination that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Israel of potassium chloride. At the same time, Commerce also determined that there is a reasonable basis to believe or suspect that subsidies within the meaning of section 701 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Spain of potassium chloride.

Accordingly, effective June 29, 1984, the Commission instituted these final investigations under the provisions of the Tariff Act of 1930 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports of potassium chloride into the United States. Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 25, 1984 (49 FR 30025). The hearing was held in Washington, DC, on September 18, 1984, and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determinations in these investigations were made in an open "Government in the Sunshine" meeting held on October 22, 1984.

The Commission transmitted its report on these investigations to the Secretary of Commerce on October 29, 1984. A public version of the Commission's report, Potassium Chloride From Israel and Spain (investigation Nos. 303–TA–13 and 701–TA–213 (Final), USITC publication 1596, October 1984), contains the views of the Commission and information developed during the investigations.

Issued: October 29, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–29322 Filed 11–6–84; 8:45 am]

BILLING CODE 7020–02–M

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[1] The "record" is defined in § 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 CFR 207.2(i)).

[2] Commissioner Eckes dissenting and Chairwoman Stern not participating.

[3] Chairwoman Stern not participating.

[332–194]

World Trade Flows in Major Agricultural Products

AGENCY: U.S. International Trade Commission.

ACTION: Extension of time for submitting written statements.

SUMMARY: Notice is hereby given that the date for submitting written statements has been extended from October 31, 1984 to December 31, 1984.

Notice of the investigation was published in the Federal Register of September 26, 1984 (49 FR 37862).

Issued: October 26, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–29321 Filed 11–6–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–193]

Certain Rowing Machines and Components Thereof; Commission Decision Not To Review Initial Determination Terminating Respondents Pan's World International, Ltd., and Meidai Traffic Parts Co., Ltd.

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review the initial determination (I.D.) (Order No. 4) terminating respondents Pan's World International, Ltd., and Meidai Traffic Parts Co., Ltd., in this investigation (section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.53(c) and (h))).

EFFECTIVE DATE: October 15, 1984.

SUMMARY: On September 12, 1984, the presiding officer issued an I.D.

terminating respondents Pan's World International, Ltd., and Meidai Traffic Parts Co., Ltd., on the basis of their letters stating that they had not imported and sold and did not intend to import and sell in the United States the articles under investigation.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

SUPPLEMENTAL INFORMATION: The Commission has received neither a petition for review of the I.D. nor comments from Government agencies.

Issued: October 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–29325 Filed 11–6–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–220 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From Spain

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–220 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reasons of imports from Spain of certain welded carbon steel pipes and tubes [1] which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Spain. Commerce will make its final subsidy determination in this investigation on or before December 24, 1984, and the Commission will make its final injury determination by February 13, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b)).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–523–0399), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Spain of certain welded carbon steel pipes and tubes. The investigation was requested in a petition filed on July 17, 1984, by counsel on behalf of the Committee on Pipe & Tube Imports. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (49 FR 35871, September 12, 1984).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record on December 21, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on January 7, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 17, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on December 20, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 2, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Confidential material submitted in connection with the hearing should be filed in accordance with the procedures described below. Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 14, 1985.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 14, 1985. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR

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[1] For purposes of this investigation, the term "certain welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, and 610. 3243 of the Tariff Schedules of the United States Annotated (1984) (TSUSA), and welded carbon steel pipes and tubes of rectangular (including square) cross section, having a wall thickness of less than 0.156 inch, provided for in TSUSA item 610.4928. Prior to Apr. 1, 1984, the circular pipes and tubes were provided for in TSUSA items 610.3231, 610.3232, 610.3241, and 610.3244, and the rectangular pipes and tubes were provided for in TSUSA item 610.4975.

201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6), as amended by 49 FR 32569, August 15, 1984.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: November 2, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-29327 Filed 11-6-84; 8:45 am]

BILLING CODE 7020-02-M

[TA-131(b)-9]

Probable Economic Effect of Providing Duty Free Treatment for U.S. Imports of Certain High Technology Products

AGENCY: International Trade Commission.

ACTION: Redesignation of Commission investigation No. 332-199 to investigation No. TA-131(b)-9, with no change in the scope or time frame of the investigation.

Background

Upon enactment into law by the President of the Trade and Tariff Act of 1984, on October 30, 1984, the authority of the Commission to provide the advice requested by the U.S. Trade Representative, on October 19, 1984, concerning the probable economic effect of the elimination or U.S. duties on certain imports of high technology products, has been changed from the granted pursuant to section 332(g) of the Tariff Act of 1930 to section 131(b) of the Trade Act of 1974. Notice of the Commission's institution of investigation No. 332-199 and public hearing in connection therewith appeared in the **Federal Register** on October 31, 1984 (49 FR 43811).

EFFECTIVE DATE: October 30, 1984.

Issued: October 31, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-29326 Filed 11-6-84; 8:45 am]

BILLING CODE 7022-02-M

[Investigation No. 337-TA-193]

Certain Rowing Machines and Components Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Shinn Fu Company of America, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The inital determination in this matter was served upon the parties on October 30, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concering termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such request should be directed to the Secretarty to the Commision and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: October 30, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 29318 Filed 11-6-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-193]

Certain Rowing Machines and Components Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: American Sports, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 30, 1984

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments:

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document

(or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: October 30, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–29319 Filed 11–6–84; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 18–84]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e) (4) and (11), the Department of Justice, Federal Bureau of Investigation (FBI), is republishing the following system of records which was last published in the **Federal Register** on December 8, 1982 (47 FR 55343): National Crime Information Center (NCIC) (JUSTICE/FBI–001).

The above-named system of records had been revised to add a new routine use. The new routine use will permit disclosure of information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a non-governmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members on the public to telephone the Center from anywhere in the United States with information about a missing child.

Title 5, U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on new routine uses. Any comments should be addressed to Thomas F. O'Leary, Assistant Director, Administrative Services Staff, Justice Managment Division, Department of Justice, Room 6314, 10th and Constitution Aveune, NW., Washington, D.C. 20530. If no comments are received by December 7, 1984, the new routine use will be implemented without further notice in the **Federal Register.**

Since the new routine use is compatible with the purpose for which the system is maintained, a report to the office of Management and Budget and the Congress is not required.

The system is reprinted below in its entirety. The new routine use has been italicized.

Dated: November 2, 1984.

Anthony C. Liotta,

Assistant Attorney General for Adminstration.

JUSTICE/FBI 001

SYSTEM NAME

National Crime Information Center (NCIC).

SYSTEM LOCATIONS:

Federal Bureau of Investigation; J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Wanted Persons: 1 Individuals for whom Federal warrantes are outstanding. 2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutues of the jurisdictions originating the entry and felony or misdemeanor warrant has been issued for the individual with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria. 3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprenhension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictionary boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the initial entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

4. Juveniles who have been adjudicated delinquent and who have escaped or absconded from custody, even though no arrest warrants were issued.

B. Individuals who have been charged with serious and/or significant offenses.

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting himself or others to personal and immediate danger. 2. A person of any age who is missing under circumstances indicating that his disappearance was not voluntary. 3. A person of any age who is missing and in the company of another person under circumstances indicating that his physical safety is in danger. 4. A person who is missing and declared unemanicipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

D. Individuals designated by the U.S. Secret Service as posing a potential danger to the Presidential or other authorized protectees.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts, including certificates of origin or title.

B. Stolen License Plate File: 1. Stolen or missing license plate.

C. Stolen/Missing Gun File: 1. Stolen or missing guns. 2. Recovered gun, ownership of which has not been established.

D. Stolen Article File.

E. Wanted Person File: Described in Categories of individuals covered by the sytem: A. Wanted Persons."

F. Securities File: 1. Serially numbered stolen, embezzled, counterfeited, missing securities. 2. "Securities" for present purposes of this file are currency (e.g. bills, bank notes) and those documents or certificates which generally are considered to be evidence or dept (e.g. bonds, debentures, notes) or ownership of property (e.g. common stock, preferred stock), and documents which represent subscription rights, warrants) and which are of those types traded in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Boat File.

H. Computerized Criminal History File: A cooperative federal-State program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate

exchange of such information among criminal justice agencies.

I. Missing Person File: Described in "Categories of individuals covered by the system: C. Missing Persons."

J. U.S. Secret Service Protective File: Described in "Categories of individuals covered by the system: D."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 28 U.S.C. 534; Department of Justice Appropriation Act, 1973, Pub. L. No. 92–544, 86 Stat. 1115; Securities Acts Amendments of 1975, Pub. L. No. 94–29, 89 Stat. 97; and Exec. Order No. 10450, 3 CFR (1974).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, and penal and other institutions. The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, Puerto Rico, U.S. Possessions and U.S. Territories. Additionally, data contained in the various "want files," i.e., the stolen vehicle file, stolen license plate file, stolen missing gun file, stolen article file, wanted person file, securities file, and boat file may be accessed by the Royal Canadian Mounted Police. Criminal history data is disseminated to non-criminal justice agencies for use in connection with licensing for local/state employment or other uses, but only here such dissemination is authorized by Federal or state statutes and approved by the Attorney General of the United States.

Data in NCIC files, other than the Computerized Criminal History File, is disseminated to (1) a nongovernmental agency or submit thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose regularly employed peace officers have full police powers pursuant to state law and have complied with the minimum employment standards of governmentally employed police officers as specified by state statute; (2) a noncriminal justice governmental department of motor vehicle or driver's license registry established by a statute, which provides vehicles registration and driver record information to criminal justice agencies; (3) a governmental regional dispatch center, established by a state statute, resolution, ordinance or Executive order, which provides communication services to criminal justice agencies; and (4) the national Automobile Theft Bureau, a nongovernmental nonprofit agency which acts as a national clearinghouse for information on stolen vehicles and offers free assistance to law enforcement agencies concerning automobile thefts, identification and recovery of stolen vehicles.

Disclosures of information from this system, as described above, are for the purpose of providing information to authorized agencies to facilitate the apprehension of fugitives, the location of missing persons, the location and/or return of stolen property, or similar criminal justice objectives.

Information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons may be disclosed to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a non-governmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members of the public to telephone the Center from anywhere in the United States with information about a missing child.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the NCIC system is stored electronically for use in a computer environment.

RETRIEVABILITY:

On-line access to date in NCIC is achieved by using the following search descriptors. 1. Vehicle file: (a) Vehicle identification number: (b) License plate number: (c) NCIC number (unique number assigned by the NCIC computer to each NCIC record). 2. License Plate file: (a) License plate number: (b) NCIC number. 3. Gun file: (a) Serial number of gun: (b) NCIC number. 4. Article File: (a) Serial number of article: (b) NCIC number. 5. Wanted Person File and *U.S. Secret Service Protective File:* (a) Name and one of the following numerical identifiers, date of birth, FBI Number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record). Social Security number (It is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system). Operator's license number (driver's license number). Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record). Origination agency case number, (b) Vehicle or license plate known to be in the possession of the wanted person: (c) NCIC number (unique number assigned to each NCIC record). 6. Securities File. (a) Type, serial number, denomination of security; (b) Type of security and name of owner of security; (c) Social Security number of owner of security; (d) NCIC number. 7. Boat File: (a) Registration document number: (b) Hull serial number; (c) NCIC number. 8. Computerized Criminal History File: (a) Name, sex, race and date of birth: (b) FBI number; (c) State identification number; (d) Social Security number; (e) Miscellaneous number. 9. Missing Person File—Same as "Wanted Person" File.

SAFEGUARDS:

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC

Computerized Criminal History File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Center. a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can access data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a stated control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All vistitors to these computer centers must be accompanied by staff personnel at all time. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history filed in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each state control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice use, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept of inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on the system must be required to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminals history must have terminal operators screened and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of the data. d. All remote terminals on NCIC Computerized Criminal History will maintain a hard copy of computerized criminal history inquiries with notations of individual making request for record (90 days).

RETENTION AND DISPOSAL:

Unless otherwise removed, records will be retained in file as follows:

1. Vehicle File. a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) therein, will be purged from file 90 days after the end of the license plate's expiration year as shown in the record. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's will remain in file for the year of entry plus 4. b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates or origin or title, and serially numbered stolen vehicles engines or transmissions will remain in file for the year of entry plus 4.

2. License Plate file: Unrecovered stolen licenses plates not associated with a vehicle will remain in file for one year after the end of the plate's expiration year as shown in the record.

3. Gun file: a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2.

4. Article file: Unrecovered stolen articles will be retained for the balance of the year entered plus one year.

5. Wanted Person File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from file after 48 hours).

6. Securities File: Unrecovered, stolen, embezzled, counterfeited or missing securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.

7. Boat File: Unrecovered stolen boats will be retained in file for the balance of the year entered plus 4.

8. Missing Person File: Will remain in the file until the individual is located or, in the case of unemancipated persons, the individual reaches the age of emancipation as defined by laws of his state.

9. Computerized Criminal History File: When an individual reaches age of 80.

10. U.S. Secret Service Protective File: Will be retained until names are removed by the U.S. Secret Service.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover F.B.I. Building, 9th and Pennsylvania Avenue N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURES:

Same as the above

RECORD ACCESS PROCEDURE:

It is noted the Attorney General is exempting this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to a requester. The procedures by which an individual may obtain a copy of his computerized Criminal History are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in accordance with applicable State and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperating law enforcement agency can make an identification with fingerprints previously taken which are in file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C., by mail. The

individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or possibly, in the State's central identification agency.

CONTESTING RECORD PROCEDURES:

The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

RECORD SOURCE CATEGORIES:

Information contained in the NCIC, system is obtained from local, State, Federal and international criminal justice agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e)((8) (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(3). Rules have been promulgated in accordance with the requirements of 5 U.S. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 84-29330 Filed 11-6-84; 8:45 am]
BILLING CODE 4410-02-M

Drug Enforcement Administration

[Docket No. 84-20]

Daniel Levine, T/A Gladstone Pharmacy, Inc., Margate, NJ; Hearing

Notice is hereby given that on April 30, 1984, the Drug Enforcement Administration, Department of Justice, issued to Daniel Levine, T/A Gladstone Pharmacy, an Order To Show Cause as to why the Drug Enforcement Administration should not revoke Respondent's DEA Certificate of Registration, AG6382270, and deny the pending application for renewal of such registration as a retail pharmacy under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Wednesday, November 14, 1984, in the Main Courtroom, First Floor, Old Courthouse Building, 94 Market Street, Salem, New Jersey.

Dated: October 31, 1984.

Francis M. Mullen, Jr.,
Administrator, Drug Enforcement Administration.

[FR Doc. 84-29343 Filed 11-6-84; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Denver, CO, Highway Accident

In connection with its investigation of the accident involving the overturn of a tractor-semitrailer transporting torpedoes in Denver, Colorado, on August 1, 1984, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on Tuesday, November 27, 1984, at the Regency Inn, York and Canterbury Rooms, 3900 Elati Street, Denver, Colorado. For more information, contact Mr. Robert Buckhorn, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Ave., S.W., Washington, D.C. 20594, telephone (202) 382-6600.

Dated: November 2, 1984.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.

[FR Doc. 84-29349 Filed 11-6-84; 8:45 am]
BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289 OLA]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit No. 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding:

Gary J. Edles, Chairman
Dr. W. Reed Johnson
Dr. Reginald L. Gotchy

Dated: November 1, 1984.

Barbara A. Tompkins,
Secretary to the Appeal Board.

[FR Doc. 84-29352 Filed 11-6-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., et al.; Grand Gulf Nuclear Station, Unit 1; Issuance of Facility Operating License

On June 16, 1982, the U.S. Nuclear Regulatory Commission (the Commission) issued Facility Operating License No. NPF-13 to the Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees) authorizing operation of the Grand Gulf Nuclear Station, Unit 1, (the facility) at reactor core power levels not in excess of 191 megawatts thermal (five percent of full power) in accordance with the provisions of the license, the Technical Specifications and the Environmental Protection Plan.

The Commission has now issued Facility Operating License No. NPF-29 which authorizes operation of the Grand Gulf Nuclear Station, Unit 1, at reactor core power levels not in excess of 3833 megawatts thermal in accordance with the provisions of the license, the Technical Specifications, and the Environmental Protection Plan. License No. NPF-29 supersedes NPF-13, as amended, pursuant to Commission Order CLI-84-19, dated October 25, 1984.

The Grand Gulf Nuclear Station, Unit 1, is a boiling water reactor located at the licensees' site in Claiborne County, Mississippi. The license is effective as of its date of issuance and shall expire at midnight on June 16, 2022.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on July 28, 1978 (43 FR 32903).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF-29 complete with Technical Specifications and the Environmental Protection Plan; (2) the Commission's

Safety Evaluation Report, dated September 1981 (NUREG–0831), and Supplements 1 through 7; (3) the Final Safety Analysis Report and Amendments thereto; (4) the Final Environmental Statement, dated September 1981 (NUREG–0777); (5) the Evaluation of the Effect of License Duration on Matters Discussed in the Final Environmental Statement for the Grand Gulf Nuclear Station Units 1 and 2 (dated September 1981); (6) the Commission's Memorandum dated August 1, 1984; and (7) Commission Order CLI–84–19, dated October 25, 1984.

These items are available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the George McLendon Library, Hinds Junior College, Raymond, Mississippi 39154. A copy of Facility Operating License NPF–29 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements (NUREG–0831) and the Final Environmental Statement (NUREG–0777) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders may call (301) 492–9530.

Dated at Bethesda, Maryland, this 1st day of November 1984.

For the Nuclear Regulatory Commission.

Thomas M. Novak, Assistant Director for Licensing,

Division of Licensing.

[FR Doc. 84–29353 Filed 11–6–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14220; 812–5213]

Alex. Brown Cash Reserve Fund, Inc., et al.; Application for an Order Granting Exemptions

October 31, 1984.

Notice is hereby given that Alex. Brown Cash Reserve Fund, Inc., P.O. Box 17250, Baltimore, Maryland 21203, Short-Term Investments Co., Short-Term Yield Securities, Inc., Tax-Free Cash Reserve, Inc., Liquid Investments Co., High Yield Securities, Inc., Convertible Yield Securities, Inc., The Greenway Fund, Inc., Summit Investors Fund, Inc., each of which is registered under the Investment Company Act of 1940 (the "Act") as an open-end management investment company, and all future investment companies of which AIM Advisors, Inc. or any affiliate thereof serves as investment adviser, manager, principal underwriter or sponsor (the "Applicants"), filed an application on June 11, 1982, and amendments thereto on November 6, 1983 and October 3, 1984, requesting an order of the Commission, pursuant to sections 6(c) and 17(b) of the Act exempting Applicants from the provisions of sections 17(a)(1) and 17(a)(2) of the Act with respect to certain purchase or sale transactions between any Applicant and a bank (or bank holding company or affiliate thereof, hereinafter collectively referred to as "affiliated bank") which may be an affiliated person of any Applicant solely by reason of such bank's owning, controlling, or holding with power to vote five percent or more of the outstanding voting securities of any Applicant. The transactions covered by the application are solely with respect to: (i) Repurchase agreements with an affiliated bank, (ii) money market obligations having one year or less to maturity ("short-term obligations") issued by any one of the 50 largest United States banks, measured by deposits, which is also an affiliated bank and (iii) tax-exempt obligations purchased from or through an affiliated bank. Applicants also request an exemption pursuant to section 6(c) from section 17(e)(1) of the Act with respect to any compensation, not to exceed the limitations in section 17(e)(2) of the Act, that may be accepted by such a bank where the bank has acted as agent for any Applicant in connection with the purchase or sale of securities for any Applicant. 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 complete text of those provisions from which an exemption is being sought.

The application states that shares of Short-Term Investments Co. and the Institutional Series of Tax-Free Cash Reserve, Inc. are sold exclusively to institutional investors, particularly banks seeking investment of funds (frequently, short-term monies) on behalf of accounts for which the banks act in an agency, trustee, or other fiduciary capacity. Applicants state that shares of Liquid Investments Co. are sold to clients of institutions, including banks, which have entered into service agreements with that Fund. According to the application, banks acting in such capacities normally purchase an Applicant's shares through a "master" account, in which the shares are registered in the name of the bank (or its nominee); alternatively, sub-accounts may be opened in accordance with such bank's procedures in the name of each bank customer. The application states that the number of outstanding shares of any of these Applicants can fluctuate significantly, even on a daily basis, and, from time to time the number of shares of one of these Applicants held for its accounts by a bank in a "master" account may exceed five percent of such Applicant's outstanding voting shares.

The application further states that Short-Term Yield Securities, Inc. is a money market fund; the General Series of Tax-Free Cash Reserve, Inc., seeks to provide investors with income that is exempt from federal income taxes; Convertible Yield Securities, Inc. invests primarily in convertible securities; High Yield Securities, Inc. invests primarily in high yield fixed income securities; and the Greeway Fund, Inc. and Summit Investors Fund, Inc., both invest primarily in common stocks. Applicants state that this group of Applicants are not usually purchased by institutional investors, including banks. Applicants state that each Applicant has authority to purchase short-term obligations of banks, but that for Applicants which are not money market funds the relative amounts of such investments will depend upon whether the receipt of income is a primary or secondary investment objective of the Applicant, or whether the Applicant is merely taking a temporary "defensive" investment posture. Applicants state that where a bank is record owner of five percent or more of the outstanding shares of one of the Applicants on behalf of the bank's various agency and fiduciary accounts, such bank may arguably be deemed to be an affiliate of the Applicant within the meaning of section 2(a)(3)(A) of the Act.

Applicants state that, under the provisions of sections 17(a)(1) and 17(a)(2) of the Act, it would be unlawful for a bank that is an affiliated bank of an Applicant knowingly to sell to or purchase from Applicants securities of which it was the issuer or other securities such as municipal bonds. Further, Applicants state that the Commission has taken the position that registered investment companies may be affiliates of each other where they share common officers, directors, or investment advisers. Applicants state that, while they do not concede they are in law or in fact affiliated persons of

each other, assertion of such position by the Commission could cause a bank that is an affiliate of one of Applicants to be a affiliated person of all Applicants. Basically, the application states that, under such circumstances, it would be unlawful for an affiliated bank to sell to or purchase from any Applicant securities of which it was the issuer or other securities.

Applicants also conclude that an affiliated bank would be prohibited by section 17(e)(1) from accepting any consideration in connection with a brokerage transaction where it acted as agent for an Applicant. Applicants further conclude that, if the Commission's position with respect to investment companies that share common officers, directors, or investment advisers is applicable, the prohibition in section 17(e)(1) would apply to all securities transactions where the affiliated bank wished to act as agent for any of the Applicants.

The application states that in order to avoid inadvertent violations of sections 17(a)(1), 17(a)(2), and 17(e)(1) of the Act, Applicants have required AIM to establish internal procedures that identify situations where a bank is record owner of five percent or more of an Applicant's outstanding shares, to eliminate such bank from AIM's "approved list" of banks for such Applicant, and to prohibit AIM from engaging in any securities transactions with such bank on behalf of any Applicant until such time as the bank's beneficial ownership of the shares is reduced below five percent. Moreover, Applicants state, to avoid even the appearance of a possible violation and to protect against delays or errors by banks in identifying correctly the record owner, AIM does not investigate further in order to clarify or confirm the capacity in which such shares are held by the bank. Applicants assert that it is therefore entirely possible that a bank with record ownership of five percent or more of an Applicant's outstanding shares may not be an affailiate of that Applicant because it purchased substantially all of those shares solely upon the unsolicited, direct order of one or more of its retail, commercial or custody customers. Applicants state, however, that only by setting an absolute prohibition at five percent of record ownership does AIM believe that it can fully protect the Applicants from inadvertent violation of the Act, particularly with respect to the bank-oriented money-market funds mentioned above, where even on a daily basis the number of shares outstanding can fluctuate significantly.

Applicants state that since the implementation of these procedures in 1982, at one time or another at least six banks have been either eliminated from consideration for or removed from the "approved list" and/or disqualified in connection with certain proposed transactions with Applicants. Applicants state that four of these banks are in the top 50 U.S. banks based upon deposits, while one is in the top 100 and the other in the top 125. Applicants contend that, in view of their substantial aggregate size (approximately $3.9 billion in assets as of the end of November, 1983), and the concommitant volume of transactions in money market instruments, the elimination of even a few major banks from the universe of money market instrument issuers and dealers with whom Applicants may do business may have noticeable impact on portfolio management flexibility. The application also argues that as Applicants continue to grow and as the number of banks utilizing AIM's institutional fund products and services expands, the restrictive impact of the statutory prohibitions could increase in severity to the point of adversely affecting portfolio liquidity and increasing portfolio exposure to adverse credit risks, a potentially dangerous and, in fact, unacceptable result for the money market funds, especially within the context of an emotional cost exemptive order or reliance on Rule 2a-7.

Applicants submit that the need for portfolio management flexibility, particularly as it relates to liquidity and credit standards, will be even more evident for Tax-Free Cash Reserve, Inc. and any other municipal bond fund that AIM amy manage in the future. The municipal bond market is alleged to be more disparate, much less structured, and considerably less liquid than the market for money market instruments. In addition, Applicants state that much greater reliance is placed on the dealer community to keep portfolio managers apprised of, and to supply Applicants with, suitable issues of municipal bonds, as well as to assist in the disposition of portfolio holdings. Applicants also express their concern that since municipal bond syndications are customarily operated on an "undivided" basis in terms of risk allocation among syndicate members, there is an argument that an affiliated bank which was a member of a syndicate would be deemed an indirect seller of bonds to Tax-Free Cash Reserves, Inc. which was, in fact, buying bonds from another syndicate member. Consequently, Applicants contend, it may be unlawful for an Applicant to buy any new issue of municipal securities from any underwriting syndicate where an affiliated bank was a member of the syndicate.

In addition to the above, Applicants express concern that the prohibition in section 17(e)(1) would inhibit significantly their usual discretion to select the best broker available for execution of their securities transactions. Applicants state that they frequently purchase or sell securities in transactions executed in the secondary markets, and that some of those transactions are executed by commercial banks acting as agent for a particular Applicant. Applicants state that all securities involve costs, and transactions where the intermediary acts as agent traditionally involve payment of a commission intended to cover the intermediary's costs and provide an appropriate element of profit. Applicants note that if an affiliated bank acted as broker for an Applicant in connection with a securities transaction, it could not accept even the customary broker's commission from such Applicant, and Applicants might be precluded practically from using that particular bank for any securities transactions when Applicants wished the affiliated bank to act as their broker.

In further justification of their request for exemptive relief, Applicants have expressed a willingness to adopt certain internal control procedures which they assert are consistent with the underlying purposes of sections 17(a)(1), 17(a)(2), and 17(e)(1) of the Act. Applicants contend that the overall purposes of those sections are to prevent a party with strong potential adverse interests and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants state their belief that they can best serve the interests of their shareholders by investing in the short-term obligations, repurchase agreements and tax-exempt obligations that best suit the investment objectives of Applicants, regardless of whether the bank which issues or deals in those securities may be deemed to be an affiliate of Applicants. In addition, Applicants state that they believe they can best safeguard their investors from any remote possibility of abuse by concentrating their attention directly on the inherent fairness of transactions with banks that are affiliates of any one

of the Applicants. Thus, the Applicants propose to create additional internal control procedures for the careful monitoring of securities transactions with affiliated banks, placing responsibility for monitoring the reasonableness and fairness of those transactions on Applicants' directors.

In considering this request, Applicants also urge recognition that each Applicant (and, in the case of a so-called "series" Fund, each portfolio) has adopted, as a matter of fundamental policy, investment restrictions designed to ensure portfolio diversification and limit borrowing. Among other restrictions, each Applicant is prohibited from purchasing the securities of any one issuer (other than U.S. government obligations) if as a result more than 5 percent of Applicants' total assets would be invested in the securities of such issuer. In the case of the two money market fund Applicants, the limitation is increased to 10 percent for investments in repurchase agreements, certificates of deposit, savings deposits, and bankers' acceptances, but only with respect to 25 percent of Applicants' total assets. Applicants state that, in addition, each Applicant limits its borrowing from banks for temporary or emergency purposes to ten percent of its total assets (except for High Yield Securities, Inc. where this limitation is five percent; Short-Term Yield Securities, Inc., where this limitation is 20 percent; and the Greenway Fund, Inc., which may borrow for leverage up to 33⅓ percent).

Applicants represent that as these restrictions are matters of fundamental policy and, accordingly, cannot be modified without shareholder approval, they operate as an automatic ceiling on the amount of instruments issued by an affiliated bank that may be held in any Applicants' portfolio. Applicants state that they anticipate that a similar investment restriction will be incorporated in the restrictions applicable to each additional investment company for which AIM will act as investment adviser, administrator (or principal underwriter) in the future. The application represents that AIM undertakes that, if it should ever decide to recommend to the shareholders of any Applicant that such Applicant's investment restrictions be changed respecting the ceiling on the amount of instruments issued by an affiliated bank that may be held in the Applicant's portfolio, the proxy statement will not be disseminated until the Commission (acting through its staff) has approved that portion of the proxy statement respecting this proposed change in that Applicant's fundamental policies.

The application states that Applicants and AIM represent that there is no express or implied understanding between any Applicant and AIM and any bank which is or may become an affiliated bank that AIM will cause any of Applicants to enter into purchase or sale transactions with such bank. Moreover, the application states that AIM represents it will give no preference to any affiliated bank in effecting the above transactions because the bank is or may become an affiliated bank or because the customers of such bank purchase shares of any of Applicants, unless the board of directors of such Applicant has approved such a policy and its pursuit is disclosed in a prospectus of such Applicant declared effective by the Commission. Applicants also state that AIM has further represented that, consistent with its fiduciary duties to Applicants, it will initiate all purchase and sale transactions between Applicants and an affiliated bank, and that such tranactions will be entered into with with an awarenss of the interests of Applicants' shareholders.

Applicants agree that the following conditions may be imposed in any order of the Commission granting their requested exemptive relief:

(a) The boards of directors of Applicants (1) will adopt procedures, pursuant to which transactions may be effected for Applicants, which are reasonably designed to provide that all the conditions in paragraphs (b) through (f) below have been complied with, (2) will review no less frequently than annually such procedures for their continuing appropriateness, and (3) will determine no less frequently than quarterly that such transactions made during the preceding quarter were effected in compliance with such procedures. Such procedures and transactions will also be approved by a majority of the "non-interested" members of the board of directors of each Applicant. AIM will implement the procedures and make decisions necessary to meet these conditions, subject to the direction and control of the board of directors of each Applicant.

(b) No Applicant will purchase short-term obligations of any affiliated bank if, as a result, more than five percent of its total assets would be invested in such obligations of the bank. No Applicant will enter into repurchase agreements with an affiliated bank if, as a result, five percent of its total assets would be invested in repurchase agreements with the bank.

(c) Applicants will (1) maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph (a) above, and (2) maintain and preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or materials upon which the determinations described below were made.

(d) The purchase or sale of a security by an Applicant will be consistent with the investment objectives and policies of that Applicant as recited in Applicant's Registration Statement, and will be consistent with the interests of that Applicant's shareholders. Further, the security to be purchased or sold by that Applicant will be comparable in terms of quality, yield, and maturity to other similar securities that are appropriate for that Applicant and that are being purchased or sold during a comparable period of time.

(e) The terms of the transaction will be reasonable and fair to the shareholders of that Applicant and will not involve overreaching of that Applicant or its shareholders on the part of any person concerned. In considering whether the price to be paid or received from the security is reasonable and fair, the price of the security will be analyzed with respect to comparable transactions involving similar securities being purchased or sold during a comparable period of time.

(f) The commission, fee, spread, or other remuneration to be received by the bank will be reasonable and fair compared to the commission, fee, spread, or other remuneration received by other brokers or dealers in connection with comparable transactions involving similar securities being purchased or sold during a comparable period of time but in no event will such fee, commission, spread or other remuneration exceed that which is stated in section 17(e)(2) of the Act.

Applicants represent that AIM agrees the above restrictions will also apply to any other investment companies for which AIM or any affiliate thereof may serve as investment adviser, manager, principal underwriter or sponsor in the future.

On the basis of the foregoing, Applicants submit that the terms of the

proposed plan are reasonable and fair and do not involve overreaching on the part of any person, that the proposed plan is consistent with the policy of each of the Applicants, that the proposed plan is consistent with the general purposes of the Act, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 26, 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.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29287 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14222; 812-5873]

FPA Perennial Fund, Inc. and Angeles/Quinoco Securities, Inc.; Filing of Application for Exemption

October 31, 1984.

Notice is hereby given that FPA Perennial Fund, Inc. (the "Fund"), and Angeles-Quinoco Securities, Inc. ("Distributor," collectively, "Applicants") (previously named Angeles Securities Corporation), 10301 West Pico Boulevard, Los Angeles, CA, 90064, filed an application on June 14, 1984, and an amendment thereto on October 17, 1984 for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants and any other registered investment companies offered in the future with a sales charge by Distributor for initial and subsequent investment, at the net asset value determined in accordance with Rule 22c-1 under the Act without the imposition of the sales charge otherwise applicable ("Future Funds") from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit the sale of shares of the Fund at net asset value to (a) the Angeles Affiliated Employees (defined below) who are participants in the Investment Plan for Angeles Affiliated Employees (the "Plan"), a non-tax qualified employee benefit plan, (b) any investment advisory, agency, custodial, or trust account for which First Pacific Advisors, Inc. ("Adviser"), is the investment adviser with discretionary power to make investment decisions and to buy and/or sell securities on its behalf, and (c) any similar type affiliates of any such investment advisory, agency, custodial, or trust account (collectively, "Offerees"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the act and rules thereunder for the text of the applicable provisions.

Applicants state that the Fund, a Maryland corporation, is a diversified open-end investment company currently engaged in the continuous public offering of its shares through the Distributor, a Delaware corporation, at public offering prices equal to net asset value plus a sales charge. According to Applicants, the sales charge imposed on sales of the Fund shares varies with the size of the purchase (as set forth in the Fund's prospectus) from 8.5% to .90% of the public offering price of the Fund shares. A minimum initial investment of $1500 is required from all public investors other than investors in retirement plans, unless the investment is made pursuant to the Fund's systematic investment plan, and subsequent investments must be a minimum of $100. Investors may establish a systematic investment plan with a minimum initial investment of $500 and an expressed intention to increase the initial investment of $1500 within twelve months. Retirement plans may be opened with an initial investment of $100 and an expressed intention to increase the investment to $1500 within twelve months.

The application states that Advisor, a Calfornia Corporation, and Distributor are wholly-owned subsidiaries of Angeles and, together with Angeles, other present Angeles subsidiaries, and any future Angeles subsidiaries (or other similar entities controlled directly or indirectly by Angeles) are referred to as the "Angeles Companies." As of April 30, 1984, the directors and employees of the Angeles Companies ("Angeles Affiliated Employees") totaled approximately 790, four of whom are directors who are not employed by the Angeles Companies in any other capacity ("Outside Directors"). The application further states that Adviser serves as investment adviser to (1) other registered investment companies (including the Fund) with net assets, on April 30, 1984, of approximately $358 million and (2) corporate pension plan accounts and endowment accounts with net assets on, March 31, 1984, of approximately $855 million.

Applicants represent that Adviser cannot economically advise smaller accounts because of difficulties in providing adequate portfolio diversification and because investment advisory costs are relatively high in relation to the size of the account. Applicants assert that investment companies such as the Fund and/or Future Funds would provide a very suitable alternative investment medium for such accounts. According to Applicants, the flexibility of investment in the Fund and/or Future Funds, the detailed recordkeeping provided the investor, and other factors may also make the Fund and/or Future Funds appropriate investment vehicles for larger accounts as well. Applicants submit that, with respect to advisory accounts that are partially or totally invested in the Fund and/or Future Funds, the Adviser undertakes either to waive its advisory fee applicable to the account assets so invested or to rebate to the account the pro-rata amount of the advisory fee applicable to such assets paid to the Adviser by the Fund and/or Future Funds.

Applicants state that the ordinary selling expense which is incurred (i) by Distributor directly in calling upon broker/dealers and otherwise helping such firms to seek out and personally contact prospective investors and (ii) by such broker/dealers will not be incurred with respect to any of the types of sales covered by this application. Administrative and processing costs are expected to be minimal, and no extraordinary or distribution costs will be incurred by the Fund and/or Future Funds.

Applicants and Future Funds propose to permit Offerees to purchase shares of the Fund and Future Funds at net asset value on a direct purchase basis and, except in the case of the Outside Directors, through payroll deductions of Angeles Companies' employees. According to the application, the opening of an account under the Plan

will require the prior approval of Angeles after it has made a determination of the eligibility of the Angeles Affiliated Employee to participate in the Plan. Certificates for shares acquired through participation in the Plan will not be issued and dividends and capital gain distributions with respect to such shares will automatically be reinvested at net asset value. The application states that all participants in the Plan will agree not to resell Fund or Future Fund shares acquired through their participation in the Plan except by repurchase or redemption by or for the account of the Fund or Future Funds. Redemption of Fund or Future Funds shares purchased under the Plan may not occur more than once a year.

Applicants represent that no individual sales solicitations or face-to-face group sales solicitations concerning the Plan, the Fund and/or Future Funds will be made. The Angeles Affiliated Employees will periodically receive, at least annually, notice from Angeles or one of the other Angeles Companies, concerning the Plan. According to Applicants, the notice, which will be furnished at the expense of the Angeles Companies, will describe the Fund and Future Funds and its investment objectives, indicate that investments in the Fund and Future Funds can be made at net asset value, and detail the methods by which investments can be made. The notice will also indicate that additional information concerning the Plan, the Fund, and the Future Funds can be obtained from the Angeles Companies and will inform the Angeles Affiliated Employees of the availability of prospectuses and application forms from the Angeles Companies. Each prospectus will contain appropriate disclosure concerning the Plan and the Offerees. Applicants submit that all expenses of administering the Plan, such as those associated with notification of eligible Angeles Affiliated Employees of the existence of the Plan, preparation, review and approval of account applications, and administration of the payroll deduction investments will be borne by the Angeles Companies and not by the Fund or Future Funds.

According to the Applicants, the sale of Fund and Future Fund shares at net asset value under the Plan to all Angeles Affiliated Employees other than the Outside Directors would be permitted by section 22(d) of the Act and Rule 22d–1 thereunder. However, Applicants believe that, because the term "employee" is not defined, the Outside Directors may not be deemed to be employees within the meaning of Rule 22d–1. Applicants submit that investment by Offerees in shares of the Fund and/or Future Funds at net asset value is supported by strong policy considerations. Applicants state that such sales should result in demonstrable economies in sales effort and sales-related expense as compared with other sales in the normal channels of distribution and would not be unjustly discriminatory. Applicants state that the exemption requested is appropriate in the public interest and consistent with the protection of investors and the purposes of section 22(d) of the Act.

Applicants further submit that sales of Fund shares to the Outside Directors will result in the same economies of sales effort and sales-related expense as result from sales to the other Angeles Affiliated Employees. Because many of the Offerees have a basic understanding of the nature of an investment company as well as general familiarity with, and loyalty to, the Fund, no individual or group solicitation is necessary for sales of the Fund's share to such Offerees. Applicants contend that, because the Outside Directors participate, in most cases, in the overall management of Angeles and its subsidiaries, including Adviser and Distributor which are intimately involved in the Fund's operations, they possess a greater knowledge of the Fund than many of the other Angeles Affiliated Employees.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 26, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, 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.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84–29271 Filed 11–6–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14221; 812–5920]

ML Venture Partners I, L.P. and Thomas L. Chrystie; Application for an Order Approving the Proposed Transaction

October 31, 1984.

Notice is hereby given that ML Venture Partners I, L.P. (the "Partnership"), 165 Broadway, New York, New York 10080, a limited partnership, and Thomas L. Chrystie, an affiliated person of the Partnership (together, the "Applicants"), filed an application on August 14, 1984, and an amendment thereto on October 3, 1984, for an order of the Commission pursuant to section 17(d) of the Investment Company Act of 1940 ("Act"), and Rule 17d–1 thereunder, to permit the Partnership and Mr. Chrystie to acquire shares of the common stock of Visidata Corp. ("Visidata") on the terms set forth therein. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the complete text of all pertinent provisions.

Applicants state that the Partnership is a business development company as defined in the Act and that its managing general partner, which is also a limited partnership, is Merrill Lynch Venture Capital Co., L.P. (the "Managing General Partner"). Applicants state that the general partner of the Managing General Partner is Merrill Lynch Venture Capital, Inc. (the "Management Company"), which is also the management company for the Partnership. According to the application, the Management Company is an indirect subsidiary of Merrill Lynch & Co., Inc. ("ML & Co."), a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services.

Applicants state that Mr. Chrystie is an employee of ML & Co., currently holding the position of Adviser on Strategy, and that he has been an employee of ML & Co. or its subsidiaries since 1957. Applicants further state that during 1983, Mr. Chrystie resigned from his positions as an officer and director of various subsidiaries of ML & Co. in anticipation of his gradual withdrawal from activities at ML & Co. and to permit him to become more directly involved with his personal investments. Applicants state that Mr. Chrystie expects to retire from ML & Co. in 1988, following which his primary occupation will consist of investing in private companies.

According to the application, Visidata, a California corporation, is engaged in the design, manufacture and sale of power supplies and data entry terminals. Applicants state that as of June 30, 1984, the stockholders of Visidata consisted of its founders, certain of its employees, one venture capital organizaton and several individual investors. Applicants further state that to their knowledge, no stockholder of Visidata is an employee of ML & Co. or its affiliates.

According to the application, the Partnership was first offered the opportunity to invest in Visidata during April, 1984, and the investment offered was common stock having an aggregate purchase price of $450,000. Applicants state that the Managing General Partner subsequently conducted and evaluation of the proposed investment and determined to approve an investment of up to $300,000. Applicants represent that the investment decision by the Managing General Partner was made purely on the basis of the investment objectives and policies of the Partnership and without regard to the possibility of Mr. Chrystie's participation, which is described below.

Applicants state that the Partnership expects to acquire 200,000 shares of common stock of Visidata at a purchase price of $1.50 per share, for an aggregate purchase price of $300,000. According to the application, such shares will represent approximately six percent of the shares of Visidata's common stock presently outstanding (on a fully-diluted basis, reflecting the proposed purchase by Mr. Chrystie referred to below). Applicants represent that the investment in Visidata will represent less than one percent of the Partnership's net assets. Applicants state that is expected that a general partner of the Partnership, who is also the president of the Management Company, will become a director of Visidata.

Applicants state that following the decision by the Managing General Partner to approve the investment in Visidata, Mr. Chrystie, who was concurrently considering an investment in Visidata, was advised of such decision and agreed to invest up to $200,000 in common stock of Visidata. According to the application, Mr. Chrystie intends to enter into a subscription agreement in which he will agree to purchase 133,333 shares of Visidata for a purchase price of $1.50 per share, subject to the receipt of the order requested herein. Applicants represent that the terms of Mr. Chrystie's purchase will be the same as those of the Partnership, and that it is expected that Mr. Chrystie will also become a director of Visidata. According to the application, the Managing General Partner believes that Mr. Chrystie's participation as an investor and director of Visidata would be beneficial to that company and thus benefit the Partnership as an investor in Visidata.

According to the application, on July 26, 1984, the general partners of the Partnership other than the Managing General Partner considered the investments by the Partnership and Mr. Chrystie in Visidata. Applicants state that included among the factors considered by the Individual General Partners were the following: (i) The fact that the terms of the purchases by Mr. Chrystie and the Partnership will be identical; (ii) the Managing General Partner's belief that Mr. Chrystie's participation will be beneficial to the company and thus benefit the Partnership as an investor in Visidata; (iii) Mr. Chrystie's agreement that he will use his best efforts to insure that any conflicts which might arise between his interests and those of the Partnership are resolved in the best interests of the Partnership, as such interests are determined by Mr. Chrystie in his good faith judgment; (iv) Mr. Chrystie's agreement that, if he is offered the opportunity to sell any portion of his shares of Visidata at a time when the Partnership was still a shareholder, he will permit the Partnership to participate in such sale on the basis of his and the Partnership's relative stock ownership interests; and (v) Mr. Chrystie's agreement that if in the future he determines to acquire additional securities issued by Visidata at a time when the Partnership is a shareholder of Visidata, he will not make such purchase unless the terms thereof have been approved by a majority of the general partners of the Partnership who are not interested persons thereof within the meaning of the Act.

The application states that on the basis of their considerations and the facts concerning the transaction set forth above, the general partners, including those who are not "interested persons" of the Partnership, unanimously approved Mr. Chrystie's purchase of Visidata common stock. Applicants represent that in connection with their approval, the general partners specifically concluded that the joint investment involved no conflicts of interest which would cause them not to approve such investment.

In the light of the foregoing, the Partnership submits that the purchase of shares of common stock of Visidata by it and Mr. Chrystie is consistent with the provisions, policies and purposes of the Act and that the participation by the Partnership is no less advantageous than that of Mr. Chrystie. Accordingly, Applicants request that an order be entered pursuant to section 17(d) of the Act and Rule 17d–1 thereunder permitting Mr. Chrystie to purchase such securities on the terms described in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 26, 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.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29288 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21442; SR-Amex-84-24]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 31, 1984.

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, New York, 10006, submitted on August 31, 1984, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend its arbitration rules. The proposed amendments include the following: (i) Rule 601's definition of industry arbitrator would be expanded to include persons associated with members and member organizations; (ii) Rule 602(b)'s five arbitrator requirement for cases involving $100,000 or more would be changed to require 3 to 5 arbitrators; (iii) Rule 602(e) would allow each party, even in small claim

proceedings, one peremptory challenge as well as unlimited challenges for cause; (iv) Rule 604(a) would prevent the six year time limitation on arbitrations from barring a claim which a court directs to arbitration; (v) under Rule 604(d) the statute of limitations would be tolled when only a claimant rather than all parties files a submission agreement; (vi) under Rule 605(b), a responding party who pleads only a general denial as an answer could be barred from presenting any facts or defenses at the time of the hearing and a responding party who fails in his answer to state all available defenses and relevant facts could be barred from presenting additional defenses and facts; (vii) under Rule 605(c) the Director of Arbitration would be permitted to preliminarily determine whether claims involving multiple claimants, respondents, or third party respondents should proceed in the same or separate arbitrations; and (viii) Rule 614 would permit amended pleadings prior to appointment of a panel, although after a panel had been appointed no new or different pleadings could be filed except for a responsive pleading or with the panel's consent.

Amex also proposed an increase in its fees and jurisdictional limits for small claim proceedings. Rule 618's deposit schedule, fee assessment schedule and non-money claim deposit limit would be raised from a maximum of $550 to a maximum of $750. In addition, amended Rule 618 would permit arbitrators to assess forum fees and costs for matters settled or withdrawn subsequent to the first hearing session. Under the proposed amendments to Rule 619, the jurisdictional limit for small claim proceedings and related counterclaims would be raised from $2500 to $5000 and the $15 flat filing fee also would be replaced by a series of fees, the maximum fee being $100. In member small claims procedures, the present $5,000 claim limit for single arbitrators would be raised to $10,000 under Rule 620.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 21305, September 10, 1984) and by publication in the **Federal Register** (49 FR 36586, September 18, 1984). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with he requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29269 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21441; SR-Amex-84-26]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 31, 1984.

The American Stock Exchange ("Amex"), 86 Trinity Place, New York, NY 10006 submitted on August 29, 1984, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to establish as a permanent floor-wide enhancement to the Amex Options Switching (AMOS) system, the AUTOAMOS program, which enables participating specialists to enter AMOS execution data using touchscreen terminals.[1] The Exchange has determined that the AUTOAMOS program provides for more efficient and accurate execution and reporting of small routine orders, thereby improving AMOS processing and turnaround time. Under AUTOAMOS, eligible orders are automatically routed to the specialist for display on a touchscreen. The specialist may execute the trade as principal or agent using the touchscreen, or, alternatively, cause the order to be removed from the screen and printed if the order cannot be executed immediately. The specialist may also "stop" the order using the touchscreen. Five touchscreens have been employed with order size limited to five contracts in ten classes of options. Amex has stated in its filing that the floor-wide expansion will include market orders and marketable limit orders of up to five contracts in all classes of options and will provide specialists with the ability to capture "contra broker" identification numbers.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 21342, September 21, 1984) and by publication in the **Federal Register** (49 FR 38213, September 27, 1984). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29272 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21449; SR-BSE-84-5]

Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 1, 1984.

The Boston Stock Exchange ("BSE"), One Boston Place, Boston, MA 02108, submitted on August 13, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Chapter I-B, Section 3 of the BSE rules, which currently restricts non-member access to the floor of the BSE, to permit the entering of orders from the trading floor of foreign exchanges approved by the BSE Board of Governors.[1]

The BSE is amending the above rule in connection with its proposal to establish an electronic linkage with the floor of the Montreal Exchange ("Montreal"). The linkage will permit Montreal members to direct marketable limit

[1] The Exchange implemented AUTOAMOS on a pilot basis in November of 1983. *See* letter from Fred M. Stone, Senior Vice President and General Counsel, Amex, to Richard T. Chase, Assistant Director, Division of Market Regulation, dated November 2, 1983.

[1] Under the proposed amendment, Chapter I-B, section 3 ("Dealings on Floor—Persons") will provide:

Only members shall be permitted to make or accept bids and offers, consummate transactions or otherwise transact business on the Floor in any security admitted to dealings on the Exchange, except that the provisions of this Rule shall not apply in the case of a person authorized to transact business on the Floor pursuant to section 9 of Article XIX of the Constitution.

Nothing in this rule to the contrary shall be construed to prohibit a commitment or obligation to trade received on the Floor through ITS, or from the Floor of a foreign exchange approved by the Board of Governors.

orders [2] in approximately 40 United States-listed Canadian national stocks (or stocks trading in the U.S. pursuant to unlisted trading privileges) currently trading in the Intermarket Trading System to the floor of the BSE through electronic terminals located on the Montreal floor. The BSE will then bill the Montreal members for standard trade recording and value charges. In addition, Montreal has agreed to guarantee the trade obligations of its members.

All trades will be executed on the floor of the BSE and will be limited to trades between BSE members and members of the Montreal Exchange. A Montreal order will be received at the BSE on a terminal and will be directed to the appropriate BSE specialist for execution.[3] The transmission will include the following information: (1) A turn-around number to provide a record of the numerical sequence of each order via the link; (2) a buy or sell indication, with a short sale designation if appropriate; (3) quantity, symbol and price information; and (4) the give-up number of the Montreal broker.[4] Upon execution, a report will be issued to the Montreal member through the terminals either confirming the trade or stating the reason for a nonexecution. Both exchanges will retain hard copies of the report. The BSE will be responsible for trade comparison and recording as well as transmission of the trade for clearing and settlement through National Securities Clearing Corporation ("NSCC").[5]

The BSE has informed the Commission that, if the linkage is successfully operated, BSE expects that the program would be expanded to include order flow in other securities eligible for trading.[6] The Commission emphasizes, however, that, at this time, the Commission is approving only the linkage relating to Montreal's routing of orders solely in U.S.-listed Canadian national stocks to the BSE.[7]

The Montreal Exchange is a self-regulatory organization under the Quebec securities laws. It is regulated by the Quebec Securities Commission,[8] which oversees the self-regulatory operations of the Exchange. Both the BSE and Montreal maintain surveillance and record retention policies to monitor the trading process. Montreal maintains a complete audit trail of all securities transactions that occur on its floor, permitting it to reconstruct the market for a particular stock and identify the time, price size and participants of each trade in that stock. Montreal's trading regulations include provisions comparable to rules imposed by U.S. exchanges, including rules relating to manipulative trading practices (e.g., rules regarding suitability, churning, net capital and best execution).[9]

Under the initial phase of the linkage, the procedures for transmitting the Canadian generated trades, together with the Montreal Exchange's rules relating to record retention, will provide the record basis for conducting further inquiry if a given trade is questioned.[10] In addition, the exchanges have agreed to the establishment of a Joint Floor Committee for the purpose of overseeing implementation of the linkage and resolving any questions with respect to questioned trades.

With respect to the issue of BSE and Commission access to information from Montreal, under the terms of the written agreement establishing the linkage, both exchanges have agreed to "cooperate fully" in the investigation of any questioned trade.[11] The BSE has informed the Commission that, when necessary, it will submit information requests to Montreal regarding questioned trades, either on its own or the Commission's initiative. In addition, Rule III, Article 7003 of the Montreal Exchange allows for the furnishing of investigatory information to "any other stock exchange, securities commission or similar authority . . . relating to the business affairs, acts, conduct, practices or proceedings of any member of the Exchange."[12]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 21324, September 14, 1984) and by publication in the **Federal Register** (49

[2] All orders transmitted from Montreal to BSE during this stage will be "marketable" orders. Orders from Montreal will be priced by the Montreal member and executed at that price or a more favorable price. When an execution is not possible under those terms, the order is automatically cancelled and a message sent back to Montreal that the order has not been filled. Limit orders will not be accepted in the initial phase of the linkage.

[3] According to the BSE, the order flow generated from Montreal would come through the existing ADP terminal located on the BSE floor and would be represented in the auction process. In addition, a floor brokerage charge would be levied by specialists by agreement with Montreal and the routine trade processing costs currently charged to BSE broker/members would be charged to the Montreal entering firms. Each of the United States-listed Canadian stocks (if not already assigned to a BSE specialist) will be assigned to an individual specialist according to BSE's current specialist allocation procedures.

[4] *See* letter from Michael R. Lindburg, Vice President and General Counsel, BSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated October 10, 1984 ("October 10, 1984 letter").

[5] The BSE has informed the Commission that Montreal members will indirectly participate in NSCC through direct NSCC membership of the Canadian Depository for Securities ("CDS"), a Canadian clearing corporation and securities depository owned by the banking, trust and securities industries. CDS and NSCC have agreed that CDS will act as clearing representative for certain Canadian broker-dealers. BSE will transmit compared trades to NSCC via the standard inter-clearing corporation interface under the Regional Interface Organization Agreement and NSCC will enter those trades in the appropriate CDS sub-account. NSCC and CDS have informed the Division of Market Regulation staff that they will be requesting shortly a "no-action" position regarding CDS/NSCC activities in connection will the BSE's linkage.

[6] According to the BSE, under a subsequent phase of the linkage not yet filed with the Commission, BSE specialists would submit to Montreal the issues in which they would be willing to make automated guarantee markets. The Montreal Exchange currently has in place an automated small order routing and execution system (MORRE), possessing many of the characteristics of the PACE, MAX and SCOREX systems utilized by the Philadelphia, Midwest and Pacific Stock Exchanges, respectively. Under this phase of the linkage, MORRE terminals would be installed on the BSE floor. Canadian brokers would direct orders to MORRE, which, in turn, would execute them automatically against the BSE quotation represented in MORRE. *See* letter from Michael R. Lindburg, General Counsel, BSE, to Richard Chase, Associate Director, Division of Market Regulation, dated July 30, 1984.

[7] Implementation of the subsequent phases of the linkage will require a filing with the Commission pursuant to Section 19(b)(1) of the Act.

[8] *See* Quebec Securities Act, R.S.Q. 1964, C. 274, as amended, Title VI, Chapter 1, Sections 169–185.

[9] Surveillance at the Montreal is coordinated by two separate offices. The Department of Listing and Surveillance monitors trade activity and trade reports. Montreal also has an Exchange Examiner who is responsible for monitoring member compliance and acts as an independent overseer of floor trading activity.

[10] Montreal recordkeeping rules include the requirement that a market maker retain floor tickets and execution for a period of five years and that records of orders received but unfilled be maintained for two years. In addition, all floor tickets must be marked with a member's number. In addition, Montreal itself maintains records of all trades generated on and through its floor for a comparable period. Montreal, like U.S. exchanges, imposes specific "know your customer" requirements on its members and requires a member to maintain records regarding the identity of customers.

[11] In this regard, Montreal has confirmed in writing its understanding that to "cooperate fully" requires Montreal to utilize all the resources available to it "including the full discretionary authority of the Governing Committe to require members to disclose information, in order to cooperate with the BSE in resolving questioned trades." *See* letter from Pierre Lortie, President, Montreal Stock Exchange, to Michael Lindburg, Vice President and General Counsel, BSE, dated October 31, 1984 ("October 31 letter").

[12] Montreal has indicated that the transfer of information from Montreal to the BSE falls within the scope of Article 7003. Montreal has also indicated to the BSE that when a question regarding the integrity of a trade arises which cannot be resolved by the Montreal Floor Committee, a member's records may be taken and, if necessary, depositions formally recorded. *See* October 31 letter.

FR 37200, September 21, 1984). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29268 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21439; File Nos. SR-CBOE-84-15 and SR-CBOE-84-16]

Chicago Board Options Exchange, Inc.; Order Instituting Proceedings to Determine Whether To Disapprove Rule Changes

October 31, 1984.

I. Introduction

On May 3, 1984, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") LaSalle at Van Buren, Chicago, IL, 60605, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, two proposed rule changes. The first proposal provides that, in the event there is more than one candidate for Chairman of the CBOE Executive Committee, the Chairman would be elected by a plurality of CBOE members voting at an annual meeting of the membership.[1] Currently, the Chairman of the Executive Committee is selected by a majority of the Board. The second proposal would increase the size of the CBOE's Board of Directors ("Board") from 21 to 24, by increasing from 6 to 9 the minimum number of floor directors on the Board.[2]

Both rule changes were proposed by a membership petition and approved by a membership vote, over the opposition of the Board.[3] The Board has filed comment letters on both proposals which detail its objections to the amendments. Comments also have been submitted on behalf of the CBOE's Floor Members Association ("FMA") outlining the position of supporters of the proposal. The substance of these and the other comment letters on the proposals is discussed in detail below.

II. Background

1. Current CBOE Board Composition and Election Procedures

The CBOE Constitution currently provides for 21 directors, 15 of whom must be members or executive officers of member organizations of the Exchange and are elected by the membership ("elected directors"). Four directors are appointed by the Chairman of the Board to represent the public, and may not be members of the Exchange ("public directors"). The Chairman of the Board and the President of the Exchange occupy the remaining two seats on the Board.

Of the 15 elected directors who must be members of the Exchange, at least 6 must be executive officers of member organizations which primarily conduct a non-member public customer business and individually are not primarily engaged in business activities on the exchange floor ("off-floor directors"). Another 6 of the 15 elected directors must be members who individually either own or directly control their memberships and are primarily engaged in business on the exchange floor ("floor directors"). The remaining 3 elected directors are members who function in any recognized capacity either individually or on behalf of a member organization ("at-large directors").[4]

The Chairman of the Executive Committee is the highest ranking official who is a member of the Exchange.[5] He presides at meetings of the Executive Committee and at meetings of the members; he may appoint standing and special committees with the approval of the Board, and is responsible for coordinating the activities of all committees. The CBOE Constitution currently provides that the Executive Committee Chairman shall be director who owns or directly controls his own membership on the exchange, and that he shall be elected annually by the affirmative vote of a majority of the directors then in office, pursuant to procedures prescribed by the Board.[6]

2. Summary of Proposed Rule Changes

Under the proposal amending the election procedures ("Executive Committee Chairman proposal"), the Executive Committee Chairman will be elected by a plurality of members voting at a meeting of the membership held each year on the third business day in January. As under the current rule, the field of eligible candidates is limited to directors who own or directly control their own memberships.[7] In the event there is only one candidate, no election would be held and the Board would declare the office filled by the sole announced candidate.[8]

Under the proposal to increase the number of floor directors on the Board ("Floor Member proposal"), the Board would be composed of 24 directors, 18 of whom would be members or executive officers of member organizations of the Exchange, and 4 of whom would be public directors. The other two seats on the Board would be filled by the Chairman of the Board and the President. Of the 18 Board members who must be members of the Exchange, at least 9 would be floor directors, at least 6 would be off-floor directors, and 3 would be at-large directors.[9]

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[1] File No. SR-CBOE-84-15. Notice of the filing was given in Securities Exchange Act Release No. 21122 (July 6, 1984), 49 FR 29174 (July 18, 1984). This proposal would amend Art. VIII, Section 8.1(a) of the CBOE Constitution.

[2] File No. SR-CBOE-84-16. Notice of the filing was given in Securities Exchange Act Release No. 21121 (July 6, 1984), 49 FR 29173 (July 18, 1984). This proposal would amend Art. VI, Section 6.1 of the CBOE Constitution.

[3] The Board voted 11 to 7 to oppose the amendment relating to the election of the Executive Committee Chairman, and voted 16 to 2 to oppose the increase in the number of floor directors on the Board. *See* letter to George A. Fitzsimmons, Secretary, SEC, from Ann Taylor, Secretary & Associate General Counsel, CBOE, and the CBOE Board, dated July 26, 1984 ("July Letter").

[4] Because the substantial majority of member seat-holders are engaged in an independent business on the floor of the CBOE, the at-large directors traditionally have some come from the floor and not from firms engaged primarily in a public customer business. *See* July Letter, *id.*

[5] No officer of the Exchange, other than the Chairman of the Executive Committee, may be a member or affiliated with a member or a broker or dealer in securities or commodities. *See* Art. VIII, Section 8.1(b), CBOE Constitution.

[6] From 1978 to 1982, an informal nominating committee comprised of the nine floor representatives on the Board (*i.e.*, the six floor directors and the three at-large directors) nominated a candidate from among themselves for the position of Executive Committee Chairman. During these years, the nominating committee unanimously supported *one* candidate for the position, and this candidate was confirmed by the Board. In 1983, the nominating committee divided its support between two candidates, and the issue was submitted to the full Board for final determination.

[7] Candidates for the office must notify the Secretary of the Exchange in writing no later than the third Monday of December.

[8] In contrast, the Vice Chairmen of the American Stock Exchange ("Amex") and the New York Stock Exchange ("NYSE") are elected by their exchanges' Board of Directors, from among its members. *See* Art. II, Section 2, Amex Constitution; Art. III, Section 3, NYSE Constitution.

[9] By comparison, the boards of the NYSE and the Amex are organized as follows: the NYSE

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III. Summary of Comment Letters

The Commission received five comment letters in connection with the proposed rule changes. The FMA, the major proponent of the proposals, contends that the Executive Committee Chairman proposal would provide "a more fair representation of the full membership in the administration of the Exchange," and would not prevent the CBOE from carrying out the purposes of the Act because the proposal would not alter the organizational structure of the Exchange. The FMA argues that the Floor Member proposal will result in fairer and more proportional representation of floor members "when one considers the percentage of members or the exchange who are floor members." The FMA also contends that more floor directors are needed to serve on the Exchange's committees, and thereby improve communications among the Board, its committees, and the membership.[10] In addition, Steven I. Givot, a floor member and director of the CBOE, submitted a comment letter supporting the proposed rule changes for reasons substantially similar to those articulated by the FMA.[11]

The Board contends that the Executive Committee Chairman proposal is inconsistent with its authority to govern the exchange by participating in the selection of the Exchange's most important officials. The Board opposes the proposal to increase the number of floor directors because it believes that such a change in the Board's structure would result in an unwarranted inequality of representation among the various interests comprising the Board.[12]

In addition, the proposed rule changes are opposed by the off-floor directors of the Exchange. The off-floor directors of the CBOE oppose the Executive Committee Chairman proposal because in their opinion it constitutes "a step backwards" in terms of having the Board represent the interests of constituencies other than the floor membership. The off-floor directors contend that the proposal impinges on the Board's responsibility to oversee the management of the Exchange, and on their duty to monitor the senior officials of the CBOE. The off-floor directors oppose the Floor Member proposal because they believe it would divide the Board into factions representing floor members on the one hand and member firms on the other. The off-floor directors aver that currently "there are no camps on the Board." Thus, they conclude that "a fundamental constitutional change ought not to be made unless a serious problem exists." [13]

The Commission also received a comment letter from Shearson/American Express, Inc. ("Shearson") opposing both proposed amendments. It contends that election of the Executive Committee Chairman by the floor members will undermine that officer's ability to represent and balance the interests of all of the Exchange's membership constituencies. Shearson is also opposed to an increase in the number of floor directors on the Board, because it believes that " '[p]acking the court' " with three additional floor directors may result in a harmful bias on the Board, and may make it difficult for member firms or public representatives to serve on the Board.[14]

IV. Proceedings to Determine Whether to Disapprove SR–CBOE–84–15 and SR–CBOE–84–16 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule changes should be disapproved proceedings is appropriate at this time in view of the legal and policy issues raised by the proposals under the Act and does not indicate that the Commission has formulated any conclusions with respect to any of the issues involved. The sections of the Act which are applicable to the proposed rule changes include: Section 6(b)(1), which requires that the exchange be organized so as to have the capacity to carry out the purposes of the Act; Section 6(b)(3), which requies that the rules of exchange assure a fair representation of its members in the selection of its directors and administration of its affairs [15] and provide that one or more directors be representative of issuers and investors; and Section 6(b)(5), which requires that the rules of an exchange be designed, in general, to protect investors and the public interest.

1. Election of the Executive Committee Chairman

The Commission believes that the proposal to elect the Executive Committee Chairman by the membership rather than by the Board raises issues as to whether it is consistent with the requirement that member firms have "fair representation" in the selection process as provided for in section 6(b)(3). It appears that member firm representation would be eroded if the proposed rule change were approved, because member firms doing a public business control considerably fewer seats on the CBOE than they control on the Board, and thus, in a membership vote, those member firms would have far less influence on who is selected as Executive Committee Chairman.[16]

Constitution provides for a board of directors composed of ten representatives of the public, and ten members on allied members of the exchange. Of the directors who are members of the exchange, the Constitution specifically limits to three the number of directors who may spend a substantial part of their time on the floor of the exchange. Art. II, NYSE Constitution. the Amex Constitution provides that, among the twenty-five governors on the board of governors, twelve must be representatives of the public, and twelve must be exchange members. Art. II, Section 1, Amex Constitution.

[10] The comments of the FMA are found in letters which were distributed to the membership prior to the special meeting in April 1984 at which the membership voted to approve the proposed rule changes. Copies of these letters were attached to the Form 19b–4 filings submitted by the Exchange to the Commission in May 1984. Additional comments of the FMA are found in Amendent No. 1 (June 21, 1984) to each of the rule filings.

[11] *See* letter to Richard T. Chase, Assistant Director, Division of Market Regulation, from Steven I. Givot, Technology Enterprises, Inc., dated May 31, 1984.

[12] *See* July Letter, *supra* note 3.

[13] The comments of the off-floor directors are attached to the Form 19b–4 filings submitted to the Commission by the Exchange in May 1984.

[14] *See* letter to Richard T. Chase, Assistant Director, Division of Market Regulation, from Hardwick Simmons, Vice Chairman, Shearson/American Express, Inc., dated June 19, 1984.

[15] With respect to both proposals, the Commission specifically requests that commentators address the question of whether seat ownership is the appropriate means of determining whether member firms are "fairly represented" in the governance of an exchange. For example, the Commission's *Special Study of Securities Markets* noted that due to the historical allocation of seat ownership, floor members often dominated the governance of an exchange more so than the member firms which account for the public business brought to an exchange. *See* SEC *Report of Special Study of Securities Markets*, 88th Cong., 1st Sess. (Comm. Print 1963), pt. 4 at pp. 506–11, 576–81. Indeed, a study of the governance of the NYSE suggested a reallocation of ownership interests which would more fully represent member firms doing a substantial public business. *See* Subcomm. on Com. & Fin. of the Comm. on Interstate & For. Com., *Securities Industry Study*, H. Rep. No. 1519, 92nd Cong., 2nd Sess. at 103, 107 (Comm. Print 1972), *discussing*, W. Martin, *The Securities Markets: A Report, with Recommendations* (August 5, 1971), *reprinted in* Hearings Bef. The Subcomm. on Com. & Fin. of the Comm. on Interstate & For. Com., *Study of the Securities Industry*, H. Rep. Ser. No. 92–37e, 92nd Cong., 2nd Sess., pt. 6, 3189, 3195–96 (Comm. Print 1972).

Accordingly, the Commission requests that commentators not only address whether the proposed rule changes "fairly represent" member firms given the current allocation of ownership interests (*i.e.*, seat ownership), but also whether seat ownership itself "fairly represents" member firms in light of, among other things, which firms account for the order flow brought to an exchange.

[16] Retail firm input may be especially important on options exchanges because, so long as those

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The proposed amendment raises issues relating to whether it may undermine the CBOE's ability to carry out the purposes of the Act and enforce compliance with the Act and Commission and exchange rules as is required in section 6(b)(1). The Board's ability to govern the Exchange and its members in a manner consistent with the Act necessarily depends upon the Board's ability to fulfill its management and oversight functions. The proposal provides that, in the event there is only one candidate for the office, the Board must declare the office filled by the candidate. If there are two or more candidates, a membership vote will determine who fills the office. In either case, the Board apparently will have no power to review the qualifications of the individual, and/or prevent an unsuitable candidate from taking office. The Commission believes that this result is of particular concern because the Executive Committee Chairman heads up the Exchange's entire committee structure and interacts with the staff of the CBOE on a daily basis. Therefore, the direct election of this critical representative of the Board, contrary to the organizational structure of virtually all corporate or membership organizations, may profoundly affect the day-to-day responsibilities of the CBOE to off-floor member firms, public investors and the Commission.

The proposed rule change also raises issues relating to whether it may be inconsistent with section 6(b)(5)'s requirement that the rules of an exchange be designed, in general, to protect investors and the public interest. The proposed rule change would have the effect of denying the general investing public, through the public directors and off-floor directors who may represent their interests, any meaningful role in the important decision of who will fill the post of Executive Committee Chairman. Conversely, selection of the Executive Committee Chairman by membership vote may cause the person elected to that post to focus upon the concerns of the membership constituency responsible for his election, rather than the interests of the Exchange as a whole or the general public.

exchanges retain exclusive franchises on certain individual options, retail firms and public investors have no choice but to do business on those exchanges or forego entirely using standardized options on certain securities. *See, e.g.*, Securities Exchange Act Release No. 16701 (March 26, 1980), 45 FR 21426 (April 1, 1980).

2: Floor Member Representation on the Board of Directors

Under the existing rule, the Board is not dominated by any one faction of the membership. Floor directors and member firm directors hold an equal minimum number of seats (six each, with three additional at-large directors generally reflective of floor interests). If the proposed rule change is approved, the parity of representation that currently exists between the floor directors and member firm directors will no longer exist, and instead, those directors who are floor members will become the dominant membership group represented on the Board, most likely controlling 12 out of the 24 seats on the Board (the 9 seats designated for floor directors plus the 3 at-large directors). The Commission is concerned that this numerical dominance may cause the floor directors, acting in concert as a voting block, to focus on the particular interests of the floor membership rather than act in their fiduciary capacity as representatives of the broader public interest, or the CBOE as a whole. The Commission is also concerned that the floor directors may effectively prevent the Board from enforcing those rules of the Exchange which the floor members do not favor.[17] Accordingly, the Commission is concerned that this rule change may not provide for fair representation of each segement of the CBOE's membership and may impede the Exchange's ability to carry out the purposes of the Act.

The rule change may also discourage public persons from serving as public representatives on the Board.[18] These persons may feel that they have no meaningful voice in the administration of the exchange if the Board is controlled by one faction of the membership. This possibility concerns the Commission because historically its efforts and those of Congress have been directed toward encouraging public representation on the Exchanges.[19]

[17] In this regard, in 1980, the CBOE's floor members approved a proposed rule change, over the opposition of the Board, which sought to restructure the CBOE disciplinary process so as to erect barriers against the pursuit of disciplinary actions by the Exchange staff against CBOE members. The Commission disapproved this proposed rule change. *See* Securities Exchange Act Release No. 17198 (October 7, 1980), 45 FR 68488 (October 15, 1980).

[18] *See* July Letter, *supra* note 3, regarding SR-CBOE-84-16, and comment letter of Shearson/American Express, Inc., *supra* note 14.

[19] *See, e.g.*, H.R. Rep. No. 123, 94th Cong., 1st Sess. at 60-61 (1975); S. Rep. No. 75, 94th Cong., 1st Sess. at 273 (1975); H.R. Rep. No. 229, 94th Cong., 1st Sess. at 98 (1975).

Finally, because of the fiduciary duties member firms owe to their public customers, it is arguable that member firm directors will represent the interests of public investors to a greater degree than will floor members (*i.e.*, those members who do not conduct a substantial public customer business). The Commission is concerned that if the proposed rule change is adopted, member firms may not be adequately represented on the Board in relation to representation of floor members, and consequently, the interests of public investors may not be sufficiently represented or protected.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with the provisions of the Act and the rules and regulations thereunder, specifically sections 6(b)(1), 6(b)(3), and 6(b)(5). Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, arguments and data, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[20]

Interested persons are invited to submit written data, views and arguments regarding the proposed rule change by December 15, 1984.[21] Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 31, 1984. Persons desiring to submit written data, views and arguments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File Nos. SR-CBOE-84-15 and SR-CBOE-84-16.

[20] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975 (Pub. L. 94-29, June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See Securities Acts Amendments of 1975*, S. Comm. on Banking, Housing & Urb. Aff., Rep. to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[21] Section 19(b)(2) requires that proceedings to determine whether to disapprove a proposed rule change be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change, unless the Commission finds good cause to extend the time for the conclusion of such proceedings.

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. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

By the Commission.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29285 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

Release No. 21440; File No. SR-NYSE-84-37]

New York Stock Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change

October 31, 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 October 23, 1984, the New York Stock Exchange, ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would provide that an execution which is immediately reported to a customer would also be reported directly and automatically by the Immediate Reporting Service ("Service"),[1] to the consolidated last sale reporting system. According to the NYSE the Service currently sends an execution report in a Service-eligible stock to the specialist in that stock on the Exchange floor. The specialist then informs an Exchange reporter, who strokes a mark sense card to indicate the relevant trade data. The reporter then puts the mark sense card into a reader, which transmits the trade data to the consolidated last sale reporting system. The NYSE believes that the proposed rule change would obviate the need for this process by allowing for direct reporting by the Service itself, thereby enhancing the overall operational efficiency of the Service and providing for virtually instantaneous reporting of transactions. NYSE cites sections 6(b)(5) and 11A(a)(1)(C)(iii) of the Act as its statutory basis for the proposed rule change in that these call for the fostering of the processing of, and the making available of, information about transactions in securities.

According to the NYSE the proposed rule change initially would take effect in one Service-eligible stock, Long Island Lighting Company. As experience is gained, and assuming no problems develop, the Exchange intends to extend direct reporting to the consolidated last sale reporting system to all stocks currently eligible for the Service, and to other stocks as they become eligible.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. 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 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-84-37.

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 5th Street, NW., 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.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-29270 Filed 11-6-84; 8:45 am]

BILLING CODE 8010-01-M

[1] The operation of the New York Stock Exchange's Immediate Reporting Service is described in detail in SR-NYSE-84-21. Essentially, the Service provides for an immediate report of execution to a member firm when a Service-eligible stock is trading at a ⅛ point, ITS best quotation market. *See* Securities Exchange Act Release No. 21084, June 22, 1984; 49 FR 26852 June 29, 1984.

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting and Recordkeeping Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before December 1, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible before the comment deadline.

Copies: Copies the forms, requests for clearance (S.F. 83s), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer: Kenneth B. Allen, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-3785.

Information Collections Submitted for Review

Title: Settlement Sheet
Form no: SBA 1050
Frequency: On occasion
Description of Respondents: Borrowers
Annual Responses: 23,250
Annual Burden Hours: 46,500
Type of Request: New

Title: Loan Closing Documents
Frequency: On occasion

Description of Respondents: Debtors and lenders
Annual Responses: 23,250
Annual Burden Hours: 139,500
Type of Request: New

Dated: November 2, 1984.

Ronald Allen,

Acting Chief, Information Resources Management Branch.

[FR Doc. 84-29280 Filed 11-6-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2174]

Declaration of Disaster Loan Area; Louisiana

As a result of the President's major disaster declaration on October 31, 1984. I find that the Parishes of Iberia and Vermilion and the adjacent Parishes of Lafayette and St. Martin constitute a disaster loan area because of damage from severe storms and flooding beginning on October 18, 1984. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on December 31, 1984, and for economic injury until July 31, 1985, at: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, or other locally announced locations.

Interest rates are:

	Percent
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 217406 for physical damage and for economic injury the number is 622700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 1, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-29278 Filed 11-6-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0354]

Cogeneration Capital Fund; Application for License To Operate as a Small Business Investment Company

Notice is hereby given that an application has filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et. seq.),* and the Rules and Regulations promulgated thereunder.

Applicant: Cogeneration Capital Fund
Address: 300 Tamal Plaza, Suite 190, Corte Madera, California 94925.

The proposed manager, managing general partner, general partners and limited partners of the Applicant are as follows:

Name	Position	Pct of ownership
Cogeneration Capital Associates, Inc., 300 Tamal Plaza, Suite 190, Corte Madera, California 94925.	Manager	0
Howard W. Cann, 309 La Verne Avenue, Mill Valley, CA 94941.	Managing general partner.	5
Roy N. Bergmann, 316 Walnut Street, San Francisco, CA 94118.	General partner	2
Jeffrey B. Weinress, 24 Marsh Drive, Mill Valley, CA 94941.	do	2
Jonathan S. Saiger, 1063A Alabama Street, San Francisco, CA 94110.	do	1
First Interstate Equities Corp., 707 Wilshire Boulevard, Los Angeles, CA 90017.	Limited partner	90

Cogeneration Capital Associates Inc., is a California investment banking corporation which is 95% owned by Howard W. Cann, Managing General Partner of the Applicant, and 5% owned by First Interstate Equities Corporation, Limited Partner of the Applicant.

First Interstate Equities Corporation is the wholly-owned subsidary of First Interstate Bancorp. First Interstate Bancorp is a multistate bank holding company.

First Interstate Bancorp is the 100% owner of First Interstate Capital, Inc., a licensed Small Business Investment Company located at 515 South Figueroa Street, Suite 1900, Los Angeles, California 90017.

The Applicant, a California limited partnership will begin operations with $5,034,000 of private capital and conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in the Corte Madera, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 2, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-29279 Filed 11-6-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0477]

Unicorn Ventures II, L.P.; Issuance of Small Business Investment Company License

On April 3, 1984, a notice was published in the **Federal Register** (49 FR 13232) stating that an application had been filed by Unicorn Ventures II, L.P., with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1984)] for a license as a small business investment company.

Interested parties were given until the close of business April 18, 1984. to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued license No. 02/02-0477 to Unicorn Ventures II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Companies)

Dated: October 30, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-29281 Filed 11-6-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Special Committee 151—Airborne Microwave Landing System Area Navigation Equipment; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 151 on Airborne Microwave Landing System (MLS) Area Navigation Equipment to be held on November 28–30, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda of this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Sixth Meeting on August 28–30, 1984; (3) Review and Discuss Special Committee 137 (Airborne Area Navigation Systems) and Special Committee 149 (Airborne Distance Measuring Equipment) Activities as they Affect the Performance Standards for MLS Area Navigation Equipment; (4) Report on MLS Program Activities; (5) Review Draft Sections to the Committee Report on Minimum Operational Performance Standards for Airborne MLS Area Navigation Equipment; (6) Working Groups Meet in Separate Sessions; (7) Reports by Working Group Chairmen; (8) Assignment of Tasks; and (9) Other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretriat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 26, 1984.

Karl F. Bierach

Designated Officer.

[FR Doc. 84-29212 Filed 11-6-84; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[Docket RSPC-84-1, Notice 2]

Rail Passenger Equipment; Reissuance of Guidelines for Selecting Materials To Improve Their Fire Safety Characteristics

AGENCY: Federal Railroad Aministration (FRA), Department of Transportation (DOT).

ACTION: Reissuance of Guidelines.

SUMMARY: FRA is reprinting its guidelines containing performance criteria for the flammability and smoke emission characteristics of materials to be used in the construction of new or rebuilt rail passenger cars. The reissued guidelines contain a table of recommended testing methods for determining whether materials meet the performance criteria that was previously omitted. FRA's guidelines are similar to recommendations issued by the Urban Mass Transportation Administration (UMTA) for the rapid transit industry.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590, Telephone 202–426–0897.

SUPPLEMENTARY INFORMATION: Section 702 of the Rail Safety and Service Improvement Act of 1982 (Pub. L. 97–468), enacted on January 14, 1983, amended section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to require the issuance of any necessary rules relating to rail passenger equipment and a report to Congress. In that report, FRA concluded that rail passenger service has complied an excellent safety record, one that can be attributed to the rail industry's operational and safety practices as well as the effect of FRA's extensive safety regulations.

To enhance that record, FRA is undertaking five safety initiatives: (1) A final rule extending its Track Safety Standards (49 CFR Part 213) to include all track used exclusively for commuter service; (2) a final rule amending its Power Brake Standards (49 CFR Part 232) to preserve the inspection and testing requirements for passenger car brake equipment; (3) a safety inquiry to assess the potential impact of technological changes in rail passenger equipment; (4) a joint FRA-industry examination of emergency procedures; and (5) these guidelines. The public notices concerning the first three actions appeared in the **Federal Register** on January 17, 1984 (49 FR 1987).

FRA initially published these guidelines in the **Federal Register** on August 20, 1984 (45 FR 33076). Due to an administrative error, the published guidelines failed to include a table that contains details concerning the recommended testing procedures and the performance criteria for materials. FRA has decided to reissue the guidelines to correct this error.

Background

Twenty rail passenger operators, including commuter authorities, provide regularly scheduled rail passenger service over 138 distinct routes totalling 28,500 route miles. In 1982, this group operated more than 1.5 million trains and carried 334 million passengers.

A wide variety of equipment of differing age and design features is dedicated to providing this service. More than 750 diesel-electric and electric locomotives are used to haul 3,770 passenger-carrying coaches and control cab cars. In addition, approximately 3,000 self-propelled, passenger-carrying units, which include diesel-electric, electric, and turbo powered equipment, are in service.

Rail passenger service in the United States has complied a remarkable safety record, which is reflected in the passenger casulty statistics derived from reports filed with FRA by all railroads (including the commuter authorities) under its accident reporting rules (49 CFR Part 225). During the period 1978 through 1982, when the rail passenger industry carried 1.5 billion passengers, only 10 passenger fatalities and 1,006 passenger injuries resulted from train operations.

The occurrence of casualty-threatening fires on rail passenger equipment is rare. In the five-year study period, only three fires involving on-track passenger equipment resulted in passenger casualties. The most serious of these involved a fire that occurred aboard an Amtrak sleeping car near Gibson, California, on June 23, 1982. That incident illustrates that, despite its rarity, every car fire is a potential tragedy. Two passengers were killed in the accident amd more than 50 others required treatment for smoke inhalation.

FRA is issuing these guidelines to help minimize the risk of such fires and thereby reduce the potential for casualties and property loss. FRA believes that recent trends in the design and construction of rapid rail transit and light rail transit vehicles have resulted in the increased use of flammable, non-metallic materials such as plastics and

elastomers for vehicle components, particularly interior components in rail passenger equipment. These materials are usually more flammable than those materials they replace. This fire threat can be reduced by considering the flammability and smoke emission characteristics of materials selected for use in the interior of cars being constructed or rebuilt. However, FRA believes that the fire threat associated with the choice of non-metallic materials may not be recognized by some designers. In addition, those charged with procurement of new passenger cars or rebuilding existing equipment may overlook the flammability and smoke emission characteristics of materials selected because of other desirable properties such as wear, impact resistance, maintainability and weight.

These guidelines provide recommended performance criteria for the flammability and smoke emission characteristics of materials used to construct such equipment features as seat cushions, frames, shrouds and upholstery, wall panels, ceilings, partitions, windowscreens, air conditioning ducts, windows, light diffusers, flooring and floor coverings, insulation (thermal, acoustic, and vibration), component box covers, and exterior shell. In addition, the guidelines contain standard test procedures to permit uniform data acquisition and data comparability.

FRA's guidelines mirror those of UMTA. The UMTA guidelines were developed, beginning in 1973, with the assistance of DOT's Transportation Systems Center, rail transit authorities, and material manufacturers. The UMTA guidelines were most recently revised on August 14, 1984 (49 FR 32482).

UMTA has sponsored considerable research on the flammability and smoke emission characteristics of various materials commonly used in the construction of rail transit passenger equipment and, since new materials are frequently introduced into the marketplace, will continue such research efforts. The Transportation Systems Center has performed some of this material testing for UMTA; it currently maintains a list of materials and products that meet the UMTA guidelines. These materials are also tested at the Federal Aviation Administration's test center in Atlantic City, New Jersey. All of the flammability and smoke emission test data are available from the Department to interested parties.

Although the 1974 UMTA guidelines were intended for transit equipment, a number of railroads and commuter service operators have required that manufacturers and builders meet these UMTA guidelines or similar standards when they purchase new equipment. FRA believes that all passenger service providers should be aware of the flammability and smoke emission problem in material selection and should adhere to these guidelines in the procurement of all new and rebuilt equipment. The degree of voluntary adherence to these guidelines will strongly influence future FRA determinations on appropriate actions to be taken in this important area.

Recommended Fire Safety Practices for Rail Passenger Car Materials Selection

Application

This document provides recommended fire safety practices for testing the flammability and smoke emission characteristics of materials used in the construction of rail passenger vehicles.

Referenced Fire Standards

The Source of test procedures listed in Table 1 are as follows:

(1) Leaching Resistance of Cloth, FED-TD-191A-Textile Test Method 5830. Available from: General Services Administration, Specification Division, Bldg. 197, Washington, Navy Yard, Washington, D.C. 20407.

(2) Federal Aviation Administration Vertical Burn Test, FAR-25.853. Available from: U.S. Government Printing Office, Washington, D.C. 20402.

(3) American Society for Testing Materials (ASTM).

(a) Specification for Gaskets, ASTM C-542.

(b) Surface Flammability of Flexible Cellular Materials Using a Radiant Heat Energy Source ATSM D-3675.

(c) Fire Tests of Building Construction and Materials, ASTM E-119.

(d) Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E-162.

(e) Bonded and Laminated Apparel Fabrics, ASTM D-2724.

(f) Critical radiant flux of floor covering systems using a radiant heat energy source, ASTM E-648.

(g) Specific optical density of smoke generated by solid materials, ASTM E-662. Available from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

In all instances the recent issue of the document or the revision in effect at the time of request should be employed in the evaluation of the materials specified herein.

Definition of Terms

1. Critical Radiant Flux (CRF) as defined in ASTM E-648 is the level of incident radiant heat energy on the floor covering system at the most distant flame-out point. It is reported as W/cm^2.

2. Flame spread index (I_s) as defined in ASTM E-162 is a factor derived from the rate of progress of the flame front (F_s) and rate of heat liberation by the material under test (Q), such that $I_s = F_s \times Q$.

3. Special optical density (D_s) is the optical density measured over unit path length within a chamber of unit volume, produced from a specimen of unit surface area, that is irradiated by a heat flux of 2.5 watts/em^2 for a specified period of time.

4. Surface flammability denotes the rate at which flames will travel along surface.

5. Flaming running denotes continuous flaming material leaving the site of material burning or material installation.

6. Flaming dripping denotes periodic dripping of flaming material from the site of material burning or material installation.

Recommended Test Procedures and Performance Criteria

(a) The materials used in rail passenger vehicles should be tested according to the procedures and performance criteria set forth in Table 1.

(b) Owners and operators should require certification that combustible materials to be used in the construction of vehicles have been tested by a recognized independent testing laboratory, and that the results are within the recommended limits.

(c) Although there are no Recommended Fire Safety Practices for electrical insulation materials, information pertinent to the selection and specification of electrical insulation for use in rail fire environments is contained in the following UMTA reports:

1. Electrical Insulation Fire Characteristics, Volume I, Flammability Tests, December 1978. WMTA-MA-06-0025-79-1. PB 294 840/4GA.

2. Electrical Insulation Fire Characteristics, Volume II, Toxicity, December 1978. UMTA-MA-06-0025-79-2. PB 294 841/2GA.

TABLE 1

Recommendations for testing the flammability and Smoke Emission Characteristics of Rail Passenger Vehicle Materials

Category	Function of Material	Test Procedure	Performance Criteria
Seating	Cushion[1;2;5;9*]	ASTM D-3675	$I_s \leq 25$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Frame[1;5;8]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Shroud[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Upholstery[1;2;3;5]	FAR 25.853 (Vertical)	Flame Time < 10 sec; burn length ≤ 6 inch
		ASTM E-662	$D_s(4.0) \leq 250$ coated $D_s(4.0) \leq 100$ uncoated
Panels	Wall[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Ceiling[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Partition[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Windscreen[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	HVAC Ducting[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(4.0) \leq 100$
	Window[4;5]	ASTM E-162	$I_s \leq 100$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Light Diffuser[5]	ASTM E-162	$I_s \leq 100$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
Flooring	Structural[6]	ASTM E-119	Pass
	Covering[7]	ASTM E-648	C.R.F. $\geq 0.5 w/cm^2$
Insulation	Thermal[1;2;5]	ASTM E-162	$I_s \leq 25$
		ASTM E-662	$D_s(4.0) \leq 100$
	Acoustic[1;2;5]	ASTM E-162	$I_s \leq 25$
		ASTM E-662	$D_s(4.0) \leq 100$
Miscellaneous	Elastomers[1]	ASTM C-542	Pass
	Exterior Shell[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$
	Component Box covers[1;5]	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s(1.5) \leq 100$; $D_s(4.0) \leq 200$

*Refers to Notes on Table 1.

Notes

1. Materials tested for surface flammability should not exhibit any flaming running or flaming dripping.

2. The surface flammability and smoke emission characteristics of a material should be demonstrated to be permanent by washing, if appropriate, according to FED-STD-119A Testile Test Method 5830.

3. The surface flammability and smoke emission characteristics of a material should be demonstrated to be permanent by dry-cleaning, if appropriate, according to ASTM-2724. Materials that cannot be washed or dry cleaned should be so labeled and should meet the applicable performance criteria after being cleaned as recommended by the manufacturer.

4. For double window glazing, the interior glazing should meet the materials requirements specified herein, the exterior glazing need not meet those requirements.

5. ASTM E-662 maximum test limits for smoke emission (specific optical density) should be measured in either the flaming or non-flaming mode, depending on which mode generates the most smoke.

6. Structural flooring assemblies should meet the performance criteria during a nominal test period determined by the transit property. The nominal test period should be twice the maximum expected period of time, under normal circumstances, for a vehicle to come to a complete, safe stop from maximum speed, plus the time necessary to evacuate all passengers from a vehicle to a safety area. The nominal test period should not be less than 15 minutes. Only one specimen need be tested. A proportional reduction may be made in dimensions of the specimen provided that it represents a true test of its ability to perform as a barrier against undercar fires. Penetrations (ducts, etc.) should be designed against acting as conduits for fire and smoke.

7. Carpeting should be tested in accordance with ASTM E-648 with its padding, if the padding is used in actual installation.

8. Arm rests, if foamed plastic, are tested as cushions.

9. Testing is performed without upholstery.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437). Section 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n))

Issued in Washington, D.C. on October 26, 1984.

John H. Riley,

Administrator.

[FR Doc. 84-29283 Filed 11-6-84; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 2, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7225, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0244
Form Number: IS Form 6199
Type of Review: Extension
Title: Certification of Youth Participating in a Qualified Cooperative Education Program

OMB Number: New
Form Number: IRS Form 8279
Type of Review: New
Title: Election to be treated as a FSC or as a Small FSC

OMB Number: New
Form Number: IRS Form 1098
Type of Review: New
Title: Mortgage Interest Statement

OMB Number: 1545–0125
Form Number: 1120-DISC
Type of Review: Extension
Title: Borrower's Certificate of Compliance with the Rules for Producers' Loans

Clearance Officer: Garrick Shear (202) 566–6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 84–29328 Filed 11–6–84; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

SES Performance Review Board; Membership

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective November 1, 1984.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, PM:HR:P:X, Room 3213, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 566–4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Regional Commissioners, Assistant Commissioners and for senior executives in the Office of the Commissioner are as follows:

Philip E. Coates, Associate Commissioner (Operations)
Robert L. Rebein, Assistant Commissioner (Inspection)
Paul T. Weiss, Director of Personnel, Department of the Treasury

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, Novemnber 8, 1978 (43 FR 52122).

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 84–29339 Filed 11–6–84; 8:45 am]

BILLING CODE 4830–01

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects; Import for Exhibition; Determination

AGENCY: United States Information Agency.

ACTION: Modification of notice.

SUMMARY: The United States Information Agency is further modifying a notice found at 49 FR 2993 (January 24, 1984) regarding immunity from judicial seizure for the art exhibit *Silk Roads, China Ships*, initially on loan to the American Museum of Natural History. The initial loan was subsequently extended to the Cincinnati Art Museum and is hereby further extended to the Center for the Fine Arts, Miami, where the items will be on exhibit from on or about November 10, 1984 to on or about February 3, 1985.

EFFECTIVE DATE: The modification is effective November 7, 1984.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Office of the General Counsel and Congressional Liaison, United States Information Agency, 301 4th Street, SW., Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION: The United States Information Agency is further modifying a notice published at 49 FR 2993 (January 24, 1984), as previously modified by a modification of notice published at 49 FR 20973 (May 17, 1984). The notice rendered immune from judicial process the exhibit titled *Silk Roads, China Ships*, on loan to the American Museum of Natural History and due to terminate on or about May 30, 1984. The modification of notice extended the loan to the Cincinnati Art Museum, where the temporary exhibition of the items was due to terminate on or about August 31, 1984. This additional modification further extends the temporary exhibition of the items to include display at the Center for the Fine Arts, Miami, from on or about November 10, 1984 to on or about February 3, 1985.

Dated: October 31, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 84–29238 Filed 11–6–84; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 217
Wednesday, November 7, 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).

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Federal Reserve System	1
National Transportation Safety Board	2, 3
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Postal Service	5

1

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, November 13, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Proposed purchase of check equipment within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 2, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-29356 Filed 11-5-84; 9:50 am]

BILLING CODE 6210-01-M

2

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-33]

TIME AND DATE: 9 a.m., Wednesday, November 14, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. *Marine Accident Report*—Capsizing and Sinking of the U.S. Drillship GLOMAR JAVA SEA in the South China Sea, 65 nautical miles south-southwest of Hainan Island, China, October 25, 1983.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

November 2, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-29357 Filed 11-5-84; 9:50 am]

BILLING CODE 7533-01-M

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NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-34]

TIME AND DATE: 9 a.m., Thursday, November 15, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUE: Open.

MATTERS TO BE CONSIDERED: 1. *Aircraft Accident Report*—Scandinavian Airlines System Douglas DC-10-30, Norwegian Registry LN-RKB, John F. Kennedy International Airport, Jamaica, New York, February 28, 1984.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

November 2, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-29356 Filed 11-5-84; 9:50 am]

BILLING CODE 7533-01-M

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NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 5, 12, 19, and 26, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 5

Monday, November 5

2:30 p.m.
Discussion with staff on requirements for senior managers (Public Meeting) (Postponed from 11/1)

Tuesday, November 6

2:00 p.m.
Briefing/possible vote on USC 2.206 petition on TMI-1 Emergency Feedwater (Public Meeting)

Wednesday, November 7

10:00 a.m.
Discussion of TMI-2 Cleanup Schedule and Funding (Public Meeting)

Thursday, November 8

10:00 a.m.
Affirmation Meeting (Public Meeting)
a. Aamodt motion for investigation of radioactive releases during the TMI-2 accident

Week of November 12—Tentative

Tuesday, November 13

10:00 a.m.
Briefing and discussion on the hearing process (Public Meeting)
2:00 p.m.
ANS Report on Source Term (Public Meeting)

Wednesday, November 14

10:00 a.m.
Discussion of material false statements—Policy options (Public Meeting)

Thursday, November 15

11:00 a.m.
Meeting with Advisory Panel on TMI-2 cleanup (Public Meeting)
2:00 p.m.
Status report on high level waste program (Public Meeting)
3:30 p.m.
Affirmation meeting (Public Meeting) (if needed)

Week of November 19—Tentative

Monday, November 19

10:00 a.m.
Meeting to consider possible revision to OI Policy Number 22 (Closed—Ex. 2)

Tuesday, November 20

10:00 a.m.
Discussion/possible vote on proposed amendments to 10 CFR Part 2 (Public Meeting)

Wednesday, November 10

9:30 a.m.
Semi-annual briefing on appraisal of operating experience (Public Meeting)
11:00 a.m.
Affirmation meeting (Public Meeting) (if needed)

Week of November 26—Tentative

Wednesday, November 28

10:00 a.m.

Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters scheduled for October 29 postponed to November 2. Briefing by OI (CLOSED—Ex. 5, 6, & 7) was held on November 1, *postponed.*

Meeting to Consider Possible Revision of OI Policy Number 22 scheduled for November 2, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

November 2, 1984.

George T. Mazuzan,

Office of the Secretary.

[FR Doc. 84–29359 Filed 11–5–84; 9:50 am]

BILLING CODE 7590–01–M

5

POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Notice of Meeting.

FEDERAL REGISTER citation of previous announcement 49 FR 43145, October 26, 1984, previously announced date of meeting: November 13–14, 1984.

Change: The following item is deleted from the agenda: 10. FY 1985 Vehicle Capital Plan.

David F. Harris,

Secretary.

[FR Doc. 84–29381 Filed 11–5–84; 1:16 pm]

BILLING CODE 7710–12–M

federal register

Wednesday
November 7, 1984

Part II

Department of Energy

Office of Energy Research

10 CFR Part 605

Special Research Grants Program; Proposed Rule and Public Hearing

DEPARTMENT OF ENERGY

Office of Energy Research

10 CFR Part 605

[Docket No. ER-RM-84-100]

Special Research Grants Program

AGENCY: Office of Energy Research, DOE.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) is proposing rules to implement a program of special research grants for basic and applied research and related activities. These proposed rules are intended to facilitate the use of grants by the DOE Office of Energy Research (OER) when grants are the appropriate instruments for the conduct of these OER activities.

DATES: Written comments must be received on or before December 24, 1984. A public hearing will be held on November 29, 1984 at 10:30 a.m. Requests to present oral statements must be received no later than 4:30 p.m. on November 20, 1984.

ADDRESSES: Written comments (3 copies) and requests to speak at the public hearing must be addressed to: Division of Acquisition Management, Office of Energy Research, ER-64, Department of Energy, Washington, D.C. 20545, ATTN: Robert A. Zich, Office of Energy Research, ER-64, GTN, phone (301) 353-5544. The public hearing will be held at U.S. Department of Energy, Forrestal Building, Room IE-245, 1000 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert A. Zich, Director, Acquisition Management Division, Office of Energy Research, ER-64, Department of Energy, Washington, D.C. 20545, (301) 353-5544

Joshua P. Smith, Office of General Counsel, GC-12, 1000 Independence Ave., SW., Washington, D.C 20585, (202) 252-9507

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Proposed rule
III. Review under Executive Order 12291
IV. Review under the Regulatory Flexibility Act
V. Review under the Paperwork Reduction Act
VI. Review under the National Environmental Policy Act
VII. Intergovernmental review
VIII. Opportunities for public participation
IX. List of Subjects in 10 CFR Part 605.

I. Introduction

The Department of Energy (DOE) proposes to amend Chapter II of Title 10 of the Code of Federal Regulations by adding a new Part 605 to facilitate the use of grants by the Office of Energy Research (OER) in its program of support for basic and applied research and related activities.

At present, OER grants for these purposes are awarded under the provisions of DOE's Financial Assistance Rules (10 CFR Part 600). While Part 600 provides suitable generic procedures for the award and administration of DOE grants, it does not provide sufficiently specific procedures for an ongoing comprehensive program which addresses all of OER's particular needs. This rule, which establishes the OER Special Research Grants Program (the program), is intended to build on Part 600 by addressing exclusively the award and administration of OER Special Research Grants (SRG's). Because this rule supplements rather than replaces Part 600, it is necessary to refer to both Part 600 and this proposal to obtain a comprehensive picture of the procedures for the program.

This rule also is intended to provided an effective appropriate alternative to the Special Research Contract (SRC) provided for under 400 CFR 917.7100 "Special Research Contracts with Educational Institutions", formerly 41 CFR 94.51, in the conduct of OER research activities. The proposed rule would govern only OER assistance activities and would not require conversion of SRC's to grants. The SRC would continue to be used for appropriate OER acquisitions.

A discussion of the major provisions of the proposed rule, organized by the sections of the rule, follows. DOE welcomes comments on all provisions of the proposed rule, including those aspects which significantly deviate from 10 CFR Part 600 or differ materially from the procedures for conduct of research under the SRC pursuant to 48 CFR 917.7100.

II. Proposed Rule

Proposed § 605.1 sets forth that the purpose and scope of Part 605 is the establishment of policies and procedures for the conduct of OER research and related conference and training activities through grants. Proposed § 605.2 establishes applicability, stating that the requirements of Part 605 would apply to grants awarded on or after the effective date of the rule. It also makes clear the fact that Part 605 would supplement, not replace, 10 CFR Part 600.

Proposed § 605.3 defines a number of terms used in the proposed rule. It was unnecessary to provide many definitions because, as § 605.3 states, the definitions in 10 CFR Part 600 apply to the terms in Part 605. Section 605.3, which includes a definition of "basic and applied research," adds definitions where necessary and otherwise lacking.

Proposed § 605.4 would govern deviations from the proposed rule. It allows for single-case deviations from Part 605 if authorized by the Director or Deputy Director of OER or by the Head of a Contracting Activity. There is no provision for class deviation. In the event a proposed single-case deviation from Part 605 would also be a deviation from 10 CFR Part 600, the provisions of both § 605.4 and 10 CFR 600.4 would apply. Proposed § 605.4, therefore, allows for program control over single-case deviations of a purely program nature, but assures that deviations which also relate to generic provisions are also authorized pursuant to the procedures contained in the generic rules.

Proposed § 605.5 establishes that basic and applied research and related conference and training activities in various OER program areas are eligible for grants under Part 605. The program areas, listed in the section and described in Appendix A, may be expanded by Federal Register notice. The activities and areas eligible for SRG's parallel those eligible for SRC's. The difference is the type of instrument and the procedures in the accompanying respective rules.

Proposed § 605.6 sets forth the eligibility of recipients for SRG's. There are no categorical restrictions on such eligibility, in contrast to the SRC which is limited to universities and non-profit entities. DOE anticipates, however, that the vast majority of recipients will continue to be universities and other entities rather than individuals because of the substantial material and business management resources necessary to carry out projects under the program. DOE also expects that principal investigators with institutional affiliations will seek to participate in the program through their institutions rather than individually.

Proposed § 605.7 sets a dollar limit on the size of grants awarded under this part. The limit set is approximately double that set several years ago for the Special Research Contract and the higher limit is appropriate in view of the effects of inflation and DOE's increased experience in basic research projects. This section also provides for a

deviation which would permit awards up to a maximum of $5 million per year.

The program would operate by making awards to applicants competitively selected in response to a solicitation. The proposed rule itself would constitute a solicitation and proposed § 605.8 sets forth its provisions and procedures. While proposed § 605.8(b) establishes a deadline for the submission of applications, applications may be submitted at any time; the deadline merely affects when they shall be considered. In fact, awards may be made as soon as the applications are processed. In order to assure greater notice to potential applicants and to provide updated program information, proposed § 605.8 also provides for an annual notice of availability to be published in the **Federal Register** and elsewhere. Nothing in this section or in 10 CFR Part 600 would prohibit appropriate contacts between potential applicants and DOE staff prior to the submission of applications. Such contacts may include discussions of broad, general advice on research areas of interest or administrative procedures; however, requests for information which might provide an unfair competitive advantage are not permitted.

Proposed § 605.9 establishes application requirements for the program. One original and seven copies are normally required because of the usual need to have the applications reviewed by field office personnel and/or peer reviewers. The content of the applications is specified, including the particular forms and formats to be used, for initial, continuation and renewal applications.

Proposed § 605.9(e) is based upon Government-wide criteria for determining the applicability of E.O. 12372. Those submitting covered applications and contacting OER will be provided the name of the appropriate State official to contact for further instructions. This list of officials is not published here since it is subject to frequent change. Finally, in § 605.9(j), DOE proposes that it not be required to return applications because of the administrative cost and burden and the expectation that the applicant will keep a copy.

Proposed § 605.10 describes the procedures for the evaluation and selection of applications. While DOE employees will evaluate and select the applications, it is anticipated that significant use will be made of various outside experts to assure that the technical/scientific evaluation is conducted by the best experts available. This is in keeping with the Federal government's tradition of having research proposals evaluated by peer reviewers, as well as following the practice used so successfully over the years in awarding SRC's. Of course, adequate safeguards are provided regarding confidentiality and avoidance of any conflict of interest.

Proposed § 605.10(c) sets forth the evaluation criteria. These are by necessity broad because of the wide variety of projects and approaches anticipated. This is consistent with the practice of DOE and other Government agencies in similar programs. Proposed § 605.10(c)(7) would allow DOE to establish, in a notice of availability or separate solicitation, evaluation criteria other than those listed in the proposed rule and proposed subsection (e) establishes that the grantee's performance under an existing grant will be considered during the evaluation of a renewal or continuation application.

Proposed § 605.11 sets forth certain additional requirements which are either not contained, or not addressed with specificity, in 10 CFR Part 600. It requires grantees performing research involving human subjects, recombinant DNA molecules (and/or organisms and viruses containing recombinant DNA molecules) or warm-blooded animals to comply with certain Federal requirements. While the concerns addressed in proposed § 605.11 are not common under DOE-funded projects, special attention to them is necessary because of their obvious importance. The treatment of these matters, moreover, is similar or the same as that required by other Federal agencies.

The proposed rule, in § 605.12, provides for a project period which is long and flexible enough to accommodate research which cannot be conducted subject to an annual competition. Measurable results often take years and cannot be predicted with accuracy. On the other hand, DOE must assure adequate programmatic review. Accordingly, initial project periods of up to three years will be the norm; project periods may exceed five years only if DOE makes a renewal award or allows an extension to grantee.

In order to assure adequate financial accountability and review, proposed § 605.12(b) provides that the budget period generally be 12 months. This is the norm as provided under 10 CFR 600.106. In order, however, to allow for those projects which are not suited to this limitation, DOE may, under this Part, allow for a budget period up to 24 months.

Proposed § 605.13 makes clear that cost sharing, while always welcome, is not a factor in the evaluation and selection of applications under the program. DOE is interested in funding the best projects, not just those proposed by institutions under cost sharing arrangements.

DOE has long recognized the need for, and programmatic benefits of, providing researchers with reasonable flexibility in controlling the conduct of their research projects. In addition, due to the serendipitous nature of most basic research, it is especially difficult for both researchers and DOE to estimate budget needs with a high degree of precision. In recognition of the fact that budget estimates are, therefore, necessarily imprecise and that this imprecision is reasonable and predictable, the DOE proposes in § 605.14 to allow researchers limited authority as described in this section to rebudget funds between budget periods without prior approval and to describe the circumstances under which prior approval of DOE will be required. A similar provision applicable to Special Research Contracts has been used successfully for several years.

10 CFR 600.103(h) prohibits payment of a fee under a DOE grant. Nevertheless, failure to allow for the payment of a fee to for-profit organizations could, at the practical level, effectively prevent certain of the smaller, for-profit, research oriented organizations from competing for Special Research Grants. In order to prevent the exclusion of this significant national research resource from participation, § 605.15 would allow payment of a fee under appropriate circumstances to permit participation by all qualified parties. In establishing the need for and amount of any such fee, the intrinsic benefits of a grant, e.g. advance payments, title to any property, etc., if provided to the recipient, will be taken into consideration. Due to the nature of conferences which includes extensive, unfunded contributions of third parties, no fees will be paid in support of conferences.

Proposed 605.16 requires prior written approval when certain specified project changes are anticipated. This section supplements 10 CFR 600.114(c) and identifies areas of change which are especially relevant to research projects. Section 605.16(a)(3) raises the level required for Contracting Officer prior approval for sole source or one bid subcontracts from $5,000 to $25,000. In addition, DOE believes it programmatically desirable to provide research grantees with maximum flexibility in controlling their research projects. Accordingly, and appropriately, during the term of a research project considerable

rebudgeting may be necessary. For the most part, such rebudgeting is subject to item prior approval requirements found in the applicable cost principles. In view of these considerations, DOE has found inappropriate for use under this Part, and therefore waived, the additional prior approval requirement found at 10 CFR 600.14(b)(1)(iv) which provides for prior approval of cumulative budget transfers among direct cost categories which exceed or are expected to exceed five percent of the approved budget. Section 605.16(a)(4) incorporates this change.

Proposed § 605.17 requires that all grantees under the program obtain prior written approval before taking certain actions. Most of these requirements are already imposed by OMB Circular A–21 on universities in their research activities. Because DOE believes these specific provisions of the cost principles contained in A–21 are appropriate to research projects regardless of the nature of the grantee, DOE would apply them to all grantees under the program.

While the SRG will not be used to fund classified activities, proposed § 605.19 sets forth the procedures to be followed should involvement with classified information develop during the course of the project. This is a remote, but nevertheless real, possibility given the nature of OER program areas. This section provides a means to assure the protection of such information and to terminate or continue the project, as appropriate.

Proposed § 600.19 specifies the reports which are required to be filed by grantees under the program. These reports, while very similar to the requirements for reports under 10 CFR § 600.115 are specifically tailored to the needs of the program.

Proposed § 600.20 would encourage grantees to disseminate the results of their projects promptly and would allow DOE to waive technical reporting requirements if the information is published or accepted for publication in an appropriate journal. The provisions of 10 CFR 600.119, in particular the provisions on publication contained in section (j) in the Patent Rights (Short Form), would have to be followed to assure that information is not prematurely published so as to adversely affect the patent interest of DOE.

III. Review Under Executive Order 12291

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that the rule is not a "major rule" because its promulgation 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, innovation, or on the ability of United States-based enterprises to complete in domestic or export markets.

In accordance with requirements of the Executive Order, this rulemaking has been reviewed by OMB.

IV. Review Under Regulatory Flexibility Act

These proposed regulations were reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, 94 Stat. 1164, which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities, i.e. small business, small organizations, and small governmental jurisdictions. DOE has concluded that the proposed rule would only affect small entities as they apply for and receive grants and does not create additional economic impacts on small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

V. Review Under the Paperwork Reduction Act

Most of the collection of information requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under control numbers 1910–0400 and 1910–1410. Those requirements which have not received approval will be submitted to OMB for approval in accordance with section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) and procedures implementing that Act, 5 CFR 1320, 1 *et seq.*

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), DOE will consider comments on information collections in this rule that affect the public.

Comments should be submitted to:

Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget (OIRA), Room 3001, NEOB, Washington, D.C. 20503, (202) 395–7313,

and to

Mr. Howard H. Raiken, Director, Management Systems Analysis Division (MA–213), U.S. Department of Energy, Washington, D.C. 20585, (202) 252–9383

VI. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these wholly procedural rules clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.* 1976)), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and the DOE guidelines (10 CFR Part 1021) and, therefore, does not require an environmental impact statement pursuant to NEPA.

VII. Intergovernmental Review.

This program is generally not subject to the intergovernmental review requirements of EO 12372 as implemented by 10 CFR Part 1005. However, certain grant applications may be.

All applications from governmental or non-governmental entities which involve research, development, or demonstration activities when such activities: (1) Have a unique geographic focus and are directly relevant to the governmental reponsibilities of a State or local government within the geographic area; (2) necessitate the preparation of an Environmental Impact Statement under NEPA; or (3) are to be initiated at a particular site or location and require unusual measures to limit the possibility of adverse exposure or hazard to the general public are subject to the provisions of the Executive Order and 10 CFR Part 1005. Those planning to submit covered applications should immediately contact OER for further information.

VIII. Opportunities for Public Participation

A. Written comment procedures. Interested parties are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposal set forth in this notice to Department of Energy, Division of Acquisition Management, Office of Energy Research, ER–64, Washington, D.C. 20545.

The comments and the outside of the envelope should be identified with the designation, "Docket No. ER–RM–84–100." Three copies of the comments should be submitted.

All comments received within 45 days of publication of this Rule and other relevant information will be considered by DOE before final action is taken regarding the proposed regulations.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information he or she believes to be

confidential and exempt by law from public disclosure should submit one complete copy, and two copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public hearing. DOE has determined to hold one public hearing on this proposal. The time and place of the public hearing is indicated at the beginning of this notice.

Any person who has an interest in the proposed rulemaking or who is a representative of a group of persons that has an interest in this rulemaking may make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address given at the beginning of the preamble and must be received by the date specified at the beginning of this notice. Requests may be hand-delivered between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Requests should be marked as for written comments, with the additional notation "Request to Speak."

The person making the request should briefly describe the interest concerned and, if appropriate, state why that person is a proper representative of a group with such an interest, give a concise summary of the proposed oral presentation, and provide a phone number where the person or group may be contacted.

Each person selected to be heard at the public hearing will be notified by November 26, 1984. Witnesses presenting oral testimony must bring three copies of their statements to the hearing.

In the event any person wishing to testify cannot provide copies, alternate arrangements can be made with the hearing coordinator in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling (301) 353–2861.

C. Conduct of hearing. DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements at the hearing, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statments will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person wishing to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any additional procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 1 E–190, 1000 Indpendence Avenue, SW., Washington, D.C. between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the court reporter.

The public hearing may be cancelled if no public testimony is scheduled in advance. In the event the hearing is cancelled, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register.**

IX. List of Subjects in 10 CFR Part 605

Administrative practice and procedure, Applications, Copyright, Educational institutions, Eligibility, Energy, Financial assistance, For-profit organizations, Grant programs—energy, Grant programs, science and technology, Individuals, Inventions and patents—nonprofit organizations, Reporting and recordkeeping requirements, Research, Solicitations, Science and technology, State—local and Indian tribal governments.

In consideration of the foregoing, the Department of Energy hereby proposed to amend Chapter II of Title 10 of the Code of Federal Regulations by establishing Part 605 as set forth below.

Issued in Washington, D.C. October 29, 1984.

Alvin W. Trivelpiece,

Director, Office of Energy Research.

Chapter II of Title 10, Code of Federal Regulations, is proposed to be amended by adding Part 605 to read as follows:

PART 605—SPECIAL RESEARCH GRANTS PROGRAM

Sec.

605.1 Purpose and scope.
605.2 Applicability.
605.3 Definitions.
605.4 Deviations.
605.5 Special research grants.
605.6 Eligibility.
605.7 Limitations.
605.8 Solicitation.
605.9 Applications.
605.10 Application evaluation and selection.
605.11 Additional requirements.
605.12 Funding.
605.13 Cost sharing.
605.14 Budget flexibility and limitation of DOE liability.
605.15 Fee.
605.16 Budget and project changes.
605.17 Additional approvals.
605.18 National security.
605.19 Reports.
605.20 Dissemination of results.
Appendix A

Authority: Sec. 31 of the Atomic Energy Act, as amended, Pub. L. 83–703, 68 Stat. 919 (42 U.S.C. 2051); sec. 107 of the Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1240 (42 U.S.C. 5817); Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93–577, 88 Stat. 1878 (42 U.S.C. 5901); Secs. 644 and 646 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7256); Federal Grant and Cooperative Agreement Act, as amended (31 U.S.C. 6301 *et seq.*).

§ 605.1 Purpose and scope.

This part sets forth the policies and procedures applicable to the award and administration of special research grants by the DOE Office of Energy Research for basic and applied research and related conference and training activities.

§ 605.2 Applicability.

(a) This part applies to new, renewal, or continuation special research grants awarded on or after the effective date of this part.

(b) Except as otherwise provided by this part, the award and administration of special research grants shall be governed by 10 CFR Part 600 (DOE Financial Assistance Rules).

§ 605.3 Definitions.

In addition to the definitions provided in 10 CFR Part 600, the following definitions are provided for purposes of this Part—

"Basic and applies research" means any scientific or engineering activity which: (1) Constitutes a systematic, intensive study directed specifically toward greater knowledge or understanding of the subject studied and contributes to a continuing flow of new

knowledge; or (2) is directed toward applying new knowledge to meet a recognized need, and which may contribute to producing an adequate supply of suitably trained scientists or enable the grantee to strengthen its research programs; and/or, (3) applies such knowledge toward the production of useful materials, devices and systems or methods, including design, development and improvement of prototypes and new processes to meet established requirements.

"Grantee obligation" means the amounts of orders placed, contracts and subgrants awarded, services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

"Principal investigator" means the scientist or other individual designated by the recipient to direct the project.

"Related conference" means scientific or technical conferences, symposia, workshops or seminars for the purpose of communicating or exchanging information or views pertinent to the basic and applies research of OER.

"Special purpose equipment" means equipment which is used only for research, medical, scientific, or other technical activities.

§ 605.4 Deviations.

(a) Single-case deviations from this part may a authorized in writing by the Director or Deputy Director of OER or the Head of the Contracting Activity upon the request of DOE staff, an applicant for an award, or a recipient. A request from an applicant or a recipient must be in writing and must be submitted to or through the cognizant contracting officer. Whenever a proposed deviation from this Part would be a deviation from 10 CFR Part 600, the deviation must also be authorized in accordance with the procedures prescribed in that Part.

(b) A separate deviation provision for § 605.7 of this part is contained in that section.

§ 605.5 Special research grants.

(a) DOE may make special research grants under this Part for basic and applied research and related conference and training activities in the OER program areas set forth in paragraph (b) of this section and described in Appendix A to this part.

(b) The program areas are:

(1) Basic Energy Sciences, which includes:

(i) Bilogical Energy;

(ii) Chemical Sciences;

(iii) Carbon Dioxide Research;

(iv) Geosciences;

(v) Engineering Research;

(vi) Materials Sciences;

(vii) Advanced Energy Projects;

(viii) Applied Mathematical Sciences; and

(ix) Nuclear Sciences (Isotope Preparation, Heavy Element Chemistry, Synchrotron Radiation Laboratory).

(2) High Energy and Nuclear Physics, which includes:

(i) Nuclear Physics;

(ii) High Energy Physics; and

(iii) Nuclear Sciences (Nuclear Data and Heavy Ion Fusion Accelerator Research)

(3) Health and Environmental Research, which includes:

(i) Physical and Technological Research;

(ii) Ecological research;

(iii) Health Effects Research; and

(iv) Human Health and Assessments

(4) Fusion Energy, which includes

(i) Applied Plasma Physics;

(ii) Toroidal Confinement Systems;

(iii) Mirror Confinement Systems, and

(iv) Development and Technology

(5) Other program areas as may be described by notice published in the **Federal Register.**

§ 605.6 Eligibility.

Any university or other institution of higher education or other not-for-profit or for-profit organization, non-Federal agency, or entity is eligible for a special research grant. An unaffiliated individual also is eligible for a special research grant.

§ 605.7 Limitations.

A Special Research Grant awarded under this Part shall not exceed an average of $2,000,000 per year and shall not exceed $3,000,000 in any one year during the project period supported by DOE. Testing for these levels shall be *a priori* based on the approved application and shall be applied separately to the original project period and each renewal period, if any. Deviations from this section only require the approval of both the Director or Deputy Director of ER and the Head of the Contracting Activity; and shall be limited to grants which do not exceed $5 million in any one year during the project period supported by DOE.

§ 605.8 Solicitation.

(a) The Catalog of Federal Domestic Assistance number for this program is 81.049, and its solicitation control number is SRG 10 CFR Part 605.

(b) To be considered for a new grant under this Solicitation an applicant shall submit an application to DOE at the address specified in paragraph (c) of this section at any time but not later than 4:30 e.s.t. on April 15 of the Federal fiscal year for the fiscal year in which financial assistance is sought, or at such other location or date or time as DOE may establish by the notice under paragraph (d) of this section. Applications received after this date shall be considered for funding during the current fiscal year only if time permits and otherwise shall be considered for funding in the subsequent fiscal year.

(c) Applicants may obtain application forms and additional information from the Acquisition Management Division, Office of Energy Research, ER–64, Department of Energy, Washington, D.C. 20545, (301) 353–5544, and shall submit applications to the same address.

(d) DOE shall publish annually, in the **Federal Register,** a notice of the availability of special research grants. DOE shall also publish in the *Commerce Business Daily* an abbreviated notice citing the **Federal Register** notice of availability and this Part, and DOE may also publish notices or abbreviated notices of availability in trade and professional journals, and news media, and use other means of communication, as appropriate.

(1) Each notice of availability shall cite this Part and shall include:

(i) The Catalog of Federal Domestic Assistance number and control number of the program;

(ii) The amount of money available or estimated to be available for award;

(iii) The name of the responsible DOE program official to contact for additional information, and an address where application forms may be obtained;

(iv) The address for submission of applications; and

(v) Any evaluation criteria in addition to those set forth in 605.10 of this part.

(2) The notice of availability may also include any other relevant information helpful to applicants such as

(i) Program objectives,

(ii) A research agenda or potential areas for research initiatives,

(iii) Problem areas requiring additional research, and

(iv) Any other information which identifies areas in which grants may be made.

(e) DOE is under no obligation to pay for any costs associated with the preparation or submission of applications. [See 10 CFR 600.103(g).]

(f) DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted.

(g) To be considered for a continuation or renewal award under this Part, an incumbent grantee shall submit a continuation or renewal

application as provided in § 605.9(c) and (h) of this part.

§ 605.9 Applications.

(a) An original and seven copies of the application for initial support must be submitted except that State governments, local governments, or Indian tribal governments shall not be required to submit more than the original and two copies of the application.

(b) Each application in response to this part must include—

(1) A facesheet containing basic identifying information. The facesheet shall be the Standard Form (SF) 424.

(2) A detailed description of the proposed project, including the objectives of the project, its relationship to DOE's program and the applicant's plant for carrying it out;

(3) Detailed information about the background and experience of the principal investigator(s) (including references to publications), the facilities and experience of the applicant, and the cost-sharing arrangements, if any.

(4) A budget with supporting justification sufficient to evaluate the costs of the proposed project.

(i) State and local government and Indian tribal government applicants shall use the budget forms contained in the Application for Federal Assistance-Nonconstruction Projects in Attachment M to OMB Circular A–102, as duplicated in the DOE Uniform Reporting System for Federal Assistance. All other applicants shall use NSF Form 1030.

(ii) DOE may, subsequent to receipt of an application, request additional budgetary information from an applicant when necessary for clarification or to make informed preaward determinations under 10 CFR 600.103.

(5) Any preaward assurances required pursuant to 10 CFR 600.12 and § 605.11 of this part.

(c) Applications for a continuation or a renewal award must be submitted in an original and seven copies, except that State governments, local governments, or Indian tribes are required to submit only an original and two copies, and for continuation awards need submit only those pages of the application form that contain information different from that provided in the original application.

(d) The application must be signed by the individual who is applying or by an individual who is authorized to act for the applicant organization and to commit the applicant to comply with the terms and conditions of the grant, if awarded.

(e) All applications which involve research, development, or demonstration activities when such activities have a unique geographic focus and are directly relevant to the governmental responsibilities of a State or local government within the geographic area; necessitate the preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)); or are to be initiated at a particular site or location and require unusual measures to limit the possibility of adverse exposure or hazard to the general public, are subject to the provisions of Executive Order 12372 and 10 CFR Part 1005. Anyone planning to submit such applications should contact OER for further information about compliance requirements.

(f) DOE may return an application which does not include all information and documentation required by statute, this Part, 10 CFR Part 600 and the notice of availability of grants, when the nature of the omission precludes review of the application.

(g) During the review of a complete application, DOE may request the submission of additional information only if the information is essential to evaluate the application.

(h) Except as provided in § 605.9(c) above, each application for a continuation award must be submitted no later than four months before the expiration of the current budget period, must be on the same forms as required for initial applications, as appropriate, and must include the information specified by 10 CFR 600.106(b).

(i) In addition to including the information described in paragraphs (b), (c), and (d) of this section, an application for a renewal award must be submitted no later than four months prior to the scheduled expiration of the project period and must be on the same forms and include the same type of information as that required for initial applications. The renewal application must outline and justify a program and budget for the proposed project period, showing in detail the estimated cost of the proposed project, together with an indication of the amount of funds needed and the amount of cost sharing, if any. The application also shall describe and explain the reasons for any change in the scope or objectives of the proposed project, and shall compare and explain any differences between the estimates in the proposed budget and actual costs experienced as of the date of the application.

(j) DOE is not required to return to the applicant an application which is not selected or funded.

(Information and collection requirements approved by the Office of Management and Budget under control numbers 1910–1400, except those in paragraph (b)(1) which were approved under control numbers 0348–0009, those in paragraph (b)(4)(i) which were approved under control numbers 1910–0400, and 3145–0058, and those in paragraph (c) which were approved under control numbers 0348–0005 through 0348–009.)

§ 605.10 Application evaluation and selection.

(a) DOE employees designated by OER shall evaluate the applications. OER may supplement DOE review resources with personnel from other Federal agencies, and may use external review, such as peer review, in addition to Federal evaluation, with the objective of having the technical/scientific evaluation conducted by the most qualified individuals available.

(b) DOE shall select evaluators on the basis of their professional qualifications and expertise in the field of research. Outside evaluators shall be required to comply with 10 CFR 600.16(c) and any other applicable DOE rules or directives concerning the use of outside evaluators.

(c) DOE shall evaluate new and renewal applications based on the following criteria:

(1) The overall scientific and technical merit of the project;

(2) The relevance of the stated objectives to the OER program;

(3) The appropriateness of the proposed method or approach;

(4) The competence and experience and known past performance of the applicant, principal investigator and/or key personnel;

(5) The adequacy of the applicant's facilities and resources;

(6) The appropriateness and adequacy of the proposed budget; and

(7) Other appropriate factors, established and set forth by OER in a notice of availability or in a specific solicitation.

(d) DOE shall consider other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas listed in § 605.5(b) of this part.

(e) In addition to the evaluation criteria set forth in paragraphs (c) and (b) of this section, DOE shall consider the grantee's performance under the existing grant during the evaluation of a renewal or continuation application.

(f) After the selection of an application, DOE may, if necessary, enter into negotiations with an applicant. Such negotiations are not a commitment that DOE will make an award.

§ 605.11 Additional requirement.

(a) A grantee performing research, development, or related activities involving the use of human subjects must comply with DOE regulations in 10 CFR Part 754 "Protection of Human Subjects" and any additional provisions which may be included in the Special Terms and Conditions of the grant.

(b) A grantee performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules; June 1983" (48 FR 24556).

(c) Any grantee performing research on warm-blooded animals is required to comply with the Federal Laboratory Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary of Agriculture at 9 CFR Chapter 1, Subchapter A, pertaining to the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal awards. The grantee shall comply with the guidelines described in DHHS Publication No. [NIH] 78–23, "Guide for the Care and Use of Laboratory Animals" or succeeding revised editions.

§ 605.12 Funding.

(a) The project period during which DOE expects to provide grant support for an approved project under this part shall generally not exceed three years and may exceed five years only if DOE makes a renewal award or allows an extension to a grantee. However, the project period for conference support shall not exceed 12 months. The project period shall be specified on the Notice of Financial Assistance Award (DOE Form 4600.1).

(b) Each budget period for a grant under this part shall generally be 12 months and may be as much as 24 months.

(c) This section supplements 10 CFR 600.106.

§ 605.13 Cost sharing.

While cost sharing is encouraged, it is not required nor is it to be considered as a criterion in the evaluation and selection process unless otherwise provided under § 605.10(c)(7) of this part.

§ 605.14 Budget Flexibility and Limitation of DOE Liability.

(a) Grants awarded under this part are subject to the requirement that the maximum DOE obligation to the recipient is the amount shown in the Notice of Financial Assistance Award as the amount of DOE funds obligated. DOE shall not be obligated to make any additional, supplemental, continuation, renewal or other award for the same or any other purpose.

(b) Notwithstanding the requirements of 10 CFR 600.108 (b) and (c), a grantee may obligate up to 110% of the amount awarded by DOE for a budget period, during that period, without prior authorization by DOE. Obligations in excess of 110% of the amount awarded by DOE require prior DOE authorization. [A prior approval made in accordance with the provisions of paragraph (c) of this section would constitute such prior approval.] Such authorized grantee obligations in excess of the amount awarded by DOE for a budget period shall be funded from unobligated funds remaining from the prior budget period to the extent they are available; or such obligations may be incurred at the grantee's own risk, subject to the following conditions:

(1) If the grantee receives a continuation or renewal award, the amount obligated in excess of 100% may be charged against the subsequent continuation or renewal award to the extent not funded from any unobligated balance from an earlier budget period.

(2) Even if prior authorization required by this paragraph has been obtained, the grantee shall not be entitled to reimbursement, or have any claim against DOE, for any amount obligated by the grantee in excess of the total funds obligated by DOE, if a continuation or renewal award is not made.

(c) When the funds remaining unobligated by the grantee in any given budget period are 100% or less of the amount awarded by DOE for the subsequent budget period, the grantee may use the unobligated funds during the subsequent budget period to pay for costs budgeted for in either budget period and subject to any applicable prior approval requirements. If funds remaining unobligated by the grantee at the end of a budget period exceed 10% of the amount awarded for the subsequent budget period, use of the amount in excess of 10% must receive the prior approval of the contracting officer.

(d) Nothing in paragraphs (b) or (c) of this section shall in any way require DOE to increase the total amount obligated for the project period.

§ 605.15 Fee.

Notwithstanding 10 CFR 600.103(n), a fee (increment above cost) may be paid, in appropriate circumstances, to a for-profit organization grantee under this part in such amounts as are determined reasonable by DOE. Fees shall not be paid under grants in support of conferences.

§ 605.16 Budget and project changes.

(a) The grantee shall obtain the prior written approval of the Contracting Officer whenever any of the following actions is anticipated:

(1) Any revision of the scope or objective of the project regardless of whether there is an associated budget revision requiring prior approval under paragraphs (b)(1), (b)(2) or (b)(3) of 10 CFR 600.114. These revisions include changes in the phenomenon or phenomena under study, and the methodology or experiment if they are a specific objective of the research work as set forth in the approved application.

(2) Change of a principal investigator or a significant change in responsibilities or level of effort of the principal investigator or, in certain cases, other key personnel identified as such in the special terms and conditions of the grant. In addition, any continuous absence of the principal investigator in excess of 3 months or plans for the principal investigator to become substantially less involved in the project than was indicated in the grant application as accepted requires DOE approval. The grantee is encouraged to contact DOE immediately after becoming aware that any of these changes are likely to be proposed but in any event must do so and receive DOE approval before effecting any such changes.

(3) Contracting, subgranting or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award if such activities are treated as direct costs. This approval requirement does not apply to the procurement of equipment, supplies and general support services. The requirements of 10 CFR 600.119(c)(i) notwithstanding, prior approval of the Contracting Officer is required only where the value of a contract for the procurement of equipment, supplies and general support services is expected to exceed $25,000.

(4) Special Research Grants awarded under this part shall not be subject to 10 CFR 600.114(b)(1)(iv) which requires prior approval of cumulative budget transfers among direct cost categories which exceed or are expected to exceed five percent of the approved budget.

(b) This section supplements 10 CFR 600.114.

§ 605.17 Additional approvals.

(a) The grantee shall obtain the prior written approval of the contracting officer before taking any of the following actions:

(1) Acquisition of an item of equipment or other capital asset not specifically contained in an approved budget, the cost of which is $500 or more, and in the case of special purpose equipment, $1000 or more.

(2) Transfers of funds between DOE grants, and transfers of funds from a DOE grant to a project (or portion of a project) not supported by the DOE grant.

(3) Foreign travel for each separate trip, unless funds for each trip are specifically identified by destination and amount and are included in the approved budget. Foreign travel is any travel outside Canada and the United States and its territories and possessions or, for grantees located in another county, travel outside that country. Foreign travel may be approved only if it is directly related to the project objectives.

(4) Expenditures for domestic travel exceeding the amount contained in an approved budget by 25% or $500, whichever is greater.

(b) In requesting prior approval under this section, the provisions of 10 CFR 600.114(e) shall apply.

(Information collection requirements in paragraph (a) have been approved by the Office of Management and Budget under control numbers 1910–0400 and 1910–1440.)

§ 605.18 National security.

Activities under a Special Research Grant shall not involve classified information (i.e., Restricted Data, formerly Restricted Data, National Security Information). However, if in the opinion of the grantee or DOE such involvement becomes expected prior to the closeout of the grant, the grantee or DOE shall notify the other in writing immediately. If the grantee believes any information developed or acquired may be classifiable, the grantee shall not provide the potentially classifiable information to anyone, including the DOE officials with whom the grantee normally communicates except the Director of Classification, and shall protect such information as if it were classified until notified by DOE that a determination has been made that it does not require such handling. Correspondence which includes the specific information in question shall be sent by registered mail to U.S. Department of Energy, Attn: Director of Classification, DP–32, Washington, D.C. 20545. If the information is determined to be classified the grantee may wish to discontinue the project in which case the grantee and DOE shall terminate the grant by mutual agreement. If the grant is to be terminated, all material deemed by DOE to be classified shall be forwarded to DOE, in a manner specified by DOE, for proper disposition. If the grantee and DOE wish to continue the grant, even though classified information is involved, the grantee shall be required to obtain both personnel and facility security clearances through the Office of Safeguards and Security for Headquarters awarded grants, or from the cognizant field office Division of Safeguards and Security for grants obtained through DOE field organizations. Costs associated with handling and protecting any such classified information shall be negotiated at the time that the determination to proceed is made.

(Information collections in this section are covered under OMB Control Number 1910–1800)

605.19 Reports.

(a) A grantee shall periodically report to DOE on the grantee's progress in meeting the project objectives of the grant award. The following types of reports shall be used:

(1) *Performance reports.* Performance reports shall include:

(i) a description of the research carried out during the reporting period including a comparison of the grantee's accomplishments with the objectives established for that reporting period.

(ii) If applicable, reasons why established objectives were not met;

(iii) Where there are deviations from the estimates in the budget, the rationale for increases or decreases in the time expended on the project by the principal investigator or other researchers; and

(iv) Other pertinent information, including, when appropriate, reports of travel, both foreign and domestic, analysis and explanation of cost overruns (underruns) or high (low) unit costs.

Annual performance reports shall be submitted within 90 days after the end of the budget period covered by the report or shall be submitted with any renewal or continuation application; for budget periods exceeding twelve months, a performance report is also required 90 days after the first 12 months of the budget period unless waived by the Contracting Officer. If a report is part of a continuation application it shall be bound separately.

(2) *Notice of Energy R&D Project.* A Notice of Energy R&D Project, DOE Form 538, which summarizes the purpose and scope of the project, must be submitted in accordance with the Distribution and Schedule of Documents set forth at the end of this section. Copies of the form may be obtained from the Contracting Officer.

(3) *Special Reports.* The grantee shall report the following events to DOE as soon after they occur as possible: (i) Problems, delays, or adverse conditions which will materially affect the ability to attain project objectives, or prevent the meeting of time schedules and goals. The report must describe the remedial action the grantee has taken or plans to take and any action DOE should take to alleviate the problems. (ii) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

(4) *Final Report.* A final report summarizing the entire investigation must be submitted by the grantee within 90 days after the project period ends or the grants is terminated. Satisfactory completion of a grant will be contingent upon the receipt of this report. The final report shall follow the outline agreed upon for the progress reports, if any, or when a project has been renewed, the final report may refer to previously submitted technical reports for details and may be a synopsis of the entire project. Manuscripts prepared for publication should be appended.

(b) DOE may extend the deadline date for any report if the grantee submits a written request before the deadline which adequately justifies an extension.

(c) *Financial Status Report (FSR).* The FSR is required within 90 days after completion of each budget period; for budget periods exceeding 12 months, an FSR is also required within 90 days after the first 12 months unless waived by the Contracting Officer.

(d) *Frequency and Distribution of Reports.* A table summarizing the various types of reports, time for submission, number of copies and distribution is set forth below. The distribution and schedule of reports shall be as prescribed in this table, unless the cognizant program office specifies otherwise. These reports shall be submitted by the grantee to the appropriate program and awarding office.

DISTRIBUTION AND SCHEDULE OF DOCUMENTS

Type	Number of copies for		
	When due	Awarding office	Program office
1. Summary: 200 words on scope and purpose (Notice of Energy R&D Project.	Immediately after a grant is initially awarded and with each application for renewal.	2	1
2. Renewal or continuation application	4 months before the budget period ends	3	4
3. Annual performance reports	With renewal or continuation application, if any; otherwise within 90 days after the end of each budget period. For budget periods exceeding 12 months, a report is also required 90 days after the first 12 month period.	3	4
4. Other progress report, brief topical reports, etc. (Desired when significant results develop or when work has direct programmatic impact).	As deemed appropriate by the grantee	1	2
5. Conference papers	Same as 4 above	1	2
6. Final report	Within 90 days after completion of the project	2	1
7. Financial Status Report	Within 90 days after completion of each budget period; for budget periods exceeding 12 months an FSR is also required within 90 days after the first 12-month period.	2	1

(e) *DOE review of grantee performance.* DOE or its authorized representatives may make site visits, at any reasonable time, to review the project. DOE may provide such technical assistance as may be requested.

(f) *Subrecipient performance reporting.* Grantees may place performance reporting requirements on a subrecipient consistent with the provisions of this section.

[The Office of Management and Budget has approved the information and collection requirements in paragraph (a)(1) under control number 1910–0400, in paragraphs (a)(2) and (a)(3) under control number 1910–1400, and in paragraph (c) under control numbers 0348–0001 and 1910–0400.)

§ 605.20 Dissemination of results.

(a) Grantees are encouraged to disseminate research results promptly to the scientific community. DOE will permit, to the maximum extent reasonably practicable and consistent with the Government's best interest, the institutions and the authors to publish their own reports in established scientific and technical journals. DOE reserves the right to utilize, and have others utilize, to the extent it deems appropriate, the reports resulting from research grants.

(b) DOE may waive the technical reporting requirement of any performance report set forth in § 605.19(a)(1) if, with DOE prior approval, the grantee submits to DOE a copy of its own report which is published or accepted for publication in a recognized scientific or technical journal and which satisfies the information rquirements of the program.

(c) Grantees are urged to publish results through normal publication channels in accordance with the applicable provisions of 10 CFR 600.118.

(d) The article shall include an acknowledgement that the research was supported, in whole or in part, by a DOE grant, and specify the grant number, but state that such support does not constitute an endorsement by DOE of the views expressed in the article.

[The Catalog of Federal Domestic Assistance number for this program is 81.049, and its solicitation control number is SRG 10 CFR Part 605.)

Appendix A

The Office of Basic Energy Science

This program supports basic science research efforts in a variety of disciplines to broaden the energy supply and technology base of knowledge. The major science divisions and their objectives are as follows:

(i) *Biological Energy.* The primary objective of this program is to generate a base of understanding of fundamental biological mechanisms in the areas of botanical and microbiological sciences. This work serves as the underpinning for DOE's efforts in biomass production of fuels and chemicals, microbial conversions of biomass, and biological systems for the conservation of energy.

(ii) *Chemical Sciences.* This program has as its primary objectives: increased understanding of basic chemical or physical phenomena which are likely to be important to existing or future technological concepts for production or conversion of energy; discovery of new phenomena bearing on chemical or physical aspects of energy processes; elucidation of fundamentally new general techniques for separation of energy-related mixtures or for the chemical analysis of energy-related substances.

(iii) *Carbon Dioxide Research.* This program's goal is to develop a sound, quantitative atmospheric carbon dioxide knowledge base to aid in energy policy decision making. This goal involves the following objectives: improve knowledge of the carbon cycle; improve estimates of future atmospheric carbon dioxide; improve understanding of the effects of atmospheric carbon dioxide on climate; improve understanding of the direct carbon dioxide effects on productivity of nature and agricultural systems; develop and verify methods for the detection of climate change due to increasing atmospheric carbon dioxide; identify, define and quantify indirect effects; define possible options for mitigating long-term consequences of a higher CO_2 atmosphere.

(iv) *Geosciences.* The goal of this program is to develop a quantitative, predictive understanding of the energy-related aspects of geological, geophysical and geochemical processes within the earth and at the solar-terrestrial interface. This understanding and knowledge base is needed to provide for long-range requirements of U.S. efforts in energy resources recognition, evaluation, utilization, and their long-term environmental implications.

(v) *Engineering Research.* This program's objectives are: (1) To extend the body of knowledge underlying current engineering practice in order to open new ways for enhancing energy savings and production, prolonging useful equipment life, and reducing costs while maintaining output and performance quality; and (2) to broaden the technical and conceptual base for solving future engineering problems in the energy technologies.

(vi) *Materials Sciences.* The objective of this program is to increase our understanding of phenomena and properties important to materials behavior which will contribute to meeting the needs of present and future energy technologies. It is comprised of the subfields metallurgy, ceramics, solid state physics, materials chemistry, and related disciplines where the emphasis is on the science of materials.

(vii) *Advanced Energy Projects.* The objective of this program is to support exploratory research on novel concepts related to energy. The concepts may be in any field related to energy. The research is usually aimed at establishing the scientific feasibility of a concept and, where appropriate, also at estimating its economic viability.

(viii) *Applied Mathematical Science.* The goal of this program is to advance the understanding of the fundamental concepts of mathematics, statistics, and computer science underlying the complex mathematical models of the key physical processes in energy systems. Board emphasis is given in three major categories: analytical and numerical methods, information analysis techniques, and advanced computer concepts.

(ix) *Nuclear Sciences (Isotope Preparation, Heavy Element Chemistry and Stanford Synchrotron Radiation Laboratory).* Included in the objectives of this research effort is a study of the basic chemical and physicial properties of the actinide elements and their compounds. This program also supports the operation of the Stanford Synchrotron Radiation Laboratory and the production of a broad variety of isotopically enriched research materials.

Office of High Energy and Nuclear Physics

This program supports 90% of the U.S. effort in high energy and nuclear physics. The

objective of these programs are indicated below.

(i) *Nuclear Physics.* The primary objectives of this program are an understanding of the interactions, properties, and structures of atomic nuclei and nuclear matter at the most elementary level possible; and an understanding of the fundamental forces of nature by using nuclei as a proving ground.

(ii) *High Energy Physics.* The primary objectives of this program are to understand the nature and relationships among the fundamental forces of nature, and to understand the ultimate structure of matter in terms of the properties and interrelations of its basic constituents.

(iii) *Nuclear Sciences (Nuclear Data and Heavy Ion Fusion Accelerator Research).* The goal of the Nuclear Data activity is to establish and maintain an accurate, complete and accessible national data base to meet long-term, nuclear-data needs of the fission and fusion energy technologies and to support nuclear waste management and weapons development activities of the Department. The Heavy Ion Fusion Accelerator Research (HIFAR) program is an applied research program to develop high-current heavy-ion accelerator technology and perform appropriate ion beam experiments to the point where an adequate data base exists for evaluation of this type of accelerator as a driver for inertial confinement fusion.

Office of Health and Environmental Research

The goals of this research program are as follows:

Provide, through basic and applied research, the scientific information required to understand the effects of and reduce the health and environmental uncertainties associated with those energy technologies, policies and operations required to meet the Nation's future energy and national security needs.

Develop new applications of nuclear science and technology for use in the diagnosis and treatment of human diseases.

The goals of the program are accomplished through the effort of its divisions, which are:

(i) *Physicial and Technological Research.* The objectives of this program are to develop new concepts, procedures, and instrumentation for detecting and measuring energy-related physicial and chemical agents released to the occupational and general environment; to characterize the atmospheric transport and chemical transformation processes of radionuclides and energy-related chemical effluents in order to improve estimates of dispersion and potential human exposure; and to determine the physical mechanisms of radiation action in biological systems.

(ii) *Ecological Research.* The objectives of this program are to identify the physical, chemical, and biological processes that cycle nutrients and energy-related materials through terrestrial and aquatic ecosystems, including the coastal oceans; and to determine the resiliency of ecosystems to natural and energy-related stresses and identify processes used by plants and animals for degrading or detoxifying energy-related materials.

Fundamental research on the hydrological transport, mobility, and degradation of energy substances as shallow depths will receive increased attention in 1985–1990.

(iii) *Health Effects Research.* The objectives of this program are to quantify the delayed biological effects of exposure to ionizing radiation through long-term experimental animal research; to resolve the uncertainties associated with carcinogenic, mutagenic, and toxicological effects of energy-related chemicals and complex mixtures of chemicals; and to define mechanisms involved in the induction of biological damage following exposure to low levels of energy-related pollutants by supporting fundamental research on biomolecular structure, gene functions and control, genetic damage and repair, and cell transformation. Future support for basic biological research will be substantially increased with emphasis on human cellular systems.

(iv) *Human Health and Assessments.* The goals of this program are to ascertain by epidemiologic study the potential spectrum of risks to human health associated with occupational and environmental exposures in DOE operations and in emerging energy technologies; to detect and measure significant subclinical changes in humans exposed to radiation and energy-related chemicals that can serve as early indicators of latent disease induction or to identify particularly susceptible individuals; to develop new techniques for stable and radioactive isotope production, labeled pharmaceuticals, imaging devices, and radiation beam applications for the improved diagnosis and therapy of human diseases or the study of human physiological processes.

Increased emphasis for the future will be on the development of sensitive marker systems which can be directly applied to humans and new isotopes and radiopharmaceuticals for studies of human nutrition, cardic function, neurological disorders and disease control.

Office of Fusion Energy

The magnetic fusion energy program is an applied research and development program whose goal is to develop the scientific and technological information required to design and construct magnetic fusion energy systems. This goal is pursued by four divisions, whose major functions are as listed below.

(i) *Applied Plasma Physics.* This program seeks to develop that body of physics knowledge which permits advancement of the fusion program on a sound basis. APP programs provide: (1) The theoretical understanding of fusion plasmas necessary for interpreting results from present experiments, and the planning and design of future confinement devices; (2) the data on plasma properties, atomic physics and new diagnostic techniques for operational support of confinement experiments; and (3) critical tests and evaluation of promising alternative fusion concepts that may lead to more economic fusion reactor systems.

(ii) *Toroidal Confinement Systems.* This program has as its primary objective the conduct of research programs to investigate and resolve basic physics issues associated with medium- to large-scale toroidal confinement devices. These devices are used to experimentally explore the limits of specific confinement concepts as well as to study associated physical phenomena. Specific areas of interset include: the production of increased plasma densities and temperatures, the understanding of the physical laws governing plasma energy transport and confinement scaling, equilibrium and stability of high plasma pressure, the investigation of plasma interaction with radio-frequency waves, and the study and control of particle transport in the plasma.

(iii) *Mirror Confinement Systems.* This program has as its objective research programs to investigate, resolve and understand basic science critical to the continued development to the magnetic mirror fusion concept. The basic issues are plasma energy and particle transport, not only in the radial direction, but in the axial dimension; the establishment and maintenance of appropriate electro-static fields; stability, both MHD and microstability; and various plasma/wave interactions such as ICRF, GCH and plasma generated waves. Non-Maxwellian distributions play a major role in mirrors and need to be measured and understood.

(iv) *Division of Development and Technology.* This program supports the technology which is necessary for the fabrication and operation of present and next-generation plasma devices. The program also pursues technological investigations and systems studies pertaining to critical feasibility issues of fusion technology.

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federal register

Wednesday
November 7, 1984

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 43

Anti-Misfueling: Tank Filler Opening Adapters; Final Rule

Availability of Advisory Circular on Anti-Misfueling Devices; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 43

[Docket No. 24309; Amdt. No. 43-24]

Anti-Misfueling: Tank Filler Opening Adapters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule. Request for comments.

SUMMARY: This amendment to Appendix A of Part 43 of the Federal Aviation Regulations (FAR) classifies the installation of fuel tank filler opening adapters as preventive maintenance when certain conditions are met. Several accidents have occurred as the result of misfueling aircraft and have resulted in numerous deaths and injuries. Installation of these adapters will significantly reduce accidents due to fueling aircraft which require gasoline with jet fuels.

DATES: Effective date of this amendment is November 7, 1984. Comments must be received on or before December 7, 1984.

ADDRESSES: Mail or deliver comments on this rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel; Attention: Rules Docket (AGC-204), Docket No. 24309, Room 916, 800 Independence Ave., SW., Washington, D.C. 20591. Comments may be examined in Rules Docket, weekdays except Federal Holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Charles W. Schaffer, General Aviation and Commercial Branch, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591, Telephone (202) 426-8204.

SUPPLEMENTARY INFORMATION:

Background

A number of industry organizations including the General Aviation Manufacturer's Association (GAMA), the National Transportation Association (NATA), the United States Aircraft Insurance Group (USAIG), and various aircraft manufacturers and governmental organizations are concerned with the problem of misfueling aircraft which require gasoline with jet fuel. The results of such misfueling have been catastrophic as attested by several highly publicized accidents which have resulted in numerous deaths and injuries.

As a result, a fuel tank filler opening of reduced inside diameter has been developed for gasoline fueled aircraft to be used in conjunction with oversized fuel dispensing nozzles on jet fuel dispensing equipment. The inability to insert the jet fuel nozzle in the gasoline filler opening should significantly mitigate accidents caused by this type of misfueling. The fuel tank filler opening adapters are simple in design and may be installed without special skills. Those persons authorized under § 43.3(g) and 43.7(f) of the FAR to perform preventive maintenance and approve it for return to service could make the installations without derogating safety if such installations were classified as preventive maintenance.

Need for Immediate Adoption

This revision, by classifying the installation of fuel tank filler opening adapters as preventive maintenance, will provide persons with a significant opportunity to voluntarily increase safety, in the shortest time, at a minimal cost and, since it is voluntary, no regulatory burden.

New aircraft will be equipped with reduced diameter filler openings prior to delivery and retrofit of existing aircraft is voluntary. Installation may be made in a matter of a few minutes at a cost of approximately $38 per opening. The cost in many instances is being offset voluntarily by subsidies from the aircraft insurers. The FAA recognizes a need to reduce the number of accidents resulting from misfueling aircraft and this amendment, which imposes no burden on any person and is minor in nature, will help achieve that goal. Therefore, I find that notice and public procedure are unnecessary and contrary to the public interest. In addition, I find that good cause exists for making this amendment effective in fewer than 30 days. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator and this amendment may be changed in response to comments received. All comments received will be available, in the rules docket for examination by interested persons before and after the closing date for comments.

Conclusion

The adoption of this rule permits the owners of aircraft to quickly reduce the probability of a misfueling accident in their aircraft at minimal cost and no regulatory burden. Therefore, the FAA has determined that this amendment is not a major rule under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For the reasons stated above it has been determined also that the anticipated economic impact is so minimal that no regulatory evaluation is necessary. In addition, since this amendment adds one item to the list of permissable preventive maintenance activities to effectuate a voluntary anti-misfueling safety program, rather than imposing any new burden or requirement, I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 43

Aircraft, Airplanes, Maintenance.

Adoption of the Amendment

Accordingly, Part 43 of the Federal Aviation Regulations (14 CFR Part 43) is amended as follows, effective November 7, 1984.

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

1. By amending paragraph (c) of Appendix A, by adding a new item (29) to read as follows:

Appendix A—Major Alterations, Major Repairs, and Preventive Maintenance

* * * * *

(c) Preventive Maintenance.

* * * * *

(29) The installations of anti-misfueling devices to reduce the diameter of fuel tank filler openings provided the specific device has been made a part of the aircraft type certificate data by the aircraft manufacturer, the aircraft manufacturer has provided FAA-approved instructions for installation of the specific device, and installation does not involve the disassembly of the existing tank filler opening.

(Secs. 313, 601 through 610, and 1102, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354, 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 21, 1983); and 14 CFR 11.45)

Issued in Washington, D.C., on October 3, 1984.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 84-25211 Filed 11-6-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 20–122; Anti-Misfueling Devices: Their Availability and Use

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Advisory Circular Availability.

SUMMARY: Through this notice the Federal Aviation Administration seeks to notify the public of the availability of Advisory Circular (AC) 20–122, entitled, Anti-Misfueling Devices: Their Availability And Use.

The anti-misfueling devices consist of fuel tank filler opening reducers which prohibit the introduction of larger diameter jet fuel dispensing nozzles into fuel systems of aircraft requiring gasoline.

The AC states the conditions to be met for installation of anti-misfueling devices and subsequent approval for return to service by persons authorized in Federal Aviation Regulations, §§ 43.3 and 43.7 including pilots.

The AC will be given wide distribution. If additional copies are needed they will be available from U.S. DOT, Subsequent Distribution Section, M–494–3, Washington, D.C. 20590.

Issued in Washington, D.C., on October 18, 1984.

M.C. Beard,

Director of Airworthiness.

[FR Doc. 84–29210 Filed 11–6–84; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
November 7, 1984

Part IV

Department of Health and Human Services

Office of Human Development Services

Department of the Interior

Bureau of Indian Affairs

Indian Child Welfare Discretionary Funds Program and Indian Child Welfare Act Grant Program—Fiscal Year 1985; Announcement of Availability of Funds To Improve Child Welfare Services to Indian Children and Their Families; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Program Announcement BIA/HDS 85]

FY 1985 Indian Child Welfare Discretionary Funds Program and FY '85 Indian Child Welfare Act Grant Program

AGENCIES: Bureau of Indian Affairs, Interior; Office of Human Development Services, HHS.

Subject: Announcement of availability of funds to improve child welfare services to Indian children and their families.

SUMMARY: This is a joint announcement of grant funds available from the Bureau of Indian Affairs, Department of the Interior, and the Office of Human Development Services (HDS), Department of Health and Human Services.

For further information concerning the Bureau of Indian Affairs Indian Child Welfare Act Title II Grant Program contact the nearest area office to the applicant. See listing at the end of this announcement, or contact: BIA/Division of Social Services, 1951 Constitution Avenue NW., Washington, D.C. 20245, Code 450, Larry Blair, Telephone: (202) 343–6434.

For further information concerning the Office of Human Development Services Discretionary Indian Child Welfare Program contact HDS regional offices listed at the end of this announcement, or: HDS/ACYF/Children's Bureau, Program Support Division, P.O. Box 1182, Washington, D.C. 20013, Preston Bruce, Telephone (202) 755–7730.

DATE: The closing date for receipt of applications for both programs is February 5, 1975.

Ths Program Announcement addresses the following areas:

I. General Information for Joint Indian Child Welfare Grant Announcement
A. Background
B. BIA Indian Child Welfare Grant Program Purpose
C. HDS Indian Child Welfare Discretionary Program Purpose
D. Eligible Applicants—HDS & BIA
E. Available Funds Including HDS Match Requirement
F. Fiscal Year 1985 Review Process
G. The Closing Date for Receipt of Applications
H. Statutory Authorities
I. Notification Under Executive Order 12372
II. BIA Indian Child Welfare Act Grant Program
A. Program Priorities
B. Content of the Application
C. Evaluation Criteria
III. HDS Coordinated Indian Child Welfare Program
A. Program Priorities
B. Family and Child Welfare Issues
C. Application Process
D. Evaluation Criteria for HDS
IV. Other HDS Available Indian Child Welfare Resources
A. Title IVB Child Welfare Services Grants
B. Child Welfare Services Training Grants
C. Runaway and Homeless Youth Act Grants
V. List of BIA Area and HDS Regional Offices

Part I. General Information for Joint Indian Child Welfare Grant Announcement

A. Background

This announcement is the initial joint effort by the Department of Health and Human Services, Office of Human Development Services (HDS), and the Department of the Interior, Bureau of Indian Affairs (BIA), to coordiante information on Indian child welfare service programs funded by each agency. It provides in one announcement information on all opportunties to apply for Indian child welfare funds in order to maximize services to Indian children and families in support of the policy established by the Indian Child Welfare Act of 1978 (ICWA Pub. L. 95–608, 25 U.S.C. 1902, 25 U.S.C. 1931, and 1932), the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272).

That is:

- To prevent separation of Indian children from their families when possible;
- When separation is necessary, to reunite Indian children with their families as soon as possible;
- When reunification is not possible, to find permanent families through permanent placement with extended families or through adoption; and
- To carry out work with Indian children and their families in accordance wtih the preferences of the ICWA, following procedures and practices which reflect the unique values of Indian culture.

An applicant may submit applications(s) to each agency (BIA and HDS) in the priority areas listed for programs from that agency. Identical applications may not be submitted to both agencies.

An applicant for an Indian child Welfare Act Grant (*BIA*) may submit only *one* grant application under the program during this application period (refer to 25 CFRF 23.21(b)). Applicants for HDS funds may submit more than one application but each application must be for a substantially different project (See III c. below).

If an applicant is submitting applications to both agencies, and each application is in a different priority area, each application to be submitted should be identified by title, agency, priority area if applicable, and funds requested, on the title page of each submission.

B. BIA Indian Child Welfare Grant Program Purpose

The purposes of Bureau of Indian Affairs Indian Child Welfare grants are (1) the establishment and operation of Indian child and family service programs which promote the stability of Indian families, and (2) the provison of non-Federal matching shares for other Federal financial assistance programs for "on or near" reservation programs which contribute to that same purpose.

These purposes are further defined in Pub. L. 95–608 sections 201 and 202 or 25 U.S.C. 1931 and 1932, or 25 CFR 23.22. The Objective of every Indian Child and family service program shall be to prevent the breakup of Indian families, and insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort.

C. HDS Indian Child Welfare Discretionary Program Purpose

The purposes of the HDS Ccoordinated Indian Child Welfare Program are to:

- Address those social service needs that require intergovernmental or national attention for effective resolution;
- Provide national leadership in (a) the development of effective methods of addressing social service needs; and (b) the development of Tribal and Indian organizations to more appropriately address Indian social service needs;
- Foster the efficient and effective use of available resources through improved social service management; and
- Identify specific social service problems affecting Indian children and families, and to develop and propose innovative approaches to resolve those problems.

The HDS program is not intended to fund service delivery programs or to serve as a source of supplementary funds for local activities which need operating funds.

D. Eligible Applicants—HDS & BIA

The governing body of any tribe or tribes, or any nonprofit off-reservation Indian organizations and multiservice

Indian center, may apply individually or as a consortium for a grant.

A consortium is an agreement or association of two or more eligible applicants.

Bureau of Indian Affairs

Applications for projects of one years duration may be submitted.

Office of Human Development Services

Applications for projects of one, two, or three years duration may be submitted. Applicants who are proposing projects for one year or more must submit full applications on all program activities for the entire project period, that is, for years one, two, and three, not just for the first year. The budget period for each grant award will be for twelve (12) months. Funding after the first year of a multiyear project will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of funds, and compliance with appropriate program regulations.

E. Available Funds Including HDS Match Requirement

This announcement is being published in anticipation of an appropriation for these programs. When an appropriation is approved, grant awards will be made using the following guidelines.

Bureau of Indian Affairs

The BIA will award grants to individual tribes or organizations, or to consortia of tribes and organizations within the following categories:

1. A maximum of $50,000 for eligible applicants with a total service area population of 3,000 or less;

2. A maximum of $150,000 for eligible applicants with a total service area population greater than 3,000 but less than 15,000;

3. A maximum of up to $300,000 for eligible applicants with a total service area population of 15,000 or more.

Notwithstanding the grant guidelines indicated above, consortia having a total service area population of 3,000 or less, may apply for a maximum grant of $150,000 because of the greater administrative costs associated with operating a small consortium. Consortia with service area populations greater then 3,000 must comply with the grant guidelines set above.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2(d) (2) and/or (3) in the geographical area to which the tribe or organization can realistically provide the services proposed in the application. The service area population is used only to determine maximum grant allocations a tribe, multiservice center, or organization may be eligible to receive. These population figures must be based on identifiable statistical resources.

Applicants will not be funded for more than their demonstrated need as specifically addressed in 25 CFR 23.24 and 23.25. The statistical requirements established in these regulations as well as the Tribe's multiservice record will be used in determining need.

At no time may any Indian tribe or organization which is either an eligible individual applicant in accordance with 25 CFR 23.21 or a member of a consortium receive Indian Child Welfare Act grant funds greater than a maximum grant of $300,000 through a direct grant or through subgranting procedures with other approved applicants.

The distribution of these funds is based on merit and need in accordance with the aforementioned guidelines in order to ensure insofar as possible that all applicants approved for funding receive a proportionate share of available grant funds under the provisions of 25 CFR Part 23 "Application and Selection Criteria."

Office of Human Development Services

HDS expects to make approximately 70 new awards pursuant to this announcement. These awards are expected to range from $15,000 to a maximum of $150,000 per year. Suggested limits for each type of program are provided in each priority area description. The actual number of projects funded in each area will depend on the number and quality of applications received.

Based on the Administration for Native Americans statutory requirements and HDS policy at least 20% of the total cost of proposed HDS projects must come from a source other than the Federal government.

The match may be in the form of grantee-incurred costs or third party in-kind contributions. Indian Child Welfare Act grant funds may be used as a match.

F. Fiscal Year 1985 Review Process

Bureau of Indian Affairs

1. The BIA's Assistant Secretary or his/her designated representative shall select for grants under the Indian Child Welfare Act those propsals which will in his/her judgment best promote the purposes of the ICWA. Such selection will be made through a review process in which each application will be scored competitively using the BIA review criteria listed below at the appropriate Bureau Social Service Office referred to in 25 CFR 23.30, 23.31, or 23.33. Grant applications will be reviewed by a panel of reviewers qualified by training and/or experience in human services to Indian populations.

Office of Human Development Services

2. The Office of Human Development Services FY 1985 Discretionary Funds Program will undergo a similar review process at the Federal level using the HDS evaluation criteria that follow. They will be reviewed by a panel of outside experts and Federal staff.

Both agencies will share information on proposed grant submissions and awards at the respective area and regional level offices as requested. Staff from the various programs at the regional or area office may also be requested to review grant applications and provide input in specific grantee situations.

G. The Closing Date for Receipt of Applications

The closing date for receipt of all applications under this Program Announcement is February 5, 1985.

Bureau of Indian Affairs

1. Applications for Indian Child Welfare Act Grants (BIA) must be received in the appropriate Bureau of Indian Affairs, Social Services Area Office, as specified in 25 CFR 23.28, on or before 4:15 p.m., or the applicable close of business for that office on the closing date of the application period. The names and addresses of Social Service Offices and staff are listed at the end of this announcement.

Office of Human Development Services

2. Applications for Human Development Services Indian Child Welfare Discretionary Funds Program must be mailed or hand delivered to: HDS/Division of Grants and Contracts Management, 330 Independence Avenue SW., Room 1740, Washington, D.C. 20201, Attention HDS/BIA–85.

Hand delivered applications are accepted during the normal working hours of 9:00 a.m. to 5:30 p.m., Monday through Friday.

3. Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent by first class mail, postmarked on or before the deadline date, and received in time to be considered during the competitive review and evaluation process. Applicants are cautioned to request a legible U.S. Postal Service

postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.

c. Applications submitted by other means. Applications submitted by any means except through U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

d. Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

H. Statutory Authorities

The individual statutory authorities under which grants will be awarded by the HDS Program are as follows:

- Child Welfare Services: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272 (42 U.S.C. 626): Section 426 of the Social Security Act, as amended—$1,000,000;
- Child Abuse: Child Abuse Prevention and Treatment Act, as amended, Pub. L. 93–247, as amended (42 U.S.C. 5101 et seq., 45 CFR 1340.20—$750,000;
- Native Americans: Native American Programs Act of 1974, as amended, Pub. L. 93–644 (42 U.S.C. 2991 et seq., 45 CFR Part 1336—$1,000,000; and

The Indian Child Welfare Program from the Bureau of Indian Affairs is authorized by Title II of Pub. L. 95–608, The Indian Child Welfare Act (25 U.S.C. 1901 et seq., 25 CFR Part 23)—$8,800,000.

Office of Human Development Services

I. Notification Under Executive Order 12372

Federally recognized tribes are exempt from the provisions of Executive Order 12372. However, all other applicants should note that most of the statutory authorities for funding these grants are covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." State processes or directly State, areawide, regional, and local officials and entities have 60 days to comment on the application, starting from the deadline date for application submission to OHDS. Each State has established a State Single Point of Contact (SPOC) to fulfill the requirements of E.O. 12372. Applicants must submit required material to their SPOC's to obtain their comments for consideration by OHDS as part of the award process. Applicants should contact their SPOC as soon as possible to alert them to the prospective application and receive specific instructions regarding the process. Required material should be sent to the SPOC as early as possible. SPOC's will submit their comments directly to the OHDS Receiving Office specified in this announcement. OHDS will notify the State of any application received which has no indication that the State process has had an opportunity for review.

Part II. BIA Indian Child Welfare Act Grant Program

A. Program Priorities

Indian Child Welfare Act grants are for the purpose of:

(a) Establishment and operation of Indian children and family service programs. In accordance with the policy in 25 CFR 23.2 to emphasize the design and funding of programs to promote the stability of Indian families, program priorities have been established to be utilized by Area Offices in the competitive review process when more than one application obtains the same competitive score. These priorities re-emphasize the programmatic interest in maintaining the family and preventing out of home placements. Program prorities are listed below in descending order.

(1) Operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children.

(2) Family assistance (including homemaker and home counselors), day care, after school care, recreational activities, respite care, and employment.

(3) A system for tribes or Indian organizations to license or otherwise regulate Indian foster and adoptive homes or the preparation an implementation of child welfare codes within their legal jurisdictional authority, or pursuant to a State-Tribal and/or Indian organization agreement.

(4) Guidance, legal representation, and advice to Indian families involved in Tribal, State, or Federal child custody proceedings.

(5) Employment of professional and other trained personnel to assist the Tribal Court in the disposition of domestic relations and child welfare matters.

(6) Education and training of Indians (including Tribal Court judges and staff) in skills relating to child and family assistance and service programs.

(7) Subsidy programs under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(8) Home improvements programs.

(9) Other programs designed to meet the purpose of the Act. Planning or feasibility grants may be undertaken for any one of the above listed program purposes. These applications will be ranked according to the priority of the program under consideration.

(b) Providing non-Federal matching shares for other Federal financial assistance programs as prescribed in 25 CFR 23.43. The order of priority of matching share grants will correlate with the purpose of the program receiving the match.

B. Content of the Application

And application for an ICWA grant shall include:

(a) Name and address of Indian tribal governing body(s) or Indian organization applying for a grant,

(b) Descriptive name of project,

(c) Grant funds requested,

(d) The unduplicated client service population directly benefiting from the project,

(e) Length of project,

(f) Beginning date,

(g) Project budget categories or items,

(h) Program narrative statement including second and third year plans if appropriate,

(i) Certification or evidence of request by Indian Tribe or board of Indian organization,

(j) Evidence of substantial community support for the proposed program. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires.

(k) Name and address of the Bureau office to which an application is submitted,

(l) Date application is submitted to the Bureau, and

(m) Additional information pertaining to grant applications for funds to be used as matching shares.

C. Evaluation Criteria

The content of the application and the following factors are considered in the competitive review of these grant applications.

(1) The degree to which an applicant demonstrates in the program narrative an understanding of the social service problems or issues impacting the client population which the applicant proposes to serve.

(2) The degree to which and the methods by which the applicant intends

to fulfill the purpose of the grant, specifically relating to goals and the objectives of the program to the issues and problems impacting the client population.

(3) Whether the applicant presents narrative, quantatitive data, and demographics of the client population to be served. Examples of such data include:

(a) The number of actual or estimated Indian child placements outside the home;

(b) The number of actual or estimated Indian family breakups; and

(c) The need for a directly related preventive program.

(4) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup. Factors to be considered in determining accessibility include:

(a) Cultural barriers;

(b) Discrimination against Indians;

(c) Inability of potential Indian clientele to pay for services;

(d) Lack of programs which provide free service to indigent families;

(e) Technical barriers created by existing public or private programs;

(f) Availability of transportation to existing programs;

(g) Distance between the Indian community to be served under the proposal and the nearest existing programs;

(h) Quality of service provided to Indian clientele; and

(i) Relevance of service provided to specific needs of Indian clientele.

(5) The proper justification of the extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of Indian family breakup, taking into consideration all of the factors listed in paragraphs (1), (2), (3), and (4) of this section. Proper justification must be given for any duplication of services.

(6) Evidence of substantial community support for the proposed program from the Indian community or communities to be served. Such support may be evidenced by:

(a) Letters of support from individuals and families to be served;

(b) Local Indian community representation in and control over the Indian entity requesting the grant;

(c) Letters from local and social service or social service related agencies familiar with the applicant's past work experience.

(7) The explanation of proposed facilities and of the structure of the tribal or Indian organization including the structure of the particular unit within the organization requesting grant funds, and the position description of any position to be funded with grant funds, identifying qualifications, responsibilities, and lines of supervision.

(8) The reasonableness and relevance of the estimated costs of the proposed program or service. An application shall not receive a preliminary approval unless a review of the application determines that it:

(1) Contains all the information required in "B. Content of an application",

(2) Receives at least the minimum score in a competitive review under the scoring process using the selection criteria. (The minimum score will be established by the Central Office prior to each application period.)

(3) If an applicant has been a grantee during the year immediately preceding the year for which an application is being made, and has made an application to continue essentially the same service program, satisfactory evaluation(s) from the Area office review of the program must be provided in addition to the other materials required in this sub-section.

Part III. HDS Coordinated Indian Child Welfare Program

A. Program Priorities

Office of Human Development Services grants covered under this program announcement include those for:

—Protection of children from abuse and or neglect;

—Prevention and reduction of the inappropriate separation of children from their families;

—Reunification of children with their biological or extended families and, if this is not possible, placement in adoptive families or other permanent care;

—The reduction of runaway behavior, the reunification of runaway youth with their families, and the development of appropriate service alternatives or independent living arrangements for older homeless adolescents.

In all cases applications must support the continuation of the unique culture of Indian people and the preference expressed in the Indian Child Welfare Act.

A description of HDS's specific subpriorities under each of these priority areas is contained below. Applications which address these priorities should seek to achieve one or more of the following:

• The transfer of existing technology of proven effectiveness from one area of human services to another, or from other areas such as health services, mental health, management sciences, etc. to human services. This includes the effective dissemination of techniques and knowledge developed by previous human services demonstration and research projects funded by HDS or other sources. The applicant must describe the program or model being transferred;

• Development and testing of new service delivery models (demonstrations) which have a high probability of increasing the effectiveness and usefulness of services both at the policy level and at the point of delivery;

• Developmental improvements in the programmatic and fiscal management of human services (i.e., one time seed grants to put processes, models, or approaches in place, where the tribe or Indian organization expects to provide the ongoing operating costs); and

• Assessments or evaluations of existing programs to determine their continued usefulness, need for improvements or desirability of change.

B. Family and Child Welfare Issues

It has long been recognized that American Indian children are more likley to be reported for neglect or abuse, and much more likely to be in out-of-home care than other children. The provisions of both the 1978 Indian Child Welfare Act Pub. L. 95–608 (25 USC 1911–1923), and of the 1980 Adoption Assistance and Child Welfare Act, Pub. L. 96–272, are directed to alleviation of this problem. Nevertheless, a review of services as reported to the American Humane Association by State social services agencies indicated that, in 1982, the most frequent service provided to Indian families was court services. That may include the authorization of emergency removal of a child, and long term services, including family foster care.

In many cases, the State agency has been unable to develop family services which are appropriate for Indian families, while tribal organizations have also been unable to develop their own preventive on-reservation services because of lack of funding and because of issues of jurisdiction, licensing and a lack of alternative community resources.

The funding under this announcement is directed to the development and improvement of tribally organized and directed family and child welfare services with a strong emphasis on

services to prevent the unnecessary placement of children.

1. Tribal/State Cooperative Strategies

HDS will utilize funds under section 426 of the Social Security Act to support innovative projects that encourage tribal delivery of social services by awarding grants to develop a tribal/State agreement focused on the delivery of social services funded by Title IVB, Title IVE, Title XX (Social Services Block Grant), or State funds, but delivered by the Tribe. Pub. L. 95–608 is based on the assumption that tribally determined and delivered services would increase the likelihood of Indian children remaining in their communities and families. Therefore, we expect that funds will be made available to enable tribes to develop working relationships with States, all of which receive Federal funds for the provision of social services to all citizens within the State. These relationships should culminate in the establishment of a formal written policy and agreement between the tribe and State in the provision of family and child welfare services including expected funding patterns.

(10 to 15 grants—not to exceed $20,000 each)

2. Inter-Agency Cooperation Strategies for Resource Development

HDS will fund grants to develop methods for increasing utilization of available community resources including BIA programming (638 contracts or ICWA grants), other Federal, State or county programs, and other public or volunteer organizations. Networking of resources prevents duplication of services and funding and increases the availability of limited resources. Resource guides should be developed and distributed throughout the network clearly identifying services, their cost, eligibility requirements and availability.

(4–6 grants—not to exceed $25,000 each)

3. Training and Technology Transfer

HDS will fund one or two grants to train Tribes, Indian organizations and State social service programs on the utilization of the Indian Child Welfare Act (Pub. L. 95–608), and The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272), in the provision of services to Indian children and families. This shall include the delivery of direct services, as well as contracted services. In this effort, jurisdictional issues, Tribal-State court cooperation, Federal policy issues and legal issues in Pub. L. 95–608 and Pub. L. 96–272 affecting both Tribes and States should be addressed. The grant(s) should address States with significant reservation areas, as well as State social services for those States having primarily non-reservation families. The grant(s) will be funded up to $300,000.

(1 or 2 grants—each not to exceed $150,000)

4. Promoting Family Cohesion

A key element in a strategy to strengthen the economic and social self-sufficiency of families may be increasing the availability of accessible, affordable child care that benefits the child and the parent. The availability of quality child care is related to reduced welfare dependency and higher family income and may have the potential for learning and developmental gains for children, as well as improved parenting skills for parents, therapeutic care for abused children and respite for parents who are overwhelmed by stress. In addition, many families urgently need foster care as a short term service for their children and the availability and quality of foster homes has been a long term problem.

(a) OHDS will fund efforts to recruit, train and license family day care providers in order to have resources for respite care, as a substitute for foster care, to enhance child development as a therapeutic program for abused or neglected children, and/or as a service available to working mothers. Such programs are more flexible than child care centers, especially when the child population is low and geographically dispersed. The trained family day care provider has a source of income, and may gain sufficient experience to move into other child care, parent aide and equivalent positions.

(3–5 grants, not to exceed $20,000 each)

(b) The second set of issues in this priority area relates to improving foster care. This includes improvement of licensing programs for child-placing agencies, child care institutions and foster family homes, and recognition of tribal licensing requirements by States. There is a need to implement the technology of child welfare licensing in Indian child welfare systems, and to modify this technology to meet community standards as specified in Pub. L. 95–608 (25 U.S.C. 1915(d)), through enactment of licensing laws, licensing rules and operational policy as well as developing and staffing a licensing unit. Excellent licensing materials have been developed over the past several years which treat child welfare licensing comprehensively and emphasize permanency planning. HDS will award grants to tribal organizations to make it possible for them to improve tribal licensing programs. Applicants should specify the number of children in out-of-home care and the specific activities to be carried out in improving the licensing program.

(4–6 grants—not to exceed $15,000 each)

(c) There is a need to develop the resources of foster parent networks to assist in the recruitment of Indian foster homes for children. Many agencies have limited foster home resources which can only meet emergency needs. Indian foster parents themselves can have a lead role in the ongoing recruitment of other Indian foster parents. Projects to address this need should develop and test approaches to recruit Indian foster parents and assist these families in the licensure process to increase the supply of available resources when an Indian child needs foster care.

(2–4 grants—not to exceed $15,000 each)

5. Permanency Planning

OHDS will strengthen Indian child welfare programs to emphasize permanency planning programs for Indian children. There is limited advantage to moving a foster child from a State system to a tribal system unless plans are made for appropriate reunification, or alternative plans if reunification is not an option. Tribal social services are encouraged to develop plans and implement mechanisms for foster care tracking systems, case management, case review, and system decision-making, and allow for adoption to be addressed in culturally relevant ways. All programs are encouraged to have parent involvement and meet the other requirements of Pub. L. 96–272. Resource development will be emphasized to meet the needs of the family and children served by the agency.

(a) The reunification of Indian children in foster care with their biological families is of particular interest to HDS. This requires particular knowledge, sensitivities and skills on the part of child placing agency workers to accomplish the goal of reunification. There is a need for widespread implementation of successful models of reunification for Indian children with their families. Coordination of child welfare agencies and Tribal Courts in the use of foster care is also needed. The impact of the Adoption Assistance and Child Welfare Act of 1980 has not been uniform between Tribal Courts and social services agencies. There is a need for improved coordination and clarity of roles and functions to facilitate meeting the requirements for periodic six month case reviews and dispositional hearings

for children in foster care. The tribal courts also play a vital role in assuring that permanent plans are made and carried out for children receiving services from tribal child welfare agencies. There is a need for development and implementation of clear models for tribal court-child welfare coordination which can be replicated to meet this continuing need.

(4–6 projects—not to exceed $50,000)

(b) *Adoption.* During the past four years, the Adoption Opportunities Program has developed extensive resources, training materials and program models to address critical barriers to the adoption of special needs children. An important issue at this point is the use by Indian communities of these resources and information to increase measurably their capacity to find permanent Indian placements for Indian children whenever possible.

HDS is interested in proposals from tribes or Indian organizations for projects which will:

- Increase the number of special needs children placed with Indian families using Title IVE subsidies and
- Institutionalize improvements in their Indian child welfare programs which will enable them to make permanent placements for Indian children using the procedures specified in the Indian Child Welfare Act.

(2–4 grants, not to exceed $50,000 each)

6. Child Abuse and Neglect Prevention

Child abuse and neglect continues to be a serious problem. Over 2200 Indian children were subjects of reports of abuse and neglect in 1982 (19 States reporting, excluding many highly Indian populated States). Awareness of child maltreatment has vastly increased the number of reports and has turned the attention of human service providers to the necessity for improved prevention, protection and treatment. HDS will support demonstration and service improvement projects. Emphasis will be placed on assisting Indian Tribes to incorporate service improvements for preventing and treating child abuse and neglect and for assuring protection for children who have been endangered in their own homes.

A key prevention issue is building capacity and resources in Indian communities to prevent child abuse and neglect. Indian families are over-represented in child abuse and neglect statistics. There is a need to support preventive family-supportive networks in Indian communities with the purpose of helping families with child-rearing problems to avoid the risk of child maltreatment.

Approaches have been piloted in some communities, using parent aides, peer support and parent education as means of providing culturally sensitive support to families. HDS will support further development and implementation of such approaches.

(a) Building Capacity and Resources in Indian Communities to Prevent Child Abuse and Neglect. This demonstration effort is to assist Indian communities to mount constructive programs for the purpose of strengthening informal helping networks and facilitating coordination of various community organizations and agencies and to support at-risk families. This preventive family support network would assist families with child-rearing problems to avoid the risk of child maltreatment. Applicants are requested to design programs using parents aides, peer support, parent education and other community activities which would become a part of a family support network. The outcome should be the development of family support networks which are culturally sensitive and supportive to Indian families and children.

(3–5 grants, not to exceed $50,000 each)

(b) *Service Improvements for Preventing and Treating Child Abuse and Neglect on Indian Reservations.* The purpose of this service improvement effort is to address the needs of Indian child protective service agencies by increasing skills, knowledge and techniques in case management and service delivery. This service improvement program focuses specifically on organizational issues which appear to pose barriers to effective delivery of child protective services to Indian families and children. Applicants should address service improvement in intervention, decision-making, treatment, case management, and the use of multidisciplinary teams. Applicants are limited to Indian Child Welfare agencies on reservations.

(4–6 grants—not to exceed $50,000 each)

7. Evaluation of Existing Programs

OHDS will provide funds for tribes and Indian organizations to work with state agencies in evaluating the usefulness of existing Indian child and family service programs from the State and county. The evaluation will measure the success of existing services, programs, or policies in maintaining Indian children in their own homes, or returning them to their biological homes once placed in out of home care. Areas of success as well as failure will be identified, along with recommendations for improvement.

Each tribe or organization must demonstrate in its application the respective State's commitment to work with the applicant on this project, and incorporate the recommendations that result in the State program in subsequent years.

(6–8 projects, not to exceed $50,000 each)

8. Native American Adolescent Demonstration Project

Native American Adolescents, like non-Native American youth, often experience situations that cause adolescence to be difficult and sometime crisis oriented. The problems of Native American youth, however, are often exacerbated by geography, lack of resources, cultural differences and low service utilization.

More definitive information is needed on causes, effects, and methodologies for dealing with problems of Native American runaway and homeless adolescents. Presently, HDS is supporting approximately eight runaway and homeless youth shelters which serve a predominantly Native American Youth population. HDS estimates that approximately three percent of the youth served by all Federally funded shelters are of Native American descent. From a programmatic perspective there is little definitive information available on effectively addressing the service needs of Native American runaway and homeless youth and their families. As the number of shelters for this population is increased, and attempts are made to decrease the number of Native American youth in foster care, there is a need to develop a better understanding of Native American runaways and their families. There is also a need to (1) identify potential cultural barriers to service usage, (2) implement service options which are effective in meeting the needs of Native American runaway and homeless youth and their families, and (3) develop special outreach and counseling programs designed to increase family reunification and provide appropriate independent living arrangements for older adolescents as an alternative to foster care.

HDS will support the conduct of approximately three demonstrations which focus on identifying and documenting issues and program approaches, and demonstrating their effectiveness as program models in addressing the needs of runaway and homeless youth and their families. These issues include the need for classes in parenting skills and the development of peer support groups for

this population; the need for developing culturally sensitive strategies for training staff to work with Native American runaway and homeless youth and their families; and the need to increase the number of emergency foster care families in Native American communities by increasing outreach efforts and adopting more flexibility in recruitment standards.

(2–4 projects, not to exceed $100,000)

C. Applicant Process

Availability of Forms: Applications for grants under the HDS Coordinated Discretionary Funds Program must be submitted on Standard Form 424. For your convenience, copies of these forms as well as detailed guidance materials for use in preparing the application may be obtained by contacting your Regional Federal Office, (see list at end of this announcement) or the following address.

Additional copies of this announcement may also be obtained by writing: HDS/ACYF/Children's Bureau, Program Support Divisions, P.O. Box 1182, Washington, D.C. 20013, Telephone (202) 755–7820.

Applications Submission: One signed original and a minimum of two copies of the application must be submitted to: HDS/Division of Grants and Contracts Management, 330 Independence Avenue, SW., Room 1740, Washington, D.C. 20201, Attention HDS/BIA–85.

Submission of five additional copies would expedite processing: There is no penalty for not submitting these additional copies.

Multiple Submittals: A project can only be proposed once under this announcement. Multiple submittals of essentially the same project under different priority areas will be deemed nonconforming, but an applicant can submit several different proposals under different priority areas.

Application Consideration: Complete applications that conform to the requirements of this Program Announcement will be reviewed competitively and evaluated by Federal officials and qualified persons outside of the Federal government. The results of the review will assist the Assistant Secretary and Program Commissioners and HDS Executive staff in considering competiting applications. This consideration also takes into account comments from Federal Regional and Headquarters program staff offices. Additional comments may be requested from appropriate specialists and constituents inside and outside of the Federal government.

After a decision has been reached to disapprove, defer, or fund a grant application, unsuccessful applicants are notified in writing. Successful applicants are notified through an official Notice of Financial Assistance Awarded. This notice states the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, the project period, and the amount of non-Federal share grantee participation.

D. Evaluation Criteria for HDS

(1) Technical Approach (25 Points Maximum)

- The applicant proposes a well-defined and carefully worked out technical approach (including problem or issue definition) that is, if well executed, capable of achieving the objectives of the project. The approach may include: Research methodology, demonstration plan, design of training programs, or other appropriate techniques.
- Where appropriate, the applicant describes evaluation components. Evaluation, data collection, and analysis procedures are geared to assess (using quantitative measures as much as possible) the degree to which intended objectives are achieved. The applicant clearly distinguishes the evaluation from activities designed primarily to give project staff feedback on their progress toward meeting project objectives.

(2) Beneficial Impact (25 points Maximum)

- The knowledge, methods, or technology to be developed can be expected to impact beneficially on human service programs and target populations beyond the site at which the project is conducted. This includes general applicability of results for research, demonstrations, and evaluation projects.

(3) Project Implementation Plan (20 Points Maximum)

- The application specifies a sound plan for task accomplishment and staff responsibility for each task.
- The application contains a suitable plan for insuring the use of project results from appropriate users. The plan describes the kinds of reports and media to be used in transmitting final results to users and explains why this is expected to be an effective dissemination package that will reach and influence users.

(4) Staffing and Management (15 Points Maximum)

- The proposed staff are well-qualified to carry out the project.
- The division of responsibilities is appropriate to carry out project tasks, including sufficient time of senior staff to assure adequate management of the project.
- The applicant organization has adequate facilities, resources, and experience to conduct the project as proposed.

(5) Budget Appropriateness and Reasonableness (15 Points Maximum)

- The proposed budget is commensurate with the level of effort needed to accomplish the project objectives. The cost of the project is reasonable in relation to the value of the anticipated results.
- The contribution of any collaborative agencies or organizations is assured in writing and included with the application when it is submitted. The participation of an agency other than the applicant, if critical to the proposed project, is evidenced by a letter indicating agreement to participate.

Total (100 points possible)

Other HDS Available Indian Child Welfare Resources

A. Title IVB Child Welfare Services Grants

Indian tribes are eligible to apply for and receive IVB funds directly if they are currently providing child welfare services under a P.L. 93–638 contract from the Bureau of Indian Affairs. In order to apply for these fund applicants should contact their HDS Regional Office for further information.

B. Child Welfare Services Training Grants

Child Welfare Services Training Grants, also funded under section 426 of the Social Security Act, were solicited in the HDS Coordinated Discretionary Funds Program published in the Federal **Register** on August 23, 1984. These grants provide traineeships for individual students and for the development of training in specialized areas, such as training in services to minority children and families, training on child welfare and the law, and adoption of special needs children. They are available *only to public and private nonprofit accredited colleges and universities including Indian Colleges.* This announcement will be available from HDS Regional Offices for all eligible applicants.

C. Runaway and Homeless Youth Act Grants

Indian tribes are eligible to apply for funds to develop or strengthen community-based programs of service

designed to provide temporary shelter, counseling, and after care services to runaway and homeless youth and their families in a manner which is outside of the law enforcement structure and the juvenile justice system. Funding for these projects will be announced in a separate **Federal Register** announcement.

V. List of BIA Area and HDS Regional Offices

BIA Area Offices; Area Social Workers

Aberdeen—Marian A. Taylor, 115 4th Avenue, SE, Aberdeen, SD 57401.
Albuquerque—Robert C. Carr, P.O. Box 8327, Albuquerque, NM 87198.
Anadarko—Jerry Bridges, P.O. Box 368, Anadarko, OK 73005.
Billings—John Burkhart, 316 N. 26th Street, Billings, MT 59101.
Juneau—Lyn Bohanan, P.O. Box 3–8000, Juneau, AK 99802–1219
Minneapolis—Harold Smith, Chamber of Commerce Building, 15 South Fifth Street, 6th Floor, Minneapolis, MN 55402.
Muskogee—James Clemmons, Federal Building, Muskogee, OK 74401.
Navajo—Nancy Evans, Window Rock, AZ 86515.
Phoenix—James B. Graves, P.O. Box 7007, Phoenix, AZ 85011.
Portland—June McKellar, P.O. Box 3785, Portland, OR 97208.
Sacramento—Charles Toyebo, Community Service Officer, 2800 Cottage Way, Sacramento, CA 95825.
Eastern—Division Social Services, 1951 Constitution Avenue, NW., Code 450, Washington, D.C. 20245

HDS Regional Offices; Children's Bureau Specialists

Region I—Tina Burrell, ACYF, JFK Federal Building, Government Center, Room 2011, Boston, Massachusetts 02203, (617) 223–6450
Region II—Ward Sinclair, ACYF, 26 Federal Plaza, Room 4149, New York, New York 1007, (212) 264–2974.
Region III—Donald Barrow, ACYF, P.O. Box 13716, 3535 Market Street, Philadelphia, PA 19101, (215) 596–6763.
Region IV—Jim Vaughn-Jim Shelton, ACYF, 101 Marietta Towers, Atlanta, Georgia 30323, (404) 242–2128.
Region V—Thelma Thompson, ACYE, 300 South Wacker Drive, 13th Floor, Chicago, Illinois 60606, (312) 353–8065.
Region VI—S.M. Pat Murphy, ACYF, 1200 Main Tower Building, 20th Floor, Dallas, Texas 75202, (214) 729–6596.
Region VII—Robert Fain, ACYF, Federal Office Building, Room 384, 601 East 12th Street, Kansas City, Missouri 64106, (816) 758–5401.
Region VIII—Jane Mathieu, ACYF, Federal Office Building, Room 1194, 1961 Stout Street, Denver, Colorado 80294, (303) 844–3106.
Region IX—Ray Myrick, ACYF, Federal Office Building, Room 479, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–6178.
Region X—Richard McConnell, ACYF, Third and Broad Building, M/S 413, Seattle, Washington 98121, (206) 399–0838.

Dated: November 1, 1984.

John Fritz,

Deputy Assistant Secretary of Indian Operations, Bureau of Indian Affairs.

Ken Smith,

Assistant Secretary for Bureau of Indian Affairs.

Dodie Truman Livingston,

Commissioner, Administration for Children, Youth and Families.

Lucille C. Dawson,

Acting Commissioner, Administration for Native Americans.

Approved: October 26, 1984.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 84–29276 Filed 11–6–84; 8:45 am]
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federal register

Wednesday
November 7, 1984

Part V

Department of Education

Office of Elementary and Secondary Education

Discretionary Grant Programs Under the Indian Education Act of 1972, as Amended; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1985 Applications; Notice

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Discretionary Grant Programs Under the Indian Education Act of 1972, as Amended; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1985 Applications

AGENCY: Education.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1985 applications for new awards.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new projects under certain programs administered by the Department of Education under the Indian Education Act, Title IV of Pub. L. 92–318, as amended.

Organization of Notice

This notice contains two parts. Part I includes the list of all application closing dates for new awards covered by this notice. Part II consists of individual application announcements for each program.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications for new projects must be mailed or hand delivered on or before the closing date given in the individual application announcements included in this document.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (insert appropriate CFDA Number) Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accepty either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW,, Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

PART I.—PROGRAMS

CFDA No.	Program	Closing date
84.061a	Educational Services for Indian Children.	Jan. 11, 1985.
84.061C	Planning Projects for Indian Children.	Do.
84.061D	Pilot Projects for Indian Children.	Do.
84.061E	Demonstration Projects for Indian Children.	Do.
84.061F	Educational Personnel Development.	Do.

Part II—Individual Announcements for Programs Listed in Part I

Closing Date: January 11, 1985.

84.061A—Indian Education Act—Part B—Educational Services for Indian Children.

Applications are invited for new grants under the Educational Services for Indian Children program.

Authority for this program is contained in section 1005(a)(2) and (c) of Part B of the Act, as amended.

(20 U.S.C. 3385(a), (c))

This program provides financial assistance for:

(1) Projects designed to improve educational opportunities for Indian children by providing educational services that are not available in sufficient quantity or quality to those children; and

(2) Enrichment projects that introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children in elementary and secondary schools.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, and Indian institutions.

Program information: In Fiscal Year (FY) 1984, 23 projects were awarded educational service grants totaling $3,728,661. The average grant amount was $162,116.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review.

State

Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Hawaii
Indiana
Kansas
Lousiana
Maine
Michigan
Missouri
Montana
Nebraska
Nevada
New Jersey
New Mexico
New York
North Dakota
Northern Mariana Islands
Ohio
Oklahoma
Oregon
Pennsylvania

South Carolina	Virginia
Texas	Washington
South Dakota	Wisconsin
Utah	Wyoming
Vermont	Guam

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 11, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.061A, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT MUST SUBMIT ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available funds: For Fiscal Year 1985, approximately $3,430,000 will be available for this program. It is estimated that approximately 34 projects will be supported and the average grant will be $100,882.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

Application forms: Application packages are expected to be ready for mailing on November 27, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education (Room 2177, FOB 6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0021)

Applicable regulations: The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs (34 CFR Parts 250 and 254), published in the **Federal Register** on June 7, 1984 at 49 FR 23761.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB-6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732-1918.

(U.S.C. 3385(a), (c))

84.061C—Indian Education Act—Part B—Planning Projects for Indian Children.

Closing Date: January 11, 1985.

Applications are invited for new planning projects under the program for Indian children.

Authority for this program is contained in Section 1005(a)((1) and (b) of the Act, as amended.

(20 U.S.C. 3385(a)(1), (b))

This program provides financial assistance for projects designed to create programs for improving educational opportunities for Indian children.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, Indian institutions, and federally supported elementary and secondary schools for Indian children.

Program information: In Fiscal Year 1984, 6 projects were awarded planning grants totaling $533,932. The average grant amount was $88,989.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.) implementing Executive Order 12472 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.*

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review.

State

Alabama	New York
Arizona	North Dakota
Arkansas	Northern Mariana Islands
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	Texas
Kansas	South Dakota
Louisiana	Utah
Maine	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Guam
New Jersey	
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate

State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedure established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 11, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.061C, 400 Maryland Avenue, SW., Washington, DC 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT MUST SUBMIT ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available funds: For Fiscal Year 1985, $360,000 will be available for this program. It is estimated that approximately 4 projects would be supported and the average grant would be $90,000.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

Application forms: Application packages are expected to be ready for mailing on November 27, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education, Room 2177, FOB 6, 400 Maryland Avenue, SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0021)

Applicable regulations: The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs (34 CFR Parts 250 and 255), published in the Federal Register on June 7, 1984 at 49 FR 23761.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB-6, 400 Maryland Avenue, S.W., Washington, DC 20202. Telephone: (202) 732-1918.

(20 U.S.C. 3385(a)(1), (b))

84.061D—Indian Education Act—Part B—Pilot Projects for Indian Children.

Closing Date: January 11, 1985.

Applications are invited for new pilot projects under the program for Indian children.

Authority for this program is contained in section 1005(a) (1) and (b) of the Act, as amended.

(20 U.S.C. 3385(a)(1),(b))

This program provides financial assistance for projects designed to test the effectiveness of programs for improving educational opportunities for Indian children.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, Indian institutions, and federally supported elementary and secondary schools for Indian children.

Program information: In Fiscal Year 1984, 7 new projects and 1 continuation project were awarded pilot grants totaling $1,147,010. The average grant amount was $143,376.

Intergovernmental review: On June 24, 1983, the Secretary published in the Federal Register final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review.

State
Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Hawaii
Indiana
Kansas
Louisiana
Maine
Michigan
Missouri
Montana
Nebraska
Nevada
New Jersey
New Mexico
New York
North Dakota
Northern Mariana Islands
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
Texas
South Dakota
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is

included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 11, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.061D, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT MUST SUBMIT ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available funds: For Fiscal Year 1985, approximately $720,000 will be available for this program. It is estimated that approximately 5 projects will be supported and the average grant will be $144,000.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Projects supported under this program will be for a period of one year.

Application forms: Application packages are expected to be ready for mailing on November 27, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education, Room 2177, FOB 6, Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0021)

Applicable regulations: The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs (34 CFR Parts 250 and 255), published in the **Federal Register** on June 7, 1984 at 49 FR 23761.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Program, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB-6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732-1918.

(20 U.S.C. 3385 (a)(1), (b))

84.061E—Indian Education Act—Part B—Demonstration Projects for Indian Children.

Closing date: January 11, 1985.

Applications are invited for new demonstration projects under the program for Indian children.

Authority for this program is contained in Section 1005 (a)(1) and (b) of the Act, as amended.

(20 U.S.C. 3385 (a)(1), (b))

This program provides financial assistance for projects designed to demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, Indian institutions, and federally supported elementary and secondary schools for Indian children.

Program information: In Fiscal Year 1984, 4 projects were awarded demonstration grants totaling $810,039. The average grant amount was $202,510.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158, *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to estalbish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review.

State
Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Hawaii
Indiana
Kansas
Louisiana
Maine
Michigan
Missouri
Montana
Nebraska
Nevada
New Jersey
New Mexico
New York
North Dakota
Northern Mariana Islands
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
Texas
South Dakota
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any

comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 11, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.061E, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT MUST SUBMIT ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available funds: For Fiscal Year 1985, approximately $1,370,000 will be available for this program. It is estimated that approximately 7 projects will be supported and the average grant will be $195,714.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

Application forms: Application packages are expected to be ready for mailing on November 27, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education, Room 2177, FOB 6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810–0021)

Applicable regulations: The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs (34 CFR Parts 250 and 255), published in the **Federal Register** on June 7, 1984 at 49 FR 23761.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385 (a)(1), (b))

84.061F—Indian Education Act—Part B—Educational Personnel Development.

Closing Date: January 11, 1985.

Applications are invited for new grants under the Educational Personnel Development Program.

Authority for the Educational Personnel Development programs, under which new applications are being invited, is contained in section 1005(d) and section 422 of the Indian Education Act, as amended.

(20 U.S.C. 3385(d), 3385(a))

These programs provide financial assistance to projects designed to: (1) Prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (2) improve the qualifications of persons serving Indian students in these capacities.

Under the section 1005(d) program, grants may be made to institutions of higher education, local educational agencies in combination with institutions of higher education, and State educational agencies in combination with institutions of higher education.

Under the section 422 program, grants may be made to institutions of higher education, Indian tribes, and Indian organizations.

Program information: In Fiscal Year 1984, 3 new projects and 4 continuation projects were awarded grants under Section 1005(d) totaling $1,298,324. The average grant amount was $185,475. Under Section 422, 8 continuation grants were awarded totaling $901,676. The average grant amount was $112,710.

Available funds: For Fiscal Year 1985, approximately $1,176,000 will be available for the section 1005(d) Program and $980,000 for the Section 422 Program. It is estimated that approximately 7 projects will be supported with an average grant of $168,000 under Section 1005(d), and approximately 9 projects will be supported with an average grant of $108,889 under Section 422.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

Application forms: Application packages are expected to be ready for mailing on November 27, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education, Room 2177, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810–0021)

Applicable regulations: The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Program (34 CFR Parts 250 and 256), published in the **Federal Register** on June 7, 1984 at 49 FR 23761.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385(d), 3385a)

(Catalog of Federal Domestic Assistance No. 84.061; Indian Education Special Program and Projects (Part B))

Dated: November 2, 1984.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 29341 Filed 11–6–84; 8:45 am]

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Wednesday, November 7, 1984

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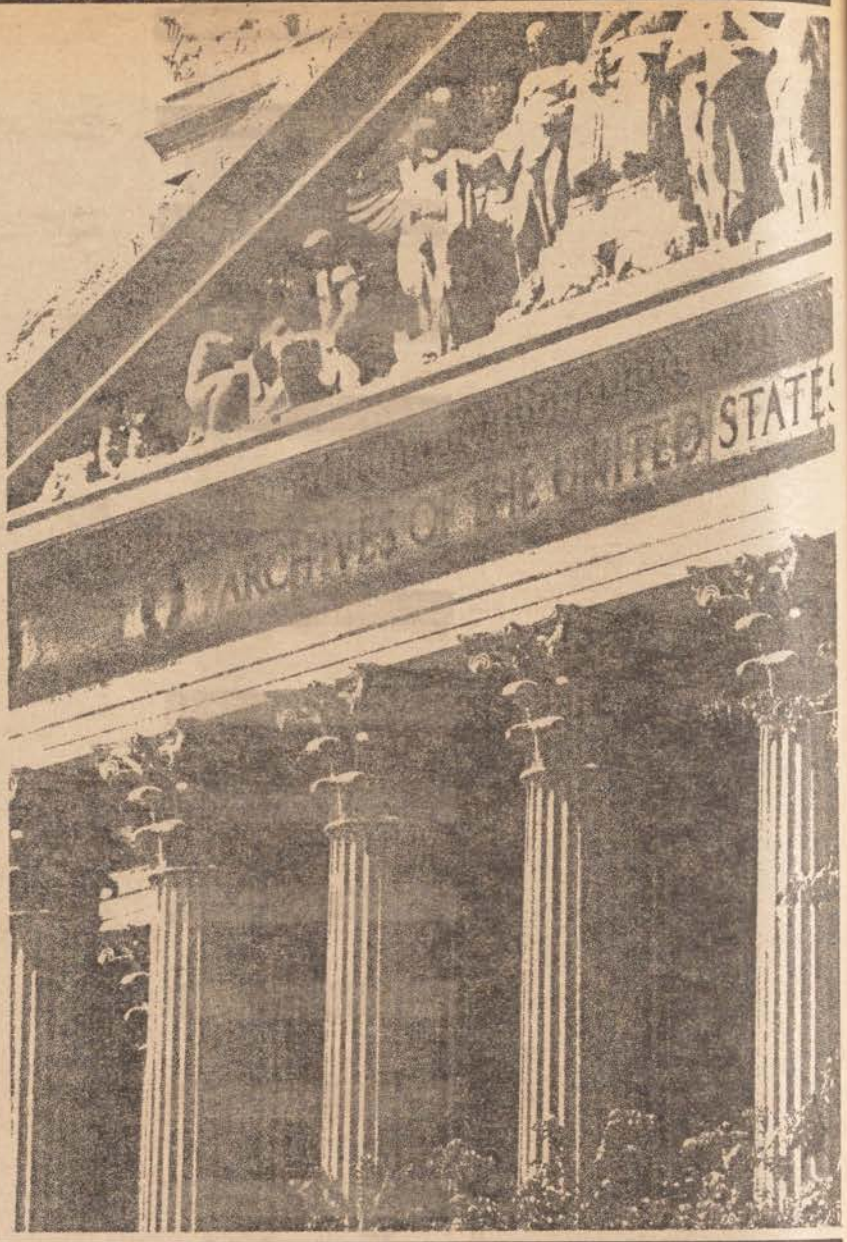

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