2-18-86
Vol. 51 No. 32
Pages 5689-5984

Federal Register

Tuesday
February 18, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, St. Louis, MO, Denver, CO, and Dallas, TX, see announcement on the inside cover of this issue.

Selected Subjects

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Selected Subjects

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

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

WHO: The Office of the Federal Register.

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

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

ST. LOUIS, MO

WHEN: March 11; 9 am.
WHERE: Room 1612, Federal Building, 1520 Market Street, St. Louis, MO.
CALL: Dolores O'Guin, St. Louis Federal Information Center, 314-425-4109, for reservations.

WASHINGTON, DC

WHEN: March 20; 9 am and 1 pm. (identical sessions)
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW, Washington, DC
CALL: Ruth Reedy, 202-523-5239, for reservations.

DENVER, CO

WHEN: March 24; 9 am.
WHERE: Room 239, Federal Building, 1961 Stout Street, Denver, CO.
CALL: Elizabeth Stout, Denver Federal Information Center, 303-236-7181, for reservations.

DALLAS, TX

WHEN: April 23; 1:30 pm.
WHERE: Room 7A23, Earl Cabell Federal Building, 1100 Commerce St Dallas, TX.
CALL: **local numbers:**

Ft. Worth	817-334-3624
Dallas	214-767-8585
Houston	713-229-2552
Austin	512-472-5494
San Antonio	512-224-4471

for reservations.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 422

[Docket No. 0059A]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1986 and succeeding crop years in all states, except Florida and certain California counties, and for the 1987 and succeeding crop years the remaining California counties and Florida. The intended effect of this rule is to: (1) Add provisions for insurance coverage in Alabama, New Jersey, and Texas; (2) change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (3) change the end of the insurance period in Delaware, Maryland, Missouri, Nebraska, Nevada, North Carolina, Virginia, and Wyoming; (4) define the type of potatoes grown in Idaho, Maine, Oregon, and Washington for insurance purposes and change the end of the insurance period in such states to coincide with the harvest date; (5) shorten the length of time an insured has to give notice when claiming an indemnity; (6) change the cancellation and termination dates in Delaware, Missouri, Maryland, North Carolina, and Virginia; (7) introduce, on an experimental basis, a quality potato option amendment; (8) shorten the length of time for acreage to qualify for entry into the Certified Seed Program; (9) require records of production to be furnished by the cancellation date; (10) delete the term "marketable potatoes" and all reference thereto from the policy; (11) add a definition for the term "ASCS"; and (12) redefine "County" to provide that land identified by the same ASCS Farm Serial Number and located outside the county and within the State will be included in the county. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: February 15, 1986.

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 1512–1. 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 October 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 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) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

This program is listed in the Catalog of Federal Domestic Assistance under No. 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 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.

Since policy changes must be on file by February 15, 1986, good cause is shown for making this rule effective in less than 30 days.

Other than minor changes in language and format, the principal changes in the potato policy and in the certified seed potato option amendment are:

1. *Section 2.c.*—Change the method of calculating the insured's share of the indemnity on crops transferred before harvest. This limits indemnities to the insured's insurable interest at the time of loss.

2. *Section 7.b*—Add Alabama, New Jersey, and Texas for insurance coverage and provide end of the insurance period dates. Change the end of the insurance period for Delaware and Maryland from October 31 to August 15; Missouri from October 15 to July 15; North Carolina from October 15 to July 25; Virginia from October 15 to August 15; Nevada from October 15 to October 31. Add an end of insurance period of October 31 for Maine Russett type potatoes only and change the end of the insurance period for Maine (all other types) from October 31 to October 15. Change the end of insurance period of October 15 to October 10 for Nebraska and Wyoming. These date changes are made to reflect the harvesting periods for these areas.

3. *Section 8.a*—Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities more timely and efficiently.

4. *Section 9.e.*—Remove the word "marketable" and its related provision because it is no longer used in determining production.

5. *Section 15.c*—Amend the recordkeeping requirement to require a producer to furnish records by the cancellation date. This change will provide a more up-to-date coverage based on the producer's actual production.

6. *Section 15.e.*—Add a December 31 cancellation and termination date for Alabama and New Jersey and a November 30 cancellation and termination date for Texas. Change the cancellation and termination dates in

Delaware, Maryland, Missouri, North Carolina, and Virginia from April 15 to December 31. This change is made to conform to the insurance period.

7. *Section 17.*—Add a definition for the term "ASCS". Amend the "County" definition to state that land identified by the same ASCS Farm Serial Number and located outside the county but within the State will be included in the county.

8. Add a Quality Potato Option Amendment to 7 CFR Part 422 applicable on an experimental basis.

On Thursday, December 19, 1985, FCIC published a Notice of Proposed Rulemaking in the Federal Register at 50 FR 51687, to revise and reissue the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1986 and succeeding crop years in all states, except Florida and certain California counties, and for the 1987 and succeeding crop years the remaining California counties and Florida. The public was given 30 days in which to submit written comments on the proposed rule. One comment was received from a reinsured company which noted that the proposed rule indicated changes in the end of insurance period in a number of states to more nearly reflect the harvesting periods for these states. The comment suggested that FCIC change the end of insurance period for Nebraska and Wyoming from October 15 to September 15 to reflect harvesting time. The commenter stated that (1) the average freeze date was September 19; (2) because of the price elections offered insureds are encouraged to leave potatoes in the ground beyond the freeze date; and, (3) producers should be encouraged to plant varieties of potatoes that would be ready for harvest ahead of the freeze date. Therefore, the commenter states that an unnecessary risk is assumed because of the liability involved on potatoes in Nebraska and Wyoming.

FCIC reviewed the end of insurance period schedule for Nebraska and Wyoming and the reasons submitted for change. An average of freeze dates for 1974 through 1985 indicated that the earliest freeze occured on September 20, 1983 and the latest occured on October 22, 1981. FCIC has determined that, while this suggestion has merit, the September 15 date is inappropriate, and will move the end of insurance period to October 10, the average freeze date for 1974 through 1985.

FCIC, at a Board of Directors meeting held on January 8–9, 1986, determined to expand potato crop insurance into selected counties in Alabama and Texas. Therefore, FCIC has determined to allow more than the proposed selected counties to be eligible under the Quality Potato Option Amendment. FCIC, therefore, removes the reference to the list of counties published in the proposed rule. These changes are reflected in this rule. Therefore, with the exception of these and other minor changes in language and format, the proposed rule as amended above is adopted as a final rule.

List of Subjects in 7 CFR Part 422

Crop insurance, Potatoes.

Final 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 revises and reissues the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1986 and succeeding crop years in all states, except certain California counties and Florida, and for 1987 and succeeding crop years in the remaining California counties and Florida, to read as follows:

PART 422—POTATO CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years (1987 and Succeeding Crop Years in Certain California Counties and Florida)

Sec.

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

Subpart—Regulations for the 1986 and Succeeding Crop Year (1987 and Succeeding Crop Year in Certain California Counties and Florida)

§ 422.1 Availability of potato crop insurance.

Insurance shall be offered under the provisions of this subpart on potatoes 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.

§ 422.2 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 potatoes which will be included in the actuarial table on file in the applicable 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.

§ 422.3 OMB control numbers.

The OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 422.4 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.

§ 422.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the potato insurance contract, whenever:

(a) An insured 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 is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured 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 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 shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 422.6 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 potato crop as provided in the policy. The contract shall consist of the application, the policy, the Certified Seed Potato Option Amendment, if applicable, the Quality Potato Option Amendment, if applicable, 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.

§ 422.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the potato crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales 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 sales closing date for submitting applications 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 selectively will result during the extended period.

However, if adverse conditions should develop during the 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 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a potato insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 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 Potato Crop Insurance Policy for the 1986 and succeeding crop years (1987 and succeeding crop years in certain California counties and Florida) are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Potato—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) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are expected, excluded, or limited by the actuarial table or section 9e(5).

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

(1) Damage that occurs or becomes evident after the potatoes have been placed in storage;
(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;
(3) The failure to follow recognized good potato irrigation practices;
(4) The failure or breakdown of irrigation equipment or facilities;
(5) The failure to follow recognized good potato farming practices;
(6) The impoundment of water by any governmental, public, or private dam or reservoir project; or
(7) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and share insured.

a. The crop insured will be potatoes planted for harvest as certified seed stock or for human consumption, 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 potatoes 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 is your share as landlord, owner-operator, or tenant in the insured potatoes at the time of each planting period. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or
(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Planted with noncertified seed unless allowed by the actuarial table;
(2) Which does not meet the rotation procedures required by the actuarial table;
(3) Where 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 nonirrigated by reporting it as insurable under section 3;
(5) Which is destroyed, it is practical to replant to potatoes, and such acreage is not replanted;
(6) Initially planted after the final planting date set by the actuarial table unless you agree, in writing, on our form to coverage reduction;
(7) Of volunteer potatoes;
(8) Planted to a type or variety of potatoes not established as adapted to the area or excluded by the actuarial table;
(9) Planted with a crop other than potatoes; or
(10) Planted for the development or production of hybrid seed or for experimental purposes.

e. If insurance is provided for an irrigated practice, 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 potato irrigation practice.

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, and practice.

You must report at the time of each planting period on our form:

a. All the acreage of fall, winter, spring, and summer-planted potatoes 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 potatoes planted in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, for each planting period, the insured acreage, share, and practice or we may deny liability on any unit for any planting. 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 do not elect a coverage level.

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

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 potato 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 policy in effect for the 1984 crop year.

(4) Once the loss ratio exceeds .80, no further premium reduction will apply.

(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 any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the potatoes are planted (in Alabama, California and Florida insurance attaches when the potatoes are planted in each planting period).

b. Insurance ends at the earliest of:

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

(2) Harvesting or removal from the field;

(3) Final adjustment of a loss;

(4) The following dates of the calendar year in which potatoes are normally harvested:

(a) Missouri and Texas—July 15;

(b) North Carolina—July 25;

(c) Delaware, Maryland, New Jersey and Virginia—August 15;

(d) Alaska—October 1;

(e) Nebraska and Wyoming—October 10;

(f) Connecticut, Massachusetts, Nevada, New York, and Pennsylvania—October 31;

(g) Idaho, Maine, Oregon, and Washington, (Russet type only)—October 31;

(h) All other states (except Alabama, California and Florida) and all other types—October 15;

(i) Alabama, California and Florida, the dates established by the actuarial table for each planting period.

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 potatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(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 potatoes and given written consent. We will not consent to another use until it is too late to replant for that planting period. You must notify us when such acreage has been put to another use.

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

(3) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested potatoes (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, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the potatoes on the unit;

(b) Harvest of the unit; or

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

b. We must be given the opportunity to inspect any harvested production on any unit for which you have given notice of probable loss if such production will not be delivered directly to a processing plant.

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

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

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 potatoes 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 idemnity unless you:

(1) Establish the total production of potatoes 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) Substracting therefrom the total production of potatoes 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 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, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

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

(1) The extent of any loss may be determined at the time the potatoes are placed in storage or delivered to a processor.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(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) Not less than the guarantee for any acreage from which the harvested production is disposed of without our prior written consent and such disposition prevents accurate determination of production; and

(d) Any appraised production on unharvested acreage.

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

(a) Not put to another use before harvest of potatoes becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

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

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

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless all policy provisions are complied with.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure

to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

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 potatoes are planted for any crop year, any indemnity will be paid to the persons determined 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 the amount:

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

(2) 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 the fire and after the fire.

10. Concealment of 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 prescribed 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 right. 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 expensse, 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 potatoes produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. 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. Prior to the cancellation date you must:

(1) Furnish to us, satisfactory production records for the crop year or the contract will be cancelled for the next crop year; or

(2) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood, or other natural disaster. (If this subsection (2) applies, the Field Actuarial Office may assign a yield for the year for which the records are unavailable.)

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 if deducted from:

(1) An indemnity will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida and all Florida counties lying south thereof.	September 30
Contra Costa, San Joaquin, Calaveras, and Alpine Counties, California and all California counties lying south thereof; and Texas.	November 30
Alabama; Delaware; Maryland; Missouri; New Jersey; North Carolina; Virginia; and all other Florida counties.	December 31
All other California 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 5 consecutive years.

16. Contract changes.

We may change any terms 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:

a. June 30 prior to the cancellation date for counties with a September 30 cancellation date;

b. September 30 preceding the cancellation date for counties with a November 30 or December 31 cancellation date; or

c. December 31 preceding the cancellation date for counties with an April 15 cancellation date.

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

17. Meaning of terms.

For the purposes of potato 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 potato insurance in the county.

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

c. "County" means:

(1) The county shown on the application;

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

(3) Any land identified by the same ASCS farm serial number for the county but physically located in another county within the State.

d. "Crop year" means the period within which the potatoes are normally grown and is designated by the calendar year in which the spring-planted potatoes are normally harvested.

e. "Harvest" means the digging of potatoes 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. "Loss ratio" means the ratio of indemnity to premium.

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

j. "Planting period" means potatoes planted within the dates set by the actuarial table, as fall-planted, winter-planted, spring-planted, or summer-planted

k. "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.

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

m. "Unit" means all insurable acreage of potatoes 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 owed 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 potatoes 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. 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 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.

§ 422.8 Certified seed potato option amendment.

(a) Notwithstanding the provisons of § 422.7(d)(9)(e) of this part, an insured producer may, upon submission and approval of a Certified Seed Potato Option Amendment elect to insure all of the insurable acreage of potatoes grown for certified seed in which the insured has a share, under the provisions of the Certified Seed Potato Option Amendment. To be eligible for this amendment:

(1) Insurance must be in effect under the provisions of the potato policy,

(2) All potatoes grown for seed must be insured;

(3) The insured must be a certified seed producer having acceptable production records; and

(4) The management practices required for the production of certified seed potatoes as stated in the amendment must be met.

The Certified Seed Potato Option Amendment shall be applicable only for one crop year. A new amendment must be submitted for each subsequent crop year.

(b) For those insureds who elect to insure potatoes under this Amendment, all provisions of the Potato crop insurance policy shall apply except those in conflict with the amendment. The terms of the amendment are:

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Potato Crop Insurance Policy

Certified Seed Potato Option Amendment

Insured's Name _____
Address _____
_____
Contract No. _____
Crop Year _____
Identification No. _____
SSN ___ Tax ___ _____

When you submit this Amendment each crop year on or before the final date for accepting applications and we approve such amendment, your insurable acreage of potatoes grown for certified seed will be insured, if:

1. You are currently insured under the potato insurance program;

2. All potatoes which are grown for certified seed on insurable acreage are insured;

3. You are a person whose potatoes have qualified for entry into the Certified Seed porgram for the previous 3 years. (After initial approval, you will be exempt from this requirement provided you have discontinued participation in the program for not more than one crop year out of any three consecutive crop years);

4. You provide acceptable records of your certified seed potato acreage and production for at least the previous 3 years;

5. Potatoes for seed are not grown on the same land on which potatoes of the same variety as the seed potatoes have been grown more than 2 years out of the preceding 4 years;

6. Elite or high-grade foundation seed potatoes or seed potatoes having a winter test reading of not more than 3 percent common virus are used in planting; and

7. Your acreage insured for certified seed production is managed in accordance with standard practices and procedures required for certification as prescribed by the certifying agency and applicable state regulations regarding seed potato certification.

Your production guarantee and premium rate will be provided by the actuarial table for certified seed potatoes. If, due to insurable causes occurring within the insurance period, potato production will not qualify as certified seed on any insured certified seed potato acreage within a unit, we will pay you one dollar ($1.00) per cwt., times your production guarantee for such acreage, times your share. Any production which will not qualify as certified seed because of your failure to carry out the standard practices and procedures required for certification will be considered lost due to uninsured causes.

Insurable acreage grown under the provisions of this amendment may be designated as a separate unit.

Any claim for indemnity on a unit must be submitted to us on our form no later than 10 working days after you receive your records from the certification agency.

All provisions of the potato policy not in conflict with this amendment are applicable.

This amendment is not continuous. A new amendment must be submitted each crop year to take advantage of the certified seed potato option.

The insured estimates that the Certified Seed Potato Acreage for the____ crop year will be ____

Insured's Signature _____
Date _____

Corporation Representative's Signature and Code Number _____
Date _____

Field Actuarial Office Approval _____
Date _____

Following is the Privacy Act Statement found on the reverse side of the Certified Seed Potato Option Amendment:

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring potatoes under the Potato Crop Insurance Regulations (7 CFR Part 422). The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process the amendment to insure certified seed potatoes, determine the correct premium and indemnity, and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies if litigation becomes necessary, a court in response to its orders, an administrative tribunal, or opposing counsel as evidence in the course of litigation.

Furnishing the Social Security Number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security Number, is also voluntary; however, failure to furnish the correct, complete information requested, except the Social Security Number, may result in rejection of the amendment for insuring certified seed potatoes, and/or subsequent denial of any

claim for indemnity which may be filed under such amendment or may substantially delay acceptance of the Certified Seed Potato Option Amendment, and any subsequent claim for indemnity.

§ 422.9 Quality potato option amendment.

(a) Notwithstanding the provisions of § 422.7(d)9.e of this part, an insured producer may, upon submission and approval of a Quality Potato Option Amendment (Amendment), elect to insure all insurable acreage of potatoes under this Amendment. The Amendment is not continuous and a signed Amendment must be submitted to an FCIC representative on or before the final date for accepting application for each year the insured wishes to insure potatoes under this Amendment.

(b) For those insureds who elect to insure potatoes under this Amendment, all provisions of the potato crop insurance policy will apply except those in conflict with the Amendment. The terms of the Amendment are:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Potato Crop Insurance Policy Quality Potato Option Amendment

Insured's name

Address

Contract No.

Crop Year

Identification No.

SSN

Tax

Upon our approval this amendment is applicable for the 1986 crop year.

1. A signed Quality Potato Option Amendment will be submitted to us on or before the final date for accepting applications for each crop year you wish to insure your potatoes under this amendment.

2. You must have a Federal Crop Insurance Potato Policy (Basic Policy) in force. The basic policy provides guaranteed protection on a hundredweight basis only.

3. All acreage of potatoes insured under the basic policy must be insured under this amendment.

4. Failure to submit a quality option for the crop year will result in your potatoes being insured under the terms and conditions of the basic policy.

5. In addition to subsection 9.e. of the basic policy, the total production (hundredweight) to be counted for a unit will include all harvested and appraised production as follows:

a. The production to count for any unharvested appraised mature production will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better, by the percentage factor, and multiplying the result, not to exceed 1.000, by the number of hundredweight of such potatoes.

b. The production to count for any potatoes stored:

(1) Without an acceptable inspection will be 100 percent of the gross weight; or

(2) With an acceptable inspection will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better, by the percentage factor, and multiplying the result, not to exceed 1.000, by the number of hundredweight of stored potatoes.

c. Any sold production which due to insurable causes, contains a portion of potatoes which grade less than U.S. NO. 2* will be determined by dividing the actual percentage of potatoes grading U.S. No. 2* or better, by your percentage factor, and multiplying the result, not to exceed 1.000, by the hundredweight of sold potatoes.

6. "Percentage factor" means your actual average percentage of potatoes grading U.S. No. 2* or better, determined from your records. If more than four continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed ten years. If less than four years of records are available, the percentage factor will be the one contained on the actuarial table. The Actuarial Table may provide for percentage factors by type.

7. Your premium rate for quality potatoes will be set by the Actuarial Table.

*The actuarial table may provide U.S. No. 1 or better.

Insured's Signature

Dates

Corporation Representative's Signature And Code Number

Dates

Following is the Privacy Act Statement found on the reverse side of the Quality Potato Option Amendment:

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring quality potatoes under the Potato Crop Insurance Regulations (7 CFR part 422). The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process the amendment to insure quality potatoes, determined the correct premium and indemnity, and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies, a court in response to its orders, an administrative tribunal, or opposing counsel as evidence in the course of litigation.

Furnishing the Social Security Number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security Number, is also voluntary; however, failure to furnish the correct, complete information requested, other than the Social Security Number, may result in rejection of the amendment for insuring quality potatoes, and subsequent denial of any claim for indemnity which may be filed under such amendment or may substantially delay acceptance of the Quality Potato Option Amendment, and any subsequent claim for indemnity.

Done in Washington, D.C., on January 22, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-3239 Filed 2-14-86; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 443

[Docket No. 0062A]

Hybrid Seed Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Hybrid Seed Crop Insurance Regulations (7 CFR Part 443), effective for the 1986 and succeeding crop years. The intended effect of this rule is to: (1) Require timely planting of the male seed; (2) limit the insured's share of an indemnity on crops transferred before harvest; (3) provide both a coverage reduction and a reduction in the amount of insurance when the acreage of the female seed is planted after the final planting date; (4) change to the dollar value per bushel of production for each type and variety to determine coverage; (5) remove the provision for determining production guarantees from the policy; (6) clarify when insurance by type and variety will attach; (7) shorten the length of time an insured has to give notice when claiming an indemnity; (8) change the method of computing indemnities for production; (9) change the method of computing indemnities when acreage, share, or practice is underreported; (10) add a clause to limit the total insurability of the crop; (11) add definitions for "Approved yield", "ASCS", "Inadequate germination", "Loss ratio", "Non-seed production", "Sample", and "Seed production"; and (12) redefine "County" to provide that land identified by an ASCS farm serial number and located outside the county and within the State

will be included in the county. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: February 15, 1986.

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 1512-1. 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 October 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 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) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

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

This program is listed in the Catalog of Federal Domestic Assistance under No. 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, 1984.

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.

Since policy changes must be on file by February 15, 1986, good cause is shown for making this rule effective in less than 30 days.

Other than minor changes in language and format, the principal changes in the Hybrid Seed policy are:

1. Section 1.—Add a provision to require timely planting of the male seed before insuring against inadequate germination. This requirement will help assure adequate pollination of the female plant.

2. Section 2.—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss.

Delete "coverage reduction" and add "reduction in the dollar amount of insurance" to provide both a coverage reduction and a reduction in the amount of insurance.

Delete "average yield" and add "dollar value per bushel of production for each type and variety." This change will enable FCIC to determine the coverage for the producer.

3. Section 4.—Delete the production guarantee provisions from the section. This change will allow the dollar value to be used in determining the amount of insurance.

4. Section 7.—Clarify that insurance attaches for each type and variety when both the male plant seed and the female plant seed of that type and variety are planted in accordance with the production management practices of the seed company, provided that the female plant seed for the type and variety is planted not later than the final planting date shown in the actuarial documents. This change will clearly state when insurance by type and variety will attach.

5. Section 8.—Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This change allows FCIC to determine indemnities in a more timely fashion.

6. Section 9.—Change the method of computing the indemnity because the production guarantee has been taken out of the policy. This change will allow the dollar amount obtained by multiplying seed production to count for each type and variety by the respective dollar value per bushel of production in determining the indemnity.

When acres are underreported, the production from all acres will count against the reported acres in calculating indemnities. This change will reduce the amount of indemnities when acres are underreported.

Delete "production guarantee" and add "the dollar amount of insurance".

Add a clause to limit the total insurability of the crop. This change will allow FCIC to consider the fair market value of production on the unit before the loss to the limited to 1½ times the highest price election available.

7. Section 17.—Add definitions for "Approved yield", "ASCS" "Inadequate germination", "Loss ratio", "Non-seed production", "Sample", and "Seed production".

Amend the "County" definition to clarify that land identified by an ASCS farm serial number and located outside the county and within the State will be included in the county.

On Thursday, January 9, 1986, FCIC published a Notice of Proposed Rulemaking in the **Federal Register** at 51 FR 961, to revise and reissue the Hybrid Seed Crop Insurance Regulations (7 CFR Part 443), effective for the 1986 and succeeding crop years. The public was given 30 days in which to submit written comments on the proposed rule. One comment was received from the American Seed Trade Association (ASTA) and six letters from various seed companies. The comments from the seed companies were in the form of a statement and all copies were identical. These are treated below as one comment for the purpose of this rule. FCIC herein addresses comments on those provisions appearing in the notice of proposed rulemaking. Other comments on the provisions of the hybrid seed insurance program in general, not contained in the proposed rule, or comments in agreement with the proposed rule, will not be addressed.

FCIC has reviewed each item on the statement and herewith provides its response:

1. *Comment:* Section 1.b. appears to have a typographical error by using the word "germination" instead of "pollination."

FCIC response: The word "germination" is used because FCIC guarantees the *germination* of hybrid seed produced by the female plant. Therefore, this suggestion is not adopted.

2. *Comment:* Disagreed with the provision in section 1.b.(9) disallowing insurance coverage for the failure to follow good hybrid seed irrigation practices, stating that this would not cause a problem unless the crop had been destroyed and the grower still expected to irrigate the crop.

FCIC response: If the crop is destroyed it would not make any difference if the crop is irrigated or not, but, if only partially destroyed, the remaining crop will require adequate irrigation to produce a normal crop on the remaining plants. This provision is therefore unchanged.

3. *Comment:* Delete "Coverage reduction" in section 2.e.(9) and add "reduction in the dollar amount of

insurance" to provide both a coverage reduction and an amount of insurance.

FCIC response: The Corporation feels the $400.00 per acre is an adequate amount of insurance for female acres planted. If the male acreage was also insured, the dollar amount of insurance would have to be adjusted downward to reflect the lower value of production (if any) produced by the male plants. This suggestion was not accepted.

4. *Comment:* Delete the production guarantee provisions from section 4. The change would allow the dollar value to be used in determining the amount of insurance. Add "Growers will have their approved yields before sales closing for the crop. Any yields determined after sales closing may terminate the insurance if not approved by the grower." This will allow each grower to know what the guarantee is.

FCIC response: This will be addressed in procedure. The producer will be informed what the production guarantee and dollar value per bushel is, as soon as the seed company provides records of production to the Field Actuarial Office from which the average yield for the variety of hybrid seed will be determined. The suggestion is not adopted.

5. *Comment:* Change the billing date from October 1 to September 1. When the insured reports a loss it may take up to 60 days to finalize the claim. When the claim is finalized most of the time there is interest attached. If the billing date was thirty days earlier and the premium paid, it would prevent over or under paid indemnities.

FCIC response: The billing dates for all spring planted crops are set for uniformity, therefore, the billing date will remain October 1, the same as other spring planted crops. Further, the insurance contract provides that the premium is due and payable when insurance attaches at planting or seeding. At the time of billing, an additional 30 days is provided before interest attaches. For these reasons, the suggestion is not adopted.

6. *Comment:* Change the provision in section 8 requiring notice at least 15 days before the beginning of harvest if the producer anticipates either a germination of less than 80 percent or a loss on any unit. Change to read 85 percent warm test; 80 percent could be an acceptable germination standard if the test was to be a cold test; 80 percent warm test is 10 to 12 percent lower than the industry standard.

FCIC response: The 80 percent germination was put in place to be a very limited quality provision with the anticipation that it would provide protection only in the case of a disastrous freeze. In a separate letter to ASTA, FCIC agreed that the basis for establishing yield and calculating a loss should be the same and wording has been added to this section to provide that when determining quantity FCIC will use the company accepted record when such record is on the same basis as the dollar value per bushel was determined. The germination conditions will be monitored in the future by FCIC, however, for the purposes of this rule, the suggestion to change the 80 percent germination figure is not accepted.

7. *Comment:* Recommend that Section 8.a.(3) requiring a representative sample be left in the field if a probable loss is late determined. Comments suggested that leaving the sample in the field invites more risk of damage; that harvesters may have to travel many miles to return to the fields where the strips are located; and, that genetically impure seeds may result from leaving such sample in the fields.

FCIC response: If the seed is good, the company will accept and harvest and FCIC will determine the germination from a sample taken at the time of delivery. If, however, the seed is rejected by the company before harvest, FCIC will need that 15 days to take and analyze a sample to determine germination in order to calculate a loss. Therefore, this suggestion is rejected.

8. *Comment:* Add "as seed production" to the provision in section 9.e.(1)(a)(i) because corn delivered to the seed company may also contain stalk parts and other "non-production".

FCIC response: Section 9.c. was added to the rule to provide for this problem, therefore, the suggestion is not necessary.

9. *Comment:* Objected to the lowering of the weight increase from 2.0 to 1.5 pounds for each percentage point of moisture in excess of 14 percent when measuring the weight of ear corn (70 pounds of ear corn equaling 56 pounds of shelled corn).

FCIC response: This level has been established at 2.0 pounds of weight increase for each percentage point of moisture in excess of 14 percent, as recommended.

Comment: FCIC has been requested to implement a hybrid seed program for grain sorghum in selected counties.

FCIC response: FCIC's Board of Directors has determined that no new programs of crop insurance will be initiated prior to October 1, 1986. Further consideration to this request will be given when this new program constraint is lifted.

Therefore, with the exception of minor changes in language and format, and in consideration of the comments addressed herein, the proposed rule as published at 51 FR 961 is adopted as a final rule.

List of Subjects in 7 CFR Part 443

Crop insurance; Hybrid seed.

Final 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 revises and reissues the Hybrid Seed Crop Insurance Regulations (7 CFR Part 443), effective for the 1986 and succeeding a crop years, to read as follows:

PART 443—HYBRID SEED CROP INSURANCE REGULATIONS

Subpart: Regulations for the 1986 and Succeeding Crop Years

Sec.

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

§ 443.1 Availability of hybrid seed crop insurance.

Insurance shall be offered under the provisions of this subpart on hybrid seed in counties within 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.

§ 443.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverage levels, and amounts of insurance for hybrid seed which will be included in the actuarial table in file in the applicable 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 an amount of insurance per acre and a coverage level from among those levels and amounts shown on the actuarial table for the crop year.

§ 443.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 443.4 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 benefits under the contract.

§ 443.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Hybrid Seed insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation of 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 is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured 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 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 shall be granted relief the same as if otherwise entitled thereto.

Requests for relief under this section must be submitted to the Corporation in writing.

§ 443.6 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 hybrid seed crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. 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.

§ 443.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the hybrid seed crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales 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 sales closing date for submitting applications 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 extended period. 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 polices issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a hybrid seed insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 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 Hybrid Seed Crop Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Hybrid Seed 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) If applicable, 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 use of unadapted, incompatible or genetically deficient male or female seed;

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

(3) The failure to follow recognized good farming practices or the grower provisions of the seed contract;

(4) The impoundment of water by any governmental, public, or private dam or reservoir project;

(5) Frost or freeze after the date set by the actuarial table;

(6) Inadequate germination even though a result of an insured cause of loss unless inspected and accepted by us before harvest is completed;

(7) Inadequate germination caused by the failure to plant the male seed at a time sufficient to assure adequate pollination of the female plant;

(8) The failure or breakdown of irrigation equipment or facilities;

(9) The failure to follow recognized good hybrid seed irrigation practices; or

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

2. Crop, Acreage, and Share Insured.

a. The crop insured will be any type of female seed ("crop") you elect:

(1) Which is planted for harvest and the production is intended for the purpose of commercial seed to produce a type of the crop for grain or silage;

(2) Which is grown under a contract executed with a seed company before the acreage reporting date;

(3) Which is grown on insured acreage; and

(4) For which an amount of insurance per acre and premium rate are set by the actuarial table.

b. An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and which provides for delivery of the crop under certain conditions and at a stipulated price will be treated as a contract under which you have the share in the crop.

c. The acreage insured for each crop year will be the crop 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.

d. The insured share is your share as landlord, owner-operator, or tenant in the insured crop at the time of planting.

However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

e. We do not insure any acreage:

(1) Which is destroyed, it is practical to replant the crop, and such aceage is not replanted;

(2) If 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) On which the female seed is initially planted after the final planting date set by the actuarial table unless you agree, in writing, on our form to reduction in the dollar amount of insurance;

(5) Of a volunteer crop;

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

(7) Planted with another type of crop;

(8) Occupied by rows planted with a mixture of female and male seed;

(9) Planted and occupied by the male plants;

(10) Planted for experimental purposes;

(11) Planted for any purpose other than for commercial seed; or

(12) Grown under a contract with any seed company and that seed company refuses to provide us with the records we require to determine the dollar value per bushel of production for each type and variety.

f. If insurance is provided for an irrigated practice 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 crop irrigation practice.

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, Type, and Practice.

You must report on our form:

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

b. The practice;

c. The type; and

d. 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 acreage of the insured crop 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 submit 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, practice, and type or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Coverage Levels and Amounts of Insurance.

a. The amounts of insurance and coverage levels are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and the amount of insurance per acre on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the amount of insurance per acre 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 insuring experience through the 1983 crop year under the terms of the experience table contained in the hybrid seed policy in effect 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 policy in effect for the 1984 crop year;

(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 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 for each type and variety when both the male plant seed and the female plant seed of that type and variety are completely planted in accordance with the production management practices of the seed company, provided that the female plant seed for the type and variety is planted not later than the final planting date shown in the actuarial documents. Insurance terminates at the earliest of:

a. Total destruction of the crop;

b. Combining, threshing, or picking;

c. Final adjustment of a loss; or

d. The calender date established by the acturial table.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us prompt written notice if:

(a) During the period before harvest, the crop 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 crop 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 has been put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate either a germination rate of less than 80 percent or a loss on any unit.

(3) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative area of the field of the unharvested crop (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 area.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the crop on the unit;

(b) Harvest of the unit; or

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

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

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

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 crop 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 for the type and variety of the crop on the unit at the time of harvest 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 amount of insurance per acre;

(2) Subtracting from this product the sum of:

(a) The dollar amount obtained by multiplying seed production to count for each type and variety (see section 9e) by the respective dollar value per bushel of production plus;

(b) The dollar amount obtained by multiplying non-seed production to count (see section 9e) by the local market price of such production on the earlier of the date the loss is adjusted or the date such production is sold; and

(3) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the amount of insurance on the unit will be computed on the information reported, but the value of all production from insurable acreage, whether or not reported as

insurable, will count against the amount of insurance.

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

(1) For crop type field corn:

(a) Total seed production to count will include:

(i) All corn delivered to and accepted by the seed company;

(ii) All corn which would pass over 16/64 screen unless the germination rate is less than 80 percent warm test as determined by a certified seed test conducted from a clean sample taken at the time of delivery or if the mature corn is appraised, at the time of appraisal; and

(iii) All harvested and appraised production which does not qualify under (i) and (ii) above because the damage was caused by uninsured causes.

(b) For the purpose of determining the quantity of mature production:

(i) Shelled corn will be adjusted .12 percent for each .1 percentage point of moisture to 15.5; and

(ii) Ear corn will be measured at 70 pounds of ear corn equaling 56 pounds (one burshel) of shelled corn. The weight of ear corn required to equal one bushel of shelled corn will be increased 2.0 pounds for each percentage point of moisture in excess of 14 percent.

(c) When records of seed production, provided by the seed company, have been adjusted to a shelled corn basis of 15.5 percent moisture, and 56-pound test weight (b) above will not apply for harvested production and the records of the seed company will be used to determine the amount of indemnity; provided, that such production records were based on the same criteria as the criteria used to determine the dollar value per bushel.

(2) Appraised production to count as seed production will include:

(a) Unharvested production on harvested acreage and the percent of the approved yield lost due to uninsured causes;

(b) Not less than the dollar amount of insurance 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 appraisal on non-mature production; and

(d) Any appraised production on unharvested acreage.

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

(a) Not put to another use before harvest of the crop becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

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

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

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, it the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

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 crop is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other insurance against the perils insured under this contract and damage as a result of those perils occurs during the insurance period, we will be liable for loss due to those perils only for the smaller of the amount:

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

(2) By which the loss from those perils exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from those perils will be the difference between the fair market value of the production on the unit before the loss and after the loss. The fair market value of production on the unit before the loss is limited to 1½ times the highest price election available.

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 or the seed company 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.)

Becuse 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 right. 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 paid to you.

14. Records and Access to Farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all of the crop produced on each unit, including separate records showing the same information for production for any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. 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 to the other 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 if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) A payment under another program administered by United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract 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 5 consecutive years.

16. Contract changes.

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

17. Meaning of terms.

For the purposes of hybrid seed 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 coverage levels, premium rates, amounts of insurance, practices, insurable and uninsurable acreage, and related information regarding hybrid seed insurance in the county.

b. "Approved yield" means the result obtained by dividing the amount of insurance per acre by the dollar value per bushel of production.

c. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

d. "Commercial seed" means the offspring of two individual seeds of different genetic character which is produced as a result of crossing. A portion of this resultant offspring is the product intended for the purpose or use on a commercial basis by an agricultural producer to produce a field crop type for grain or silage.

e. "County" means:

(1) The county shown on the application;

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

(3) Any land indentified by the same ASCS farm serial number for the county but physically located in another county within the State.

f. "Crop year" means the period within which the crop is normally grown and is designated by the calendar year in which the crop is normally harvested.

g. "Female plant" means the plants grown for the purpose of producing commercial seed.

h. "Harvest" means the completion of combining, threshing, or picking of the crop on the unit.

i. "Inadequate germination" means less than 80 percent of the seed produced from female plants germinated as determined by a warm test using clean seed.

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

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

l. "Loss ratio" means the ratio of indemnity to premium.

m. "Male plant" means the plants grown for the purpose of shedding pollen on female plants.

n. "Non-seed production" means all seed with inadequate germination. (Designation as non-seed production under this definition may be production to count under section 9 through appraisal if the inadequate germination was due to an uninsurable cause. (See 9e(2)(a)).

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

p. "Sample" means at least 3 pounds of shelled corn representative (field run) for each variety of seed corn grown on the unit.

q. "Seed company" means a company which contracts with a grower to produce or grow for the production of hybrid seed.

r. "Seed production" means all seed with a germination rate of at least 80 percent on a warm test using clean seed.

s. "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.

t. "Shelled-corn" means the grain (corn) after its removal from the cob.

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

v. "Type" means the crop grown: i.e., corn, grain sorghum, sunflower, popcorn, etc.

w. "Unit" means all insurable acreage of any one of the crop types 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 crop 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. 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.

x. "Variety" means the seed produced from a pair of genetically identifiable parents.

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.

Done in Washington, DC, on February 11, 1986.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-3440 Filed 2-14-86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 626]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 626 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period February 14–20, 1986. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 626 (§ 907.926) is effective for the period February 14–20, 1986.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–475–3919.

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

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby

found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1985–86 adopted by the Navel Orange Administrative Committee. The committee met publicly on February 11, 1986, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for fresh navel oranges continues weak. The regulation is needed to continue providing stability in the market and promote orderly marketing.

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

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

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

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

2. Section 970.926 Navel Orange Regulation 626 is hereby added to read:

§ 907.926 Navel Orange Regulation 626.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 14, 1986, through February 20, 1986, are established as follows:

(a) District 1: 1,400,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons.

Dated: February 12, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–3438 Filed 2–14–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–98–AD; Amdt. 39–5238]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The amendment adds a new airworthiness directive (AD) which requires modification of the counterbalance gearbox assembly on certain Boeing Model 767 entry/service doors. This action is prompted by reports of gearbox failure, which could prevent the door from opening when necessary for emergency evacuation.

DATES: Effective March 27, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Aerospace Engineer, Airframe Branch, ANM–120S; telephone (206) 431–2931. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require modification of the counterbalance gearbox assembly on certain Boeing Model 767 entry/service doors was published in the **Federal Register** on October 21, 1985 (50 FR 42565).

The comment period for the NPRM, which ended December 9, 1985, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Only one comment was received.

The Air Transport Association (ATA) of America, representing operators of Boeing Model 767 airplanes, noted that the proposed compliance period of six months after the effective date of the AD is unrealistic, since the last replacement kit is not scheduled for completion until June 15, 1986, and since the modifications can only be effectively accomplished at the operators' main base facilities. The ATA also noted that an inoperative brake mechanism would be first detected during normal door usage and be corrected at that time, and the probability of a brake shoe support arm failure occurring during an emergency mode operation is extremely remote. In consideration of the above factors, the ATA considers that the safety of flight would not be compromised if the compliance period were extended to 12 months. In consideration of kit availability and the need to perform the modification at the operators' main base facilities, the FAA concurs with an extension of the compliance period. However, the compliance period has been revised from six months to nine months. It is estimated that the effective date of this AD will be in March 1986, and consequently, completion of the modification by December 1986 will not impose an undue hardship on any operator. Also, in response to the statement that failure would be detected during normal door operation, the FAA has determined that not all potential failures could be detected. For example, a disconnected brake shoe return spring that is loose could not be detected during normal operation, but could cause jamming of the gearbox at any time.

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

It is estimated that 58 airplanes of U.S. registry will be affected by this AD. Approximately 10 manhours at a cost of $40 per manhour will be required to modify each airplane. Parts will be furnished to operators at no cost in accordance with Boeing Service Bulletin 767–52–0029. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $23,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 767 series airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Adoption of the Amendment

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

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, as specified in Boeing Service Bulletin 767-52-0029 dated August 2, 1985, certificated in any category.

To assure proper entry/service door operation during emergency evacuation, accomplish the following within nine months after the effective date of this AD, unless previously accomplished:

A. Modify the counterbalance gearbox assemblies in accordance with Boeing Service Bulletin 767-52-0029 dated August 2, 1985, or later FAA-approved revisions.

B. An alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this proposal who have not already received copies of the manufacturer's service bulletin may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 27, 1986.

Issued in Seattle, Washington, on February 10, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-3361 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-22684A]

Freedom of Information Act; Public Reference Facilities in Regional Offices of the Commission; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendments; correction.

SUMMARY: This document corrects a final rule on public reference facilities in regional offices of the Commission that appeared at page 50286 in the **Federal Register** of December 10, 1985 (50 FR 50286). This action is necessary to correct a typographical error which inadvertently omitted the clause of the rule including among documents available in the public reference rooms in New York and Chicago registration statements and periodic reports filed pursuant to the Securities Exchange Act of 1934.

FOR FURTHER INFORMATION CONTACT: Jonathan G. Katz, Director, Office of Consumer Affairs and Information Services, (202) 272-7440.

Accordingly, the Securities and Exchange Commission is correcting 17 CFR 200.80(c)(1)(iii), introductory text, to read as follows:

§ 200.80 Commission records and information.

* * * * *

(c)(1) * * *

(iii) The New York and Chicago regional offices, microfiche of all recent registration statements filed pursuant to the Securities Act of 1933, registration statements and periodic reports filed pursuant to the Securities Exchange Act of 1934, and periodic reports filed pursuant to the Investment Company Act from 1969 to date are available for inspection and reproduction

* * * * *

Shirley E. Hollis,

Assistant Secretary.

February 6, 1986.

[FR Doc. 86-3365 Filed 2-14-86; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Release No. 34-22882; File No. S7-32-84]

Prompt Response to Inquiries Concerning Dividend and Interest Payments and the Buy-in of Securities in Cases of Actual Overissuance

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rules.

SUMMARY: The Securities and Exchange Commission is adopting amendments to regulations for registered transfer agents under the Securities Exchange Act of 1934 that are designed to enhance confidence in, and increase the efficiency of, the National System for the Clearance and Settlement of Securities Transactions (the "National System"). The amendments require registered transfer agents to respond promptly to written inquiries from securityholders respecting dividend and interest payments. The amendments also expand the period during which transfer agents must buy in securities in cases of actual overissuance.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ester Saverson, Jr. or Jerry Greiner at (202) 272-2775, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is adopting amendments to Rules 17Ad-5 and 17Ad-10 under the Securities Exchange Act of 1934 ("Act").[1]

I. Background

On October 4, 1984, the Commission proposed for comment revised amendments to Rule 17Ad-5 that would establish certain performance standards for registered transfer agents.[2] The proposed amendments, among other things, would require registered transfer agents to respond to written inquiries

[1] 17 CFR 240.17Ad-5 and 240.17Ad-10.

[2] *See* Securities Exchange Act Release No. 21374 (October 5, 1984), 49 FR 40416 (October 16, 1984) (hereinafter cited as "October 1984 Release"). In June 1983 the Commission proposed similar amendments to Rule 17Ad-5. *See* Securities Exchange Act Release No. 19861, 48 FR 28109 (June 20, 1983) (hereinafter cited as "June 1983 Release"). In reponse to modifications suggested by commenters to the June 1983 Release, the Commission revised those amendments and reproposed them in the October 1984 Release.

from securityholders respecting dividend and interest payments within specified time periods.

In response to suggestions by several transfer agents, the Commission also proposed amendments to Rule 17Ad–10 in the October 1984 Release. The proposed amendments to Rule 17Ad–10 would: (1) Expand the buy-in timeframe from within 30 calendar days of discovery to within 60 calendar days of discovery; (2) clarify the meaning of "discovery of the overissuance"; and (3) afford transfer agents additional time to buy in securities when they have obtained certain commitment letters.[3]

In response to the October 1984 Release, the Commission received 19 comment letters.[4] Although the commenters agreed generally that the proposals should be adopted, they made additional operational suggestions about the proposed rules. The Commission has determined to adopt the amendments of Rules 17Ad–5 and 17Ad–10 as proposed in the October 1984 Release, with some modifications to accommodate several commenter's suggestions.[5]

II. Amendments to Rule 17Ad–5

A. Written Responses to Dividend and Interest Inquiries

As adopted today, the amendments to Rule 17Ad–5 require registered transfer agents to respond to written inquiries from securityholders concerning dividend and interest payments, if the inquiries include sufficient detail.[6] A registered transfer agent must respond within ten business days to inquiries concerning payments with payment dates within the past six months. For inquiries concerning payments with payment dates more than six months old, the transfer agent must respond within twenty business days. The amendments require transfer agents to indicate whether further research is required to resolve the inquiry and, if so, to provide a reasonable estimation of how long that research will take. If no further research is required, the transfer agent must indicate whether the interest or dividend payment is being or will be paid and, if not, the reason for not making the payment. A transfer agent also must devote diligent attention to all unresolved inquiries and resolve all inquiries as soon as possible.

Finally, if the transfer agent receives an inquiry concerning a dividend or interest payment for which the transfer agent is not the dividend disbursing agent ("DDA") or interest payment agent ("IPA"), the transfer agent must respond to the inquiry and may do so by returning the inquiry with a response stating that the transfer agent is not the DDA or IPA for the security. If, however, the transfer agent performed DDA, IPA, or any transfer agent functions for that security issue within the preceding three years, the transfer agent must, within five business days of receipt of the inquiry, provide the inquirer with the name and address of the current DDA or IPA.

The Rule as adopted today incorporates several commenter suggestions. For example, several commenters believed the term "claim" was not sufficiently defined in proposed Rule 17Ad–5.[7] Those commenters noted that industry practice considers "dividend or interest claim" a term of art that includes only claims involving an insufficient dividend or interest payment and not claims for non-receipt of interest or dividend payments. The Commission believes that registered transfer agents should be required to respond to both types of claims. Accordingly, the Commission has revised the definitions of "current claim" and "aged claim" to clarify that transfer agents must respond to all inquiries respecting dividend or interest payments, including non-receipt inquiries.

Nine commenters believed that the proposed five-day response timeframe for current claims and fifteen-day response timeframe for aged claims were unduly restrictive, especially for claims including inquiries concerning non-receipt of dividend or interest payments.[8] Several commenters stated that current non-receipt inquiries often take longer than five days to process. Those commenters explained that, when an inquirer has cashed a payment, the transfer agent customarily resolves the inquiry by forwarding a copy of the canceled check to the inquirer. The commenters indicated that it regularly takes longer than five days to obtain a copy of a canceled check and forward it to the inquirer. Those commenters believed the five-day response time was unduly burdensome because it would cause transfer agents to send two responses: one to acknowledge the inquiry within the response timeframe and another to resolve the inquiry several days later.[9]

The Commission believes that the response times in Rule 17Ad–5 should balance the transfer agent's need for reasonable flexibility against a securityholder's need to receive prompt response to dividend and interest inquiries. For this reason, the Commission would be concerned if the time periods in the rule caused firms to prepare multiple responses on a routine basis because they were unable to obtain the information necessary to provide substantive responses within the prescribed periods. The Commission therefore is changing the response requirements of Rule 17Ad–5(e)(1) to ten business days for current claims and twenty business days for aged claims. Based upon the comment letters, the Commission believes these time frames generally should avoid the necessity of sending two responses within a brief time period to comply with the rule while still providing reasonably prompt responses to securityholders.

The Commission understands that some transfer agents periodically mail notices to securityholders that have not cashed dividend or interest payments.[10] The Commission also understands that other transfer agents and issuers make periodic mailings to locate "lost" securityholders. Those mailings may include as many as 10,000 notices and generate substantial numbers of securityholder inquiries. The Commission strongly encourages such mailings, and recognizes that application of the originally proposed five- and fifteen-day response times to

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[3] Certain technical amendments to paragraph (c) of Rule 17Ad–10 also were proposed in the October 1984 Release.

[4] Comments were received from the Depository Trust Company ("DTC"); Bank of Boston; Bank of New York; Comptroller of the Currency; Chevron Corporation; Bradford National Corporation; The Stock Transfer Association, Inc.; Merrill Lynch, Pierce, Fenner & Smith, Inc.; Midwest Clearing Corporation and Midwest Securities Trust Company; Norwest Banks; New England Power Service Company; Otter Tail Power Company; Western Stock Transfer Association, Inc.; The Southeastern Securities Transfer Association Inc.' American Stock Transfer, Incorporated; American Bankers Association; Stein Roe & Farnum; American Transtech; and Morgan Guaranty Trust Company of New York.

[5] In accordance with Section 17A(d)(3)(A)(i) of the Act, the Commission consulted with, and requested the views of, the federal bank regulatory agencies at least 15 days prior to this announcement.

[6] *See* Rule 17Ad–5(e)(3)(iii), which defines sufficient detail to include: the issue; the registered owner; the number of shares or principal amount of debt or number of units of the security; the approximate record or payment date related to the inquiry; and, depending on the status of the inquirer, certificate numbers related to the inquiry. *See* discussion *infra* at note 12.

[7] *See* File No. S7–32–84, letters from Southeastern Securities Transfer Association, Inc.; Western Stock Transfer Association, Inc.; American Trranstech; and the Stock Transfer Association, Inc.

[8] *See, e.g.*, comments of Bank of Boston; New England Power Service Company; Norwest Banks; Chevron Corporation and Western Stock Transfer Association.

[9] Also, one commenter indicated that it could adequately respond to approximately 70% of all current dividend and interest inquiries within the five-day time period for current claims. The remaining 30%, however, would require, on the average, seven days for an adequate response.

[10] *See, e.g.*, File No. S7–32–84, letter from Westinghouse Corporation.

resulting inquiries could prove burdensome. The Commission believes that the modified ten- and twenty-day response times should substantially ameliorate any burdens arising from these transfer agent-initiated inquiry programs. Nevertheless, in the event individual transfer agents believe these response limits could impose burdens on specific securityholder communications programs they conduct, the Commission believes it would be appropriate to grant relief from these responsibilities on a case-by-case basis.

Several commenters suggested that the rule define current claim and aged claim by reference to the dividend or interest payment date, instead of dividend or interest record date as proposed in the October 1984 Release. Those commenters indicated that most securityholders are more likely to know the payment date than the record date. The Commission agrees with the suggestion and is revising Rule 17Ad–5(e) (3) (i) and (ii) to depend on payment date instead of record date.

Two commenters indicated that their procedure for handling misdirected dividend and interest claims is to forward the inquiry to the current DDA or IPA and send a copy of the referral to the inquirer.[11] Those commenters believe that their procedure is more efficient than simply providing the name and address of the current DDA or IPA to the inquirer. The Commission agrees with that conclusion and believes that, provided the response to the inquirer includes the name and address of the current DDA or IPA, referring the inquiry to the current DDA or IPA is an acceptable method of complying with Rule 17Ad–5(e)(2).

In response to commenters' suggestions, the Commission also is changing the requirement to provide an inquirer whose inquiry is misdirected with the name and address of the current IPA or DDA. As proposed, the requirement would have been imposed on any transfer agent that performed IPA, DDA, or any transfer agent functions for the issue within the past five years. Commenters suggested that the five-year period was excessive because issuers may change interest paying or dividend disbursing agents numerous times over a five-year period. Those commenters suggested that a reduction in the five-year period would ease the research burden on the transfer agents that receive misdirected inquiries for issues the transfer agent is no longer servicing. As adopted, the requirement is imposed on any transfer agent that has performed IPA or DDA functions for the issue within the past three years.

B. Responses to Inquiries Containing Insufficient Detail

As proposed in the October 1984 Release, the amendments would have required transfer agents to confirm receipt of an insufficiently detailed inquiry and to respond to it. Some commenters expressed concern that the Rule might enable securities professionals, such as registered broker-dealers, registered clearing agencies and banks, to shift research burdens inappropriately to transfer agents, thereby avoiding the costs of researching their own records.[12]

The Commission has modified the proposal to address these concerns. As adopted, the amendments require transfer agents to respond to such inquiries within the required time frames in one of two ways: (1) by treating the inquiry in accordance with subparagraph (e)(1) as though sufficient detail had been provided, or (2) by requesting additional necessary detail. Although transfer agents are encouraged to respond to any inquiry lacking detail, the adopted amendments define "sufficient detail" narrowly, enabling transfer agents flexibility under subparagraph (e)(1) not to respond to inquiries that do not include applicable certificate numbers unless those inquiries come from persons who are not securities professionals.

C. Telephone Responses to Dividend and Interest Inquiries

As adopted, the amendments to Rule 17Ad–5 provide that a transfer agent may satisfy the written response requirements by telephone if: (1) the inquirer does not request a written response; and (2) if the telephone response resolves the inquiry. Moreover, a transfer agent may telephone an inquirer for additional information, but if such additional detail is not received within ten business days of the telephone request, the transfer agent must make a written request for the needed information.

Commenters overwhelmingly supported the provision for telephone responses as proposed in the October 1984 Release because it affords transfer agents common-sense flexibility in complying with the Rule, and might expedite inquiry responses. Some commenters, however, criticized the provision requiring transfer agents to follow-up a telephone request for information with a written request within ten business days.[13] These commenters complained that the provision places the responsibility for obtaining needed information on the transfer agent, rather than on the inquirer.

The Commission recognizes that a written follow-up requirement imposes some burdens on the transfer agent. The Commission is concerned, however, that where informed telephone communication has not provided information to resolve an inquiry within two weeks, that may reflect confusion or misunderstanding on the part of the inquirer. In those circumstances, a written follow-up creates a useful audit trail for the transfer agent and may well provide the inquirer a clear basis for providing the additional needed information.[14]

One commenter noted that, in some cases, the additional detail may cross in the mail with the follow-up written request, causing unnecessary confusion. The Commission recognizes that this may happen, but believes this risk of confusion is outweighed by the benefits of written clarification by the transfer agent and by the need for certainty that the inquirer has been contacted for the additional information.[15] For this reason, the Commission has retained the provision requiring a transfer agent to send a written follow-up request if the transfer agent does not receive the additional detail within ten business days of the telephone request.[16]

[11] *See* letters from of Morgan Guaranty Trust Company and Stock Transfer Association.

[12] One commenter feared that the amendment in practice might oblige a transfer agent to provide a securities professional with a transcript of its account without compensation. For example, a securities professional attempting to resolve apparent discrepancies in dividend and interest payments might seek to rely on the transfer agent to reconstruct its account rather than researching its own records to pinpoint the specific certificates, number of shares or dollar amounts that might be responsible for the discrepancies. Under the Rule as adopted, a transfer agent would not be obligated to produce a transcript of the account for a securities professional without compensation.

[13] *See* letters from Morgan Guaranty Trust Company and the Stock Transfer Association, Inc.

[14] The transfer agent, of course, may call the inquirer again before the end of the ten business day period to attempt to obtain the necessary information and thereby avoid sending a written request for the information.

[15] A written follow-up letter helps place an inquirer on notice that additional detail is needed before research can be completed. Once a request for additional detail is sent to an inquirer, a transfer agent need not conduct further research, respond to the inquiry or make another request for information until the inquirer responds to the transfer agent's request for additional detail.

[16] Two commenters asked about acceptable methods of documenting telephone responses. Although the present proposal does not establish specific recordkeeping requirements, the Commission does expect transfer agents to maintain

Continued

III. Amendments to Rule 17Ad–10

In the October 1984 Release, the Commission proposed for comment amendments to Rule 17Ad–10 that would expand the mandatory thirty-day buy-in time period and would clarify when the buy-in time clock starts to run.[17] Under proposed subparagraph (g)(1), transfer agents would have sixty days, instead of the current thirty days, to recover overissued securities before they are required to execute the buy-in. In addition, proposed subparagraph (g)(2) would grant a further thirty-day extension for execution of the buy-in whenever the transfer agent obtains, within the sixty-day recovery period, a letter from the party holding the overissued securities agreeing to return promptly the overissued certificates. Proposed subparagraph (g)(3) would define "discovery of the overissuance" as the date the transfer agent identifies the erroneously issued certificate(s) and the registered securityholder(s).[18] Finally, the Commission also requested comment in the October 1984 Release concerning the effect of surety bond coverage on the buy-in requirement.[19]

The Commission proposed the amendments in response to several transfer agents' suggestions that a thirty-day recovery period between the date of discovery of an actual overissuance and the date of execution of a buy-in may be too short to conduct an extensive research and recovery effort. These transfer agents noted that expanding the recovery period under the Rule would avoid unnecessary transaction costs associated with buying in overissued securities whenever the overissued certificates are recovered in specie from non-*bona fide* purchasers within a short time, but not within thirty days.[20]

The Commission received twelve comment letters that address the proposed amendments to Rule 17Ad–10. None of the commenters objected to the proposed expansion of the buy-in time frame from thirty to sixty days; the proposed additional thirty-day extension; or the proposed definition of "discovery of the overissuance."[21] Accordingly, the Commission is adopting those amendments as proposed for comment.

In response to the Commission's request for comment about overissuances resulting from the replacement of a lost or stolen securities certificate covered by a surety bond, many commenters recommended that these overissuances either be exempt from the buy-in requirement or be granted a thirty-day extension similar to that proposed in subparagraph (g)(2). Some commenters noted that when such transactions are covered by a surety bond, the buy-in requirement provides little, if any, additional financial protection to the transfer agent, issuer or securityholder because the surety company is obligated to reimburse the transfer agent for all expenses associated with repairing an overissuance.[22]

When securities certificates are lost or stolen, the loss or theft is usually reported to the appropriate transfer agent which places a stop on it's files. To obtain a replacement certificate, the transfer agent usually requires the registered owner to obtain an open penalty surety bond indemnifying the transfer agent of all liabilities and expenses that the transfer agent may incur if a *bona fide* purchaser ("BFP") presents the lost or stolen certificate for transfer.[23] Only then will the transfer agent issue a replacement certificate.

If a BFP subsequently presents the lost or stolen certificates for transfer, the transfer agent may be required, under the Uniform Commercial Code ("U.C.C."), to honor the transfer. The transfer of the lost or stolen certificate would probably create an overissuance and, under the U.C.C., the transfer agent would be liable for the overissuance.[24] The open penalty surety bond, however, would cover all transfer agent liabilities and expenses associated with honoring that certificate.

Two commenters urged the Commission not to exempt overissuances covered by open penalty surety bonds because of perceived delays such an exemption might add to the process of replacing lost or stolen certificates. For example, a depository commented that even a relatively short wait for replacement certificates during time-critical transactions, such as tender offers, may increase significantly the potential liability of financial intermediaries because of the need to make timely delivery to the tender agent.

The Commission believes that these commenters misunderstand the purpose of Rule 17Ad-10 and its relationship to state laws that govern the rights of securityholders and issuers generally and the issuance of replacement certificates in particular. Rule 17Ad-10 was designed, among other things, to ensure transfer agent financial and operational integrity, by complementing state law requirements. Those state law requirements, however, specify when and how replacement certificates may or must be issued. As noted in Securities Exchange Act Release No. 19860, Rule 17Ad-10 is not intended to affect rights or remedies granted to securityholders under § 8–104 of the Uniform Commercial Code or under any other applicable state law.[25] Thus, Rule 17Ad-

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a log or other records sufficient to document telephone responses. In addition, the Commission plans to review more generally transfer agent recordkeeping and record retention requirements in the near future and may consider establishing appropriate recordkeeping and record retention requirements for dividend and interest inquiries at that time. *See* 17 CFR 240.17Ad–6(a)(b) and 17 CFR 240.17Ad–7(a) and (h).

[17] As originally adopted, Rule 17Ad–10(g) required a transfer agent that is responsible for creating an actual overissuance to buy in securities within thirty days of discovering the overissuance.

[18] One commenter expressed confusion over the term "cause" as used in paragraph (g) of the Rule. The term "cause" is used to focus on the transfer agent that created the overissuance and not on the events that led to the discovery of the overissuance. Thus, a transfer agent that discovered the overissuance but was not the transfer agent at the time the overissuance was created is not required to execute a buy-in under the Rule because the transfer agent did not "cause" the overissuance.

[19] Two technical amendments also were proposed. One amendment would specifically include within paragraph (g)(1) of the Rule a statement that the buy-in is required only of a transfer agent that caused a physical overissuance subsequent to September 30, 1983, the effective date of the Rule. The other amendment concerns paragraph (c) of Rule 17Ad–10 which requires a co-transfer agent to promptly dispatch to the recordkeeping transfer agent certificate detail for every certificate cancelled or issued. The narrative portion of the adopting release, Securities Exchange Act Release No. 19860 (June 10, 1983), 48 FR 28231 (June 21, 1983), defined "promptly" as "within two business days after transfer" but as "daily" with respect to transfers occurring within five business days of record date. The latter definition of "promptly" was unintentionally omitted from the text of the Rule in the adopting release but incorporated in the October 1984 Release. None of the commenters objected to those technical changes and, accordingly, the Commission is adopting those amendments.

[20] *See* File No. S7–32–84, letters from Morgan Guaranty Trust Company of New York, Continental Stock Transfer and Trust Company and the First National Bank of Boston.

[21] Indeed, several commenters strongly supported the changes. *See, e.g.*, comment letters from American Transtech, Southeast Securities Transfer Association, American Stock Transfer, Inc., Bank of New York, Norwest Banks, and Stein Roe & Farnum.

[22] As noted by a commenter, only an "open penalty" surety bond reimburses the transfer agent for all expenses associated with the overissuance, particularly fluctuations in market prices.

[23] *See* U.C.C. Section 8–405(2). The U.C.C. allows the issuer or its agent to require the registered owner to obtain a surety bond sufficient to indemnify the transfer agent from any liability or expenses that might occur.

[24] Under § 8–405(3) of the U.C.C. the issuer or its agent is required to register the transfer to a BFP of the original certificated securities. If the transfer would create an overissuance, section 8–104 of the U.C.C. requires the issuer or its agent to purchase an identical number of securities, cancel them, and re-issue new certificates to the BFP.

[25] *See* U.C.C. 8–405 and 8–401.

10 does not affect the timing of replacing lost or stolen certificates, but instead operates only after a replacement certificate has been issued and a *bona fide* purchaser presents the original lost or stolen certificate for transfer.

Although the Commission believes there is some financial risk to transfer agents related to overissuances covered by an open penalty surety bond (*e.g.*, the surety company might fail to honor its obligation under the terms of the bond), the risk is remote in light of the substantial resources and favorable pay-out history of surety companies. Therefore, the Commission is exempting from the buy-in requirement actual overissuances covered by open penalty surety bonds.[26] The transfer agent, upon discovery of the overissuance, should contact immediately the surety company to coordinate recovery efforts. If the surety company does not honor its obligation, the Commission believes that it can rely on private remedies accorded securityholders under state law, which require buy-ins in appropriate circumstances, to effectuate investor protection, rather than imposing a separate buy-in requirement under Rule 17Ad-10(g).[27]

IV. Regulatory Flexibility Act

A. Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis ("Analysis") in accordance with 5 U.S.C. 604, as amended by the Regulatory Flexibility Act (the "RFA"), regarding the amendments to Rule 17Ad-5. The Analysis notes that the amendments to this Rule are part of the Commission's review of the Turnaround Rules. The Analysis notes that the amendments to Rule 17Ad-5 affect all registered transfer agents that perform dividend disbursing or interest payment activities on behalf of issuers, including approximately 1,400 small transfer agents.[28] Because the amendments concern only the speed with which registered transfer agents must respond to securityholder inquiries respecting dividend and interest inquiries, the Analysis also notes that the only type of transfer agent cost affected by the amendments to Rule 17Ad-5 is personnel expenses. Furthermore, the Analysis notes the Commission's belief that a majority of the 1,400 small transfer agents affected by the amendments to Rule 17Ad-5 will not incur significant additional compliance costs because many of these registered transfer agents currently comply with the amendments.

The Commission recognizes its obligation to formulate compliance and reporting requirements that take into account the economic impact on small transfer agents. The RFA directs the Commission to consider significant alternatives to the amendments that would accomplish the stated objectives of applicable statutes and minimize any significant economic impact on small transfer agents. As discussed in the Analysis, the Commission considered the alternatives set forth in the RFA in developing the amendments. The amendments to Rule 17Ad-5 do not impose reporting or recordkeeping requirements,[29] and establish minimum performance standards, rather than particular design standards. Moreover, in response to transfer agent comments, the Commission has extended the time frames incorporated in the Rule by five business days, thereby easing compliance costs for transfer agents and small transfer agents in particular. Accordingly, the Commission believes that any costs that may be incurred by small transfer agents because of the amendments are far outweighed by the benefits that will accrue to the securities industry from the more efficient and effective operation of the National System.

A copy of the Analysis may be obtained by contacting Ester Saverson, Jr., Division of Market Regulation, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, or at (202) 272–2906.

B. Regulatory Flexibility Certification

On October 11, 1984, the Chairman of the Commission certified that the proposed amendments to Rule 17Ad-10, if promulgated, would not have a significant economic impact on a substantial number of small entities.[30]

The Commission did not receive any comments specifically addressing the Chairman's certification. The Commission received several comments concerning the cost of complying with Rule 17Ad-10(g). In response to those comments, as discussed in greater detail above, the Commission has generally relaxed the buy-in requirement. That change should reduce significantly the frequency and expense of required buy-ins.

V. Competitive Considerations

The Commission, pursuant to Section 23(a)(2) of the Act, has considered whether the rule amendments will impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission believes the rule amendments will not impose any burden on competition and finds that any potential burden resulting from the rule amendments would be necessary or appropriate in furtherance of the purpose of the Act and, in particular, Section 17A of the Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VI. Statutory Basis and Text of Amendments

The Commission is amending Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following citation:

Authority: Sec. 23, 48 Stat. 901, as amended; (15 U.S.C. 78w) * * * §§ 240.17Ad–5 and 240.17Ad–10 are also authorized under Sections 3 and 17A; 48 Stat. 882, as amended, and 89 Stat. (15 U.S.C. 78c and 78q–1)

2. Section 240.17Ad–5 is amended by redesignating paragraph (e) as paragraph (g)(1) revising newly redesignated (g)(1), adding new paragraph (g)(2), and by adding new paragraphs (e) and (f) as follows:

§ 240.17Ad–5 Written inquiries and requests.

* * * * *

(e)(1) *Response to Written Inquiries Concerning Dividend and Interest Payments.* A registered transfer agent shall respond, within ten business days of receipt, to current claims that contain sufficient detail. A registered transfer agent shall respond, within twenty business days of receipt, to aged claims that contain sufficient detail. The response shall indicate in writing that the inquiry has been received, whether the claim requires further research and, if so, a reasonable estimate of how long that research may take. If no further research is required, the response shall indicate whether that claim is being or will be paid and, if not, the reason for not paying the claim. A registered transfer agent shall devote diligent attention to unresolved inquiries and

[26] (June 10, 1983), note 31, 48 FR 28231 (June 21, 1983).

[27] *See* U.C.C. 8–104 (1977).

[28] *See* 17 CFR 240.010(h) (1982) [definition of small entity with respect to a registered transfer agent]

[29] Generally, transfer agent recordkeeping requirements are found in Rule 17Ad-6. Transfer agents that are exempt under Rule 17Ad-4(b) are exempt from certain of the recordkeeping requirements of Rule 17Ad-6.

[30] *See* Securities Exchange Act Release No. 21374A (October 11, 1985) and the October Release.

shall resolve all inquiries as soon as possible.

(2) *Misdirected Written Inquiries Concerning Dividend and Interest Payments.* In the event that a transfer agent is not the dividend disbursing or interest paying agent for an issue that is the subject of a claim under this section, but performed those or any transfer agent services for that issue within the preceding three years, the transfer agent shall provide in writing to the inquirer, within ten business days of receipt of the inquiry, the name and address of the current dividend disbursing or interest paying agent. If the transfer agent did not perform those or other transfer agent services for the issue within the preceding three years, the transfer agent must respond to the inquiry and may respond by returning the inquiry with a statement that the transfer agent is not the current dividend disbursing or interest paying agent and that it does not know the name and address of the current dividend disbursing or interest paying agent.

(3) As used in this paragraph:

(i) A "current claim" means a written inquiry concerning non-payment or incorrect payment of dividends or interest, the payment date for which occurred within the preceding six months.

(ii) An "aged claim" means a written inquiry concerning non-payment or incorrect payment of dividends or interest, the payment date for which occurred more than six months before the inquiry.

(iii) "Sufficient detail" means a written inquiry or request that identifies: the issue; the name(s) in which the securities are registered; the number of shares (or principal amount of debt securities or number of units for any other kind of security) involved; the approximate record date(s) or payment date(s) relating to the claim; and, with respect to registered broker-dealers, registered clearing agencies, or banks, certificate numbers.

(f) *Telephone Response.* (1) A transfer agent may satisfy the written response requirements of this section by a telephone response to the inquirer if:

(i) The telephone response resolves that inquiry; and

(ii) The inquirer does not request a written response.

(2) When any person makes a written inquiry or request that would qualify under paragraph (e) of this section except that it fails to provide sufficient detail as specified in paragraph (e)(3)(iii), a registered transfer agent may telephone the inquirer to obtain the necessary additional detail within the time periods specified in paragraph (e)(1). If the transfer agent does not receive the additional detail within ten business days, the transfer agent immediately shall make a written request for the additional information.

(g) (1) When any person makes a written inquiry or request which would qualify under paragraphs (a), (b), (c), or (d) of this section except that it fails to provide all of the information specified in those paragraphs, or requests information which refers to a time earlier than the time periods specified in those paragraphs, a registered transfer agent shall confirm promptly receipt of the inquiry or request and respond to it as soon as possible.

(2) When any person makes a written inquiry or request which would qualify under paragraph (e) of this section except that it fails to provide sufficient detail as specified in paragraph (e)(3)(iii), a registered transfer agent must respond to the inquiry within the time periods specified in paragraph (e)(1). A registered transfer agent may respond to such an inquiry in accordance with paragraph (e)(1) as though sufficient detail had been provided, or may return it to the inquirer, requesting the additional necessary details.

3. Section 240.17Ad–10 is amended by revising paragraphs (c)(1) and (g) as follows:

§ 240.17Ad–10 Prompt posting of certificate detail to master securityholder files, maintenance of accurate securityholder files, communications between co-transfer agents and recordkeeping transfer agents, maintenance of current control book, retention of certificate detail and "buy-in" of physical overissuance.

* * * * *

(c)(1) Every co-transfer agent shall dispatch or mail promptly to the recordkeeping transfer agent a record of debits and credits for every security transferred or issued. For the purposes of this paragraph, "promptly" means within two business days following transfer of each security, and, with respect to transfers occurring within five business days of record date, daily.

* * * * *

(g)(1) A registered transfer agent, in the event of any actual physical overissuance that such transfer agent caused and of which it has knowledge, shall, within 60 days of the discovery of such overissuance, buy in securities equal to the number of shares in the case of equity securities or the principal dollar amount in the case of debt securities. During the sixty-day period, the registered transfer agent shall devote diligent attention to resolving the overissuance and recovering the certificates. This paragraph requires a buy-in only by the transfer agent that erroneously issued the certificate(s) giving rise to the physical overissuance, and applies only to those physical overissuances created by transfers or issuances subsequent to September 30, 1983.

(2) If a transfer agent obtains a letter from the party holding the overissued certificates that confirms that the overissued certificate(s) will be returned to the transfer agent not later than thirty days after the expiration of the sixty-day period, the transfer agent need not buy in securities by the sixtieth day. If, however, the certificate(s) are not returned to the transfer agent within the additional thirty-day period, the transfer agent immediately must execute the buy-in in accordance with paragraph (g)(1) of this section.

(3) If the certificates involved are covered by a surety bond indemnifying the transfer agent for all expenses incurred as a result of actual overissuance, the transfer agent need not buy in the securities. The transfer agent, however, shall devote diligent attention to resolving the overissuance and recovering the certificates.

(4) For purposes of this paragraph, "discovery of the overissuance" occurs when the transfer agent identifies the erroneously issued certificate(s) and the registered securityholder(s).

* * * * *

Dated: February 10, 1986.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86–3433 Filed 2–14–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is announcing his decision on the adequacy of proposed amendments to the North Dakota permanent regulatory program which was approved by the Secretary pursuant to the Surface Mining Control and Reclamation Act of

1977 (SMCRA or the Act). The amendments submitted by North Dakota for the Secretary's approval include modifications to the State statute and regulations intended to satisfy the remaining three program conditions concerning the following: (1) Revised definition of "valid existing rights"; (2) requirement that applicants shall identify all outstanding violations of SMCRA and any other State law or rule and (3) compensation to landowners for damage to structures or facilities that occurs as a result of subsidence. North Dakota also submitted, as part of the amendment package, several minor revisions to the statute and regulations unrelated to the program conditions.

After providing opportunity for public comment and conducting a thorough review of the program amendments to satisfy the conditions, the Secretary has decided to approve the modifications and remove the conditions of approval. The Federal rules at 30 CFR Part 934 codifying decisions concerning the North Dakota program are being amended to implement this action.

This final rule is being made effective immediately to expedite the State program amendment process and encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: February 18, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601–1918; Telephone: (307) 328–5830.

SUPPLEMENTARY INFORMATION:

I. Background on Approval

The North Dakota program was approved by the Secretary of the Interior on December 15, 1980, conditioned on the correction of 13 minor deficiencies. Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and detailed explanation of the conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82214), February 9, 1983 **Federal Register** (48 FR 8902), November 9, 1983 **Federal Register** (48 FR 51458), July 19, 1984 **Federal Register** (49 FR 29214), and January 3, 1985 **Federal Register** (50 FR 260).

II. Proposed Amendments

On June 18, 1985, the State of North Dakota submitted to OSMRE amendments to its permanent regulatory program. The amendment package is intended primarily to address the three remaining conditions of approval by the Secretary of the Interior on the North Dakota program. The State revised its definition of "valid existing rights" in both the statute and rules to substitute "August 3, 1977" for the date "July 1, 1979" as the correct date by which the regulatory authority will evaluate and make valid existing rights determinations. This statutory and rule change is intended to satisfy condition (m).

The State revised its statute and regulations to require all applicants for permits to identify all permits held by the applicant within the last five years in any State. The revised provision requires applicants to identify all outstanding violations in all States prior to permit issuance. This revison is intended to satisfy conditon (e).

The State also submitted material intended to address condition (n). The proposed rule revision provides for compensation to owners of structures or facilities damaged by underground mine subsidence.

In addition to the above required amendments, North Dakota submitted additional program amendments to OSMRE. The majority of the additional revisions are clarifying in nature. The most substantive of the additional amendments involves the revision of a State rule to allow qualified registered land surveyors to prepare and certify maps, plans and cross sections. This revision implements comparable changes made to the Federal provision.

In the July 29, 1985 **Federal Register** (50 FR 30721), OSMRE sought comment on whether North Dakota's proposed statutory revisions are as stringent as SMCRA and whether the State's proposed regulation modifications are no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17. The public comment period ended August 28, 1985. A public hearing scheduled for August 23, 1985, was not held since no person requested the hearing.

III. Secretary's Findings

In accordance with SMCRA and 30 CFR 732.15 and 732.17, the Secretary finds that the amended provisions to the North Dakota program submitted to OSMRE on June 18, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII with certain exceptions, as discussed below.

1. Condition (m)

Condition (m) stipulates that North Dakota must amend its program to revise the date for establishment of valid existing rights under North Dakota Century Code (NDCC) 38–14.1–07(i) and North Dakota Administrative Code (NDAC) 69–05.2–01–02 to be consistent with section 522(e) and 30 CFR 761.5.

North Dakota has amended NDCC 38–14.1–07 and NDAC 69–05.2–01–02(114) and 69–05.2–04–01 concerning valid existing rights under section 522(e) of SMCRA to substitute the date "August 3, 1977" for for the date "July 1, 1979." The Secretary finds the revised North Dakota provisions to be consistent with section 522(e) and the Federal rules at 30 CFR 761.5 and 761.11, and meet the requirements set forth in condition (m).

2. Condition (e)(1)

Condition (e)(1) stipulates that North Dakota must amend NDAC 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violation or pattern of violations outside of North Dakota in a same or similar manner as section 510(c) of SMCRA and 30 CFR 786.17 and 786.19(i) (now 30 CFR 773.15(b)).

a. North Dakota has amended NDCC 38–14.1–21(5) and NDAC 69–05.2–10–03(1) to provide that a permit may not be issued to any person if information available to the Public Service Commission indicates that any surface coal mining operation owned or controlled by the applicant is currently in violation of the North Dakota statute, the Act or any law or rule of the United States or any department or agency in the United States pertaining to air or water environmental protection. The NDCC contains the further limitation that the violation be: "incurred by the applicant in connection with any surface coal mining operation during the three-year period prior to the date of application." However, NDAC 69–05.2–10–03, the State's criteria for permit approval or denial, does not contain any temporal limitation with regard to an applicant being in violation of any law or rule of North Dakota, or of any law or rule in any State enacted pursuant to Federal law, rule or regulation pertaining to air or water environmental protection or surface coal mining and reclamation.

Therefore, the Secretary finds that taken together the changes to NDCC 38–14.1–21(5) and NDAC 69–05.2–10–03(1) and the criteria for permit approval in NDAC 69–05.2–10–03 include provisions

that are no less stringent than section 510(c) of SMCRA and no less effective than 30 CFR 773.15(b)(1).

b. North Dakota has amended NDCC 38–14.1–33(3) and NDAC 69–05.2–10–03(2) to provide that no permit shall be issued to an applicant after a finding by the commission that the applicant or operator controls or has controlled mining operations with a demonstrated pattern of willful violations of the North Dakota statute or the Act, of such nature and duration and with such resulting irreparable environmental damage as to indicate an intent not to comply with the provisions of the North Dakota statute or the Act. The Secretary finds that the North Dakota provisions are consistent with section 510(c) of the Act and 30 CFR 773.15(b)(3).

The amended provisions of the North Dakota program cited above meet the requirements set forth in Condition (e)(1) of the Secretary's approval.

3. Condition (e)(2)

Condition (e)(2) stipulates that North Dakota must amend NDAC 69–05.2–06–01(4) to require a permit applicant to submit the names under which the applicant, partner or principal shareholder previously operated a coal mine in any State within the five preceding years in a same or similar manner as section 507(b)(4) of SMCRA and 30 CFR 778.13(b)(3) (now 778.13(c)(2)).

North Dakota has amended NDCC 38–14.1–14(1)(e)(3) to require the permit application to include a list of names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation within any State within the five-year period preceding the date of the application. The provision is no less stringent than section 507(b)(4) of SMCRA, which requires all names under which the applicant or other persons previously operated a coal mining operation. The Federal rule also requires information on current operations. North Dakota requires information on current operations under the provisions of NDCC 38–14.1(1)(f). (See also discussion of conditions (e)(3) below).

Therefore, the amended provisions taken together satisfy condition (e)(2) of the Secretary's approval.

4. Condition (e)(3)

Condition (e)(3) stipulates that North Dakota must amend subsection 1 of NDAC 69–05.2–06–02 to require the permit applicant to submit a statement of any permits held subsequent to 1970 in States other than North Dakota in a same or similar manner as section 507(b)(3) of SMCRA and 30 CFR 778.13(d).

North Dakota has amended NDCC 38–14.1(1)(f) to require a statement of any current or previous permits and pending applications held by the applicant in any State, and has amended NDAC 69–05.2–06–02(1) to require the same information for the applicant, partner or principal shareholder. The Secretary finds these two provisions, taken together, are no less stringent than section 507(b)(3) of SMCRA and no less effective than 30 CFR 778.13(d) which requires information on all pending permit applications, and previous and current permits help during the five years preceding the date of application by the applicant, partner or principal shareholder. Therefore, the amended provisions of the North Dakota program cited above satisfy the requirements set forth in condition (e)(3) of the Secretary's approval.

5. Condition (e)(4)

Condition (e)(4) stipulates that North Dakota must amend subsection 3 of NDAC 69–05.2–06–02 to require the permit applicant to submit a list of notices of violation of the Act or Federal and State laws pertaining to air or water environmental protection that he has received in a same or similar manner as section 510 and 30 CFR 778.14(c).

North Dakota has amended NDCC 38–14.1–14(1)(g) to require the application to include a list of all violations of the North Dakota statute, the Act, and any Federal or State statute or regulation pertaining to air or water environmental protection during the three-year period to the date of application. This provision is no less stringent than section 510(c) of the Act. However, the Federal requirements in 30 CFR 778.14(c) were amended subsequent to the imposition of the condition to expand the information requirement to include such violation information for any subsidiary, affiliate or persons controlled by or under common control with the applicant. Therefore, the North Dakota program technically satisfies the literal language of condition (e)(4), but a further amendment is required to make the State's provisions consistent with 30 CFR 778.14(c). Therefore, the Secretary is removing condition (e)(4) but will require that additional changes be made to the North Dakota program to address changes made in the Federal regulations on September 28, 1983. The Director, OSMRE, on February 3, 1986, notified North Dakota pursuant to 30 CFR 732.17(f) that such a revision to the State program is required because the State's regulations are now less effective than the revised Federal regulations.

6. Condition (n)

Condition (n) stipulates that North Dakota must amend its program to address compensation to an owner of a structure or facility damaged by subsidence in a manner no less effective than the compensation provided by the Federal provisions at 30 CFR 819.17 and 817.121.

30 CFR 819.17 requires that auger mining be conducted in accordance with the requirements of 30 CFR 817.121 (a) and (c), concerning subsidence protection.

North Dakota has amended NDAC 69–05.2–13–12 to require the operator to compensate for or correct material damage to structures caused by subsidence. However, the State's provision contains the following phrase *to the extent required under State law.* The Federal rule at 30 CFR 817.121(c), concerning protection for structures damaged by subsidence, was suspended, in part, on February 21, 1985. The phrase, "to the extent required under State law" was that part suspended by OSMRE. As a result of the suspension, the modified Federal provision at 30 CFR 817.121(c) now requires either correction of material damage to structures caused by subsidence, or compensation to the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Therefore, the North Dakota amendment technically satisfies the literal language of condition (n) but a further revision is required to make the State's provisions consistent with 30 817.121(c) as modified by OSMRE's suspension of the phrase discussed above. Therefore, the Secretary is removing condition (n) but will require that additional changes be made to the North Dakota program to address the suspension of portions of Federal rule 30 CFR 817.12(c) on February 21, 1985 resulting from a ruling in *In re: Permanent Surface Mining Regulation Litigation II.* The Director, OSMRE, on February 3, 1986, notified North Dakota pursuant to 30 CFR 732.17(f) that such an amendment to the State program is required because the State's regulations are now less effective than the revised Federal regulations.

7. Other Amendments

North Dakota amended NDCC 38–14.1–14 and NDAC 69–05.2–09–02 and 09 in response to an amendment to section 507(b)(14) of SMCRA as published in the April 24, 1985 **Federal Register.** The North Dakota amendment, as does the amendment to SMCRA, authorizes

qualified registered land surveyors to prepare and certify maps, plans and cross-sections. This amendment is no less stringent than section 507(b)(14), as amended, and no less effective than the provisions found at 30 CFR Chapter VII.

North Dakota amended NDCC 38–14.1–10, 38–14.1–14, 38–14.1–21 and 38–14.1–30 concerning the cultural resources permitting requirements. North Dakota has, through the revised provision, consolidated all statutory and regulatory requirements of the cultural resources components of the approved program into the North Dakota Century Code. The revised provisions shift the authority for all cultural resources actions and decisions from the Public Service Commission to the Superintendent of the State Historical Board. These revised provisions are not inconsistent with SMCRA and are no less effective than the requirements of 30 CFR Chapter VII.

IV. Public Comments

Pursuant to section 503 of SMCRA and 30 CFR 732.17(a)(10)(i), comments were solicited from various Federal agencies on the proposed State program amendment. Of those agencies invited to comment, the U.S. Department of Labor, Mine Safety and Health Administration, the U.S. Department of Agriculture, Soil Conservation Service, the National Park Service, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers responded, all with non-substantive comments.

V. Secretary's Decision

Based on the findings, the Secretary is removing the remaining three conditions (e), (m) and (n) of his approval of the North Dakota program. The Secretary is also approving the proposed amendments to the North Dakota program, as submitted to OSM on June 18, 1985. The Federal rules at 30 CFR Part 934 are being amended to reflect his decision.

VI. Procedural Requirements

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

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

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any 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 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 7, 1986.

James E. Cason,

Deputy Assistant Secretary, Land and Minerals Management.

PART 934—NORTH DAKOTA

30 CFR Part 934 is amended as follows:

1. The authority citation for Part 934 continues to read as follows:

Authority: Sec. 503, Pub. L. 95–87 (30 U.S.C. 1253).

§ 934.11 [Removed]

2. 30 CFR Part 934 is amended by removing § 934.11.

3. 30 CFR 934.15 is amended by adding a new paragraph (f) as follows:

§ 934.15 Approval of amendments to State regulatory program.

* * * * *

(f) The following amendments to the North Dakota permanent regulatory program submitted to OSMRE on June 18, 1985, are approved effective February 18, 1986.

(1) Modifications to NDCC 38–14.1–04.2 and .3 concerning cultural resources;

(2) Modifications to NDCC 38–14.1–7 concerning valid existing rights;

(3) Modifications to NDCC 38–14.1–10 concerning cultural resources;

(4) Modifications to NDCC 38–14.1–14 concerning permit application requirements;

(5) Modifications to NDCC 38–14.1–21 concerning permit approvals;

(6) Modifications to NDCC 38–14.1–30 concerning administrative review of decisions made by the State Historical Board;

(7) Modifications to NDCC 38–14.1–33 concerning permit revocation;

(8) Modifications to NDAC 69–05.2–10–03 concerning criteria for permit approval;

(9) Modifications to NDAC 69–05.2–06–02 concerning compliance information required of permit applicants;

(10) Modifications to NDAC 69–05.2–06–02 and NDAC 69–05.2–04–01 concerning the date for valid existing rights determinations;

(11) Modifications to NDAC 69–05.2–13–12 concerning performance standards for auger mining operations;

(12) Repeal of NDAC 69–05.2–08–03 concerning cultural resources;

(13) Modifications to NDAC 69–05.2–09–08 concerning operations plans;

(14) Modifications to NDAC 69–05.2–09–02 and NDAC 69–05.2–09–09 concerning the responsibilities of registered land surveyors; and

(15) Modifications to NDAC 69–05.2–16–09 concerning sedimentation ponds.

[FR Doc. 86–3412 Filed 2–14–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4 and 146

[CGD 86–011]

Station Bills; OMB Paperwork Control Numbers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the existing provision concerning station bills (muster lists) on manned Outer Continental Shelf facilities other than mobile offshore drilling units. Though this provision appears in the Code of Federal Regulations, it has not been in effect because it had not been assigned an information collection control number by the Office of Management and Budget. Now that the information collection has been approved and a control number assigned, this rule adds the control number at the end of the provision and makes the station bill requirements effective. This rule also adds the number, as well as several other previously omitted numbers, to the list of numbers assigned to provisions throughout that volume of the Code of Federal Regulations.

EFFECTIVE DATE: This rule becomes effective on February 18, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Penn, Office of Merchant Marine Safety (202) 426–2307.

SUPPLEMENTARY INFORMATION: When subchapter N of 33 CFR Chapter I on Outer Continental Shelf Activities was revised on March 4, 1982 (47 FR 9366), the preamble to the rule indicated that 33 CFR 146.130 (Station bill) has information collection requirements not yet approved by the Office of Management and Budget (OMB). Under 44 U.S.C. 3507(f), an agency shall not engage in a collection of information without obtaining an OMB control number to be displayed on the information collection request. Upon application by the Coast Guard, OMB has since approved the information collection requirements in § 146.30 and assigned OMB Control Number 2115–0542.

This rulemaking makes § 146.130 effective and amends that section and 33 CFR 4.02 to display the assigned OMB control number. This rule also adds several previously omitted OMB control numbers to § 4.02 which relate to various parts and sections throughout 33 CFR Chapter I.

This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days after publication in the **Federal Register.** This rule merely displays existing OMB control numbers pertaining to specific Coast Guard regulations for the public's information. Therefore, the Coast Guard has determined that notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b)(3)(B). Since this rule has no substantive effect, good cause exists for making it effective in less than 30 days after publication, under 5 U.S.C. 553(d).

Drafting Information

The principal persons involved in drafting this rule are Mr. Allen W. Penn, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Office of Chief Counsel.

This regulation is considered to be non-major under Executive Order 12291 and non-significant under DOT Regulatory Policies and Procedures (44 FR 11304; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers for the public's information and imposes no new substantive requirement. Since the impact of his rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 4

Reporting requirements.

33 CFR Part 146

Continental shelf, Marine safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, Parts 4 and 146 of Chapter I, Title 33, Code of Federal Regulations, are amended as follows:

PART 4—OMB CONTROL NUMBERS ASSIGNED PURSUANT TO THE PAPERWORK REDUCTION ACT

1. The authority citation for Part 4 is revised to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02 is amended by deleting the entries for § 153.303 and § 154.740 and adding new entries to read as follows:

§ 4.02 Display.

* * * * *

Part 115	2115–0050.
* * * * *	
Section 126.15(o)(1)	2115–0105.
* * * * *	
Section 146.130	2115–0542.
* * * * *	
Section 153.203	2115–0137.
* * * * *	
Section 154.740(a)–(e)	2115–0096.
Section 154.740(f)	2115–0506.
Section 155.107	2115–0097.
Section 155.740	2115–0120.
Section 155.820(a)–(c)	2115–0096.
Section 155.820(d)	2115–0506.
Section 156.107	2115–0097.
Section 156.150	2115–0506.
Part 156, Subpart B	2115–0539.
* * * * *	
Section 165.15	2115–0076.
Section 165.25	2115–0076.
Section 165.803(i)	2115–0092.

* * * * *

PART 146—OPERATIONS

3. The authority citation for Part 146 is revised to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1347, 1348; 49 CFR 1.46(z).

4. Section 146.130 is amended by removing the Effective Date Note at the end of the section and by adding an OMB control number in its place as follows:

§ 146.130 Station bill.

* * * * *

(Approved by the Office of Management and Budget under OMB Control Number 211–0542)

Dated: February 12, 1986.

W. J. Ecker,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 86–3429 Filed 2–14–86; 8:45 am]

BILLING CODE 4910–14–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1130

[Docket No. 37130; Sub-3]

Special Docket Proceedings; Exemption From Letter of Intent Requirement Involving Amounts of $10,000 or Less

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: In response to a request by the association of American Railroads, the Commission is adopting revised rules (as set forth in the appendix) that would eliminate the letter of intent requirement in special docket cases involving amounts of $10,000 or less. The AAR suggests that adoption of a $10,000 threshold would eliminate costly paperwork and enable refunds and waivers of undercharge to be made more quickly.

DATES: The rules will become effective March 20, 1986. Comments of those opposed to the revision are due March 10, 1986. If adverse comments are received, the effectiveness of the decision will be automatically postponed pending a further decision.

ADDRESS: An original and, if possible, ten copies of negative comments should be sent to: Room 4310, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Donald W. Simmons, (202) 275–7358.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (D.C. metropolitan area) or toll free (800) 424–5403.

The Commission certifies that the rules will not have a significant economic impact on a substantial number of small entities. These final rules will allow carriers to save clerical costs and allow for speedier waiver of undercharges and reparations.

This action does not significantly effect either the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1130

Administrative practice and procedure.

Decided: February 7, 1986.

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

James H. Bayne,

Secretary.

Appendix

Title 49, Part 1130, of the Code of Federal Regulations is amended as follows:

PART 1130—[AMENDED]

1. The authority citation following § 1130.1 is removed and the authority citation for Part 1130 is revised to read as follows:

Authority: 49 U.S.C. 10321 and 10707; 5 U.S.C. 553 and 559. § 1130.2 [Amended]

2. In the first sentence of § 1130.2(e)(1), the amount "$5,000.00" is revised to read "$10,000.00".

3. In the fourth sentence of the last paragraph of § 1130.2(e)(1), the amount "$5,000.00" is revised to read "$10,000.00".

4. In the first sentence of § 1130.2(e)(2), the amount "$5,000.00" is revised to read "$10,000.00".

5. In the penultimate sentence of § 1130.2(e)(2), the amount "$2,000.00" is revised to read "$10,000.00".

[FR Doc. 86-3393 Filed 2-14-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 41276-4176]

Fishery Conservation and Management; Foreign Fishing

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

ACTION: Notice of initial specifications; correction.

SUMMARY: This document corrects the specifications table in the notice of initial specifications for all foreign fisheries that was published January 30, 1986, 51 FR 3788.

FOR FURTHER INFORMATION CONTACT: Elizabeth D. Haynes, 202-634-7432.

In FR Doc. 86-2061 beginning on page 3788 in the issue of January 30, 1986, make the following corrections in the specifications table that begins on page 3789.

1. On page 3789 under the Alaska Region, the species code for Greenland turbot is corrected to "118" and the species code for Arrowtooth flounder is corrected to "721".

2. On page 3790 under the species Pacific cod in the Western area under the "Reserve" heading, the figure "3,320" is corrected to "3,312".

3. On page 3791 under the species Mahimahi in the American Samoa area under the "TALFF" heading, the figure "20" is corrected to "2.0".

4. On page 3791, footnote 2, to the table is corrected by inserting "Appendix II" before "figure 2" at the end of the sentence.

Dated: February 12, 1986.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 86-3476 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 640

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

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

ACTION: Notice of control date for entry into the Gulf of Mexico and South Atlantic spiny lobster fishery.

SUMMARY: This notice announces that anyone entering the commercial spiny lobster fishery in the Gulf of Mexico and South Atlantic after January 15, 1986 (control date) will not be assured of future access to the spiny lobster resource if a management regime is developed and implemented that limits the number of participants in the fishery. This announcement is necessary for public awareness of a potential eligibility criterion for access to the Gulf of Mexico and South Atlantic spiny lobster resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry to the fishery based on speculation while discussions continue on whether and how access to the spiny lobster resource should be controlled.

FOR FURTHER INFORMATION CONTACT: Michael Justen, NMFS, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) was developed in 1982 and is currently being amended by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). The draft Amendment 1 was approved by the Councils, on January 15, 1986, and January 22, 1986, respectively, and notice of public hearing published in the **Federal Register** on January 23, 1986 (51 FR 3087).

This notice is not part of the proposed draft Amendment 1. However, the Councils have been requested by their industry advisory panels (AP) to develop alternative limited access systems for review by the industry by 1987. This action by the Councils will be announced at public hearings on Amendment 1. The fishery currently has more participants and spiny lobster traps than are necessary to harvest the optimum yield (OY) from the fishery. The number of spiny lobster permits and traps has doubled since the 1975–1976 season. Annual catch per trap has declined substantially in the last ten years and has been lower in the past two years than in all previous years. Since the current fishing fleet is capable of harvesting the entire spiny lobster OY, additional fishing effort would lead to harvesting inefficiencies, more management constraints, and increased conservation risks. The Assistant Administrator for Fisheries, NMFS, has concurred that the Councils begin immediately to address this problem by developing additional controls on fishing effort. Such controls contemplated by the Councils may include those that control access to the spiny lobster fishery resource.

To assist the Councils, the Assistant Administrator has agreed to publish a notice in the **Federal Register**, announcing that anyone entering the spiny lobster fishery after January 15, 1986, will not be assured of future participation should the Councils develop, and the Secretary [of Commerce] implement, an effort control regime that limits the number of participants in the fishery. At their meeting of January 13–16, 1986, and January 20–23, 1986, the Councils voted to recommend this action and adopted January 15, 1986, as the control date.

NMFS and the Councils intend, in making this announcement, to discourage speculative entry into the spiny lobster fishery while potential entry or access control management regimes are discussed by the Councils and possibly developed. If the Councils

decide to develop an access or entry control management regime, some fishermen who do not currently fish for spiny lobster in the Gulf of Mexico and South Atlantic and never have done so may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings of spiny lobster. Such a record generally is considered indicative of economic dependence on the fishery. On this basis, the fishermen may successfully lay claim to access to a fishery that is otherwise limited to traditional participants. New entrants may have to buy the fishing rights or a permit from an existing participant. Hence, initial access to the fishery at little or no cost may result in a windfall gain when selling an access right to a new entrant. This speculation often is responsible for a rapid increase in fishing effort in fisheries already fully or over-developed when management authorities begin to consider use of a limited access management regime. The original problems become exacerbated by those who seek possible winfall gain from the solutions being discussed. To help distinguish *bona fide*, established spiny lobster fishermen from the speculative entrants to a fishery, a management authority may set a control date before discussions and planning of controlled access regimes begin. Fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery resource on grounds of previous participation. Other qualifying criteria, such as holding a permit before the control date and documentation of commercial landings and sales, may be applied for entry.

This announcement establishes January 15, 1986, as such a control date for potential use in determining historical or traditional participation in the Gulf of Mexico and South Atlantic spiny lobster fishery. This action does not commit the Councils or the Secretary to any particular management regime or criterion for entry to the spiny lobster fishery. Fishermen are not guaranteed future participation in the spiny lobster fishery regardless of their date of entry or intensity of participation in the fishery before or after the control date. The Councils may choose a different control date, or they may choose a management regime that does not make use of such a date. The Councils may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Councils may choose also to take no further action to control entry or access to the fishery.

Dated: February 11, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-3421 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 654

Stone Crab Fishery of the Gulf of Mexico

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

ACTION: Notice of control date for entry into the Gulf of Mexico stone crab fishery.

SUMMARY: This notice announces that anyone entering the commercial stone crab fishery in the Gulf of Mexico after January 15, 1986 (control date) will not be assured of future access to the stone crab resource if a management regime is developed and implemented that limits the number of participants in the fishery. This announcement is necessary for public awareness of a potential eligibility criterion for access to the Gulf of Mexico stone crab resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry to the fishery based on speculation while discussions continue on whether and how access to the stone crab resource should be controlled.

FOR FURTHER INFORMATION CONTACT: Donald Geagan, NMFS, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP) was developed and is currently being amended by the Gulf of Mexico Fishery Management Council (Council). The draft Amendment 3 was approved by the Council, on January 15, 1986, and a notice of public hearings was published in the **Federal Register** on February 5, 1986 (50 FR 4527).

This notice is not part of the proposed draft Amendment 3. However, the Council has been requested by its industry advisory panel (AP) to develop alternative limited access systems for review by the industry by 1987. This action by the Council will be announced at public hearings on Amendment 3. The fishery currently has more participants and stone crab traps than are necessary to harvest the optimum yield (OY) from the fishery. The number of commercial vessels has increased by 179 percent and number of traps by 160 percent since the 1977-1978 season. The fishery historically was characterized as an expanding fishery with yield (landings) increasing in a direct linear fashion with effort (number of traps). However, landings of crab claws have declined significantly, by 45 and 38 percent over the last two seasons, respectively. Since the current fishing fleet is capable of harvesting the entire stone crab OY, additional fishing effort would lead to harvesting inefficiencies, more management constraints, and increased conservation risks. The Assistant Administrator for Fisheries, NMFS, has concurred that the Council begin immediately to address this problem by developing additional controls on fishing effort. Such controls contemplated by the Council may include those that control access to the stone crab fishery resource.

To assist the Council, the Assistant Administrator has agreed to publish a notice in the **Federal Register**, announcing that anyone entering the stone crab fishery after January 15, 1986, will not be assured of future participation should the Council develop, and the Secretary [of Commerce] implement, an effort control regime that limits the number of participants in the fishery. At its meeting of January 13-16, 1986, the Council voted to recommend this action and adopted January 15, 1986, as the control date.

NMFS and the Council intend, in making this announcement, to discourage speculative entry into the stone crab fishery while potential entry or access control management regimes are discussed by the Council and possibly developed. If the Council decides to develop an access or entry control management regime, some fishermen who do not currently fish for stone crab in the Gulf of Mexico and never have done so may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings of stone crab. Such a record generally is considered indicative of economic dependence on the fishery. On this basis, the fishermen may successfully lay claim to access to a fishery that is otherwise limited to traditional participants. New entrants may have to buy the fishing rights or a permit from an existing participant. Hence, initial access to the fishery at little or no cost may result in a windfall gain when selling an access right to a new entrant. This speculation often is responsible for a rapid increase in fishing effort in fisheries already fully or over-developed when management authorities begin to consider use of a limited access management regime. The

original problems become exacerbated by those who seek possible windfall gain from the solutions being discussed. To help distinguish *bona fide*, established stone crab fishermen from the speculative entrants to a fishery, a management authority may set a control date before discussions and planning of controlled access regimes begin. Fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery resource on grounds of previous participation. Other qualifying criteria, such as holding a permit before the control date and documentation of commercial landings and sales, may be applied for entry.

This announcement establishes January 15, 1986, as such a control date for potential use in determining historical or traditional participation in the Gulf of Mexico stone crab fishery. This action does not commit the Council or the Secretary to any particular management regime or criterion for entry to the stone crab fishery. Fishermen are not guaranteed future participation in the stone crab fishery regardless of their date of entry or intensity or participation in the fishery before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Council may choose also to take no further action to control entry or access to the fishery.

Dated: February 11, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-3422 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 32
Tuesday, February 18, 1986

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

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 85-127]

Change in Disease Status of Chile Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reopening of comment period for proposed rule.

SUMMARY: This document reopens the comment period for a proposed rule which proposed to amend the regulations in 9 CFR Part 94 based on a determination that Chile is free of foot-and-mouth disease. This action is needed to allow industry representatives and other interested persons adequate time in which to prepare comments.

DATE: Written comments must be received on or before April 21, 1986.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-109. 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. Allan A. Furr, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On November 8, 1985, a document published in the **Federal Register** (50 FR 46443-46444) proposed to amend the regulations in 9 CFR Part 94 which regulate the importation into the United States of specified animals and animal products. These regulations are designed to help prevent the introduction into the United States of various diseases, including rinderpest and foot-and-mouth disease. It was proposed to amend § 94.1 of the regulations by adding Chile to the list of countries declared to be free of rinderpest and foot-and-mouth disease. It was further proposed to amend § 94.11 of the regulations by adding Chile to the list of countries which are declared free of rinderpest and foot-and-mouth disease and from which the importation of meat and animal products into the United States is subject to special restrictions. Chile was not eligible to be on either of these lists solely because foot-and-mouth disease had been found to exist in that country. The effect of adopting the proposed rule would be to allow the importation of cattle, sheep, other ruminants, and swine, and fresh, chilled, and frozen meats of such animals into the United States from Chile under certain restrictions.

The proposed rule provided for receipt of comments on or before December 9, 1985. A number of industry representatives and other interested persons have requested additional time to review the proposal and offer substantive comments. It has been determined that additional time is needed to allow industry representatives and other interested persons adequate time in which to prepare comments. Therefore, the comment period is reopened for an additional 60 days. Accordingly, any additional written comments must be received on or before April 21, 1986.

A number of comments were received after December 9, the original closing date for the receipt of comments. These comments will also be considered in determining what action to take concerning the proposal.

Done at Washington, DC, this 12th day of February 1986.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-3441 Filed 2-14-86; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 94

[Docket No. 84-095]

Importation of Certain Pork Hams

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the importation into the United States of pork and pork products. The regulations, among other things, regulate the importation of hams in order to help prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease. It is proposed to amend the regulations to allow the importation, under specified conditions, of certain pork hams. It appears that such hams can be imported into the United States without presenting a significant risk of introducing any of the specified diseases.

DATE: Written comments must be received on or before April 21, 1986.

ADDRESS: Written comments concerning this proposed rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 84-095. 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. Mark Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations), among other things, regulate the importation into the United States of pork and pork products in order to prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease.

The Parma Ham Consortium in Italy has requested that the regulations be amended to allow the importation into the United States of pork hams processed in accordance with certain procedures used by the Consortium. Under the current regulations, such hams are not allowed to be imported into the United States from Italy because of foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease.

The Department has considered this request and has conducted research concerning the procedures used by the Parma Ham Consortium. Further, the Department has developed provisions which are designed to allow the importation of such pork hams from countries where foot-and-mouth disease, African swine fever, hog cholera, or swine vesicular disease exist, without presenting a significant risk of introducing these diseases.

In this connection, it is proposed to add a new § 94.17 to read as follows:

§ 94.17 Certain hams.

Notwithstanding any other provisions in this part, a ham shall not be prohibited from being imported into the United States if it meets the following conditions:

(a) The ham came from a swine that was never out of the country in which the ham was processed;

(b) The ham came from a country determined by the Deputy Administrator, Veterinary Services, to have laws requiring the immediate reporting to the national veterinary services in that country of any premises found to have swine infected with foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease;

(c) The ham came from a swine that was not on any premises where foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swing vesicular disease exists or had existed within 60 days prior to slaughter;

(d) The ham was accompanied from the slaughtering facility to the processing establishment by a numbered certificate issued by a person authorized by the government of the country of origin stating that the provisions of paragraphs (a) and (c) of this section have been met;

(e) The ham was processed as set forth in paragraph (h) of this section in only one processing establishment; [1]

(f) The ham was processed in a processing establishment that prior to the processing of any hams in accordance with this section, was inspected by a veterinarian of Veterinary Services and determined by the Deputy Administrator, Veterinary Services, to be capable of meeting the provisions of this section for processing hams for importation into the United States;

(g) The ham was processed in a processing establishment for which the operator of the establishment has signed an agreement with Veterinary Services within 12 months prior to receipt of the hams for processing, stating that all hams processed for importation into the United States will be processed only in accordance with the provisions of this part;

(h) The ham was processed for a period of not less than 400 days in accordance with the following conditions: after slaughter the ham was held at a temperature of 0°–3° C. (32°–34.7° F.) for a minimum of 72 hours during which time the "aitch" bone was removed and the blood vessels at the end of the femur were massaged to remove any remaining blood; thereafter the ham was covered with an amount of salt equal to 4–6 percent of the weight of the ham, with a sufficient amount of water added to ensure that the salt had adhered to the ham; thereafter the ham was placed for 5–7 days on racks in a chamber maintained at a temperature of 0°–4° C. (32°–39.2° F.) and at a relative humidity of 70–85 percent; thereafter the ham was covered with an amount of salt equal to 4–6 percent of the weight of the ham, with a sufficient amount of water added to ensure that the salt had adhered to the ham; thereafter the ham was placed for 21 days in a chamber maintained at temperature of 0°–4° C. (32°–39.2° F.) and at a relative humidity of 70–85 percent; thereafter the salt was brushed off the ham; thereafter the ham was placed in a chamber maintained at a temperature of 1°–6° C. (33.8°–42.8° F.) and at a relative humidity of 65–80 percent for between 52 and 72 days; thereafter the ham was brushed and rinsed with water; thereafter the ham was placed in a chamber for 5–7 days at a temperature of 15°–23° C. (59°–73.4° F.) and at a relative humidity of 55–85 percent; thereafter the ham was placed for curing in a chamber maintained for a minimum of 314 days at a temperature of 15°–20° C. (59°–68° F.) and at a relative humidity of 65–80 percent at the beginning and increased by 5 percent every 2½ months until a relative humidity of 85 percent was reached; and during all of the procedures described above the ham had no contact with any meat or animal product other than pork fat that was heat treated to at least 76° C. (168.8° F.) that may have been placed over the ham during curing;

(i) The ham bears a hot iron brand or an ink seal (with the identifying number of the slaughtering establishment) which was placed thereon at the slaughtering establishment under the direct supervision of a person authorized to supervise such activity by the veterinary services of the national government of the country of origin, bears a button seal (approved by the deputy Administrator, Veterinary Services, as being tamper-proof) on the hock that states the month and year the ham entered the processing establishment and a hot iron brand (with the identifying numbr of the processing establishment and the date salting began) which were placed thereon at the processing establishment immediately prior to salting, under the supervision of a person authorized to supervise such activity by the veterinary services of the national government of the country of origin;

(j) The ham came from an establishment where a person authorized by the veterinary services of the national government of the country of origin to conduct activities under this paragraph, maintained original records (which shall be kept for a minimum of two years) identifying the ham by the date it entered the processing establishment, by the slaughtering facility from which it came, and by the number of the certificate which accompanied the ham from the slaughtering facility to the processing establishment, and where such original records are maintained under lock and key by such person, with access to such original records restricted to officials of the government of the country of origin, officials of the United States government, and such person maintaining the records;

(k) The ham came from a processing establishment which allows the unannounced entry into the establishment of Veterinary Services personnel, or other persons authorized by the Deputy Administrator, Veterinary Services, for the purpose of inspecting the establishment and records of the establishment;

(l) The ham was processed in a country which has been determined by the Deputy Administrator, Veterinary Services, to be free of rinderpest, and which has through its veterinary services submitted to the Deputy Administrator, Veterinary Services, a

[1] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.)* and regulations thereunder (9 CFR Part 301 *et seq.*), including requirements that the pork or pork products be prepared only in approved establishments.

written statement stating that it conducts a program to authorize persons to supervise activities specified under this section;

(m) The ham came from a processing establishment that has entered into a trust fund agreement executed by the operator of the establishment or a representative of the establishment and Veterinary Services, and that pursuant to the trust fund agreement is current in paying all costs for a veterinarian of Veterinary Services to inspect the establishment (it is anticipated that such inspections will occur up to four times per year), including travel, salary, subsistance, administrative overhead, and other incidental expenses (including an excess baggage provision up to 150 pounds). In accordance with the terms of the trust fund agreement, the operator of the processing establishment shall deposit with the Deputy Administrator, Veterinary Services, an amount equal to the approximate costs for a veterinarian to inspect the establishment one time, including travel, salary, subsistence, administrative overhead and other incidental expenses (including an excess baggage provision up to 150 pounds), and as funds from that amount are obligated, bills for costs incurred based on official accounting records will be issued to restore the deposit to its original level. Amounts to restore the deposit to its original level shall be paid within 14 days of receipt of such bills.

(n) The ham is accompanied at the time of importation into the United States by a certificate issued by a person authorized to issue such certificates by the veterinary services of the national government of the country of origin, stating that the ham was processed for at least 400 days and that all of the provisions of this section (9 CFR 94.17) have been complied with.

These provisions consist of various types of safeguards designed to ensure that any processed hams imported into the United States under the proposed provisions would be free of virus of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease.

Based on testing by the Department's Foreign Animal Disease Diagnostic Laboratory,[2] it has been determined that the processing procedures set forth in proposed paragraph (h) are adequate to destroy any virus of foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease that might have been present in the hams prior to processing. Also, the provisions of proposed paragraphs (b) and (c) concerning reporting and premises disease status are included as a precautionary measure to help ensure that the hams come from swine that are free of the specified diseases.

The testing of the hams conducted by the Department did not include testing for rinderpest. Provisions in proposed paragraphs (a) and (1) are designed to ensure that the hams do not come from swine from countries that have rinderpest.

Provisions in proposed paragraphs (e), (f), (g), (i), (j), (k), (l), and (n) are designed to ensure that the identity of the hams would be maintained from the time of slaughter through processing and importation, to ensure that the hams would be processed only in processing establishments capable of meeting the proposed provisions, and to ensure that the operator of the establishment would understand and agree to comply with all of the proposed requirements.

The proposal includes provisions which would require that the operator of the processing establishment or a representative of the establishment execute a trust fund agreement ensuring that costs for Veterinary Services to conduct inspections at the establishment would be paid, in order to import the hams.

The footnote to the proposed provisions (quoted above) would be included to inform persons of additional requirements for the importation of hams that are imposed under the Federal Meat Inspection Act and regulations thereunder.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provisions that are included in this proposal have been submitted for approval to the Office of Management and Budget (OMB). Written comments concerning any information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. A duplicate copy of such documents should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action would not have an effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is anticipated that the number of pork hams that would be imported annually under the proposed provisions would be an insignificant number compared to all pork hams imported into the United States. Therefore, 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 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products.

Additional Terms

African Swine Fever, Exotic Newcastle Disease, Foot-and-Mouth Disease, Fowl, Garbage, Hog Cholera, Lethal Avian Influenza (AI), Rinderpest, Swine Vesicular Disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, it is proposed to amend 9 CFR Part 94 as follows:

1. The authority citation for Part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134b, 134a, 134c, and 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. A new § 94.17 would be added to read as follows:

§ 94.17 Certain hams.

Notwithstanding any other provisions in this part, a ham shall not be prohibited from being imported into the

[2] Laboratory results can be obtained from Dr. Mark Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

United States if it meets the following conditions:

(a) The ham came from a swine that was never out of the country in which the ham was processed;

(b) The ham came from a country determined by the Deputy Administrator, Veterinary Services, to have laws requiring the immediate reporting to the national veterinary services in that country of any premises found to have swine infected with foot-and-mouth disease, rinderpest, African swine fewer, hog cholera, or swine vesicular disease;

(c) The ham came from a swine that was not on any premises where foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease exists or had existed within 60 days prior to slaughter;

(d) The ham was accompanied from the slaughtering facility to the processing establishment by a numbered certificate issued by a person authorized by the government of the country of origin stating that the provisions of paragraphs (a) and (c) of this section have been met;

(e) The ham was processed as set forth in paragraph (h) of this section in only one processing establishment;[12]

(f) The ham was processed in a processing establishment that prior to the processing of any hams in accordance with this section, was inspected by a veterinarian of Veterinary Services and determined by the Deputy Administrator, Veterinary Services, to be capable of meeting the provisions of this section for processing hams for importation into the United States;

(g) The ham was processed in a processing establishment for which the operator of the establishment has signed an agreement with Veterinary Services within 12-months prior to receipt of the hams for processing, stating that all hams processed for importation into the United States will be processed only in accordance with the provisions of this part;

(h) The ham was processed for a period of not less than 400 days in accordance with the following conditions: after slaughter the ham was held at a temperature of 0°–3° C. (32°–34.7° F.) for a minimum of 72 hours during which time the "aitch" bone was removed and the blood vessels at the end of the femur were massaged to remove any remaining blood; thereafter the ham was covered with an amount of salt equal to 4–6 percent of the weight of the ham, with a sufficient amount of water added to ensure that the salt had adhered to the ham; thereafter the ham was placed for 5–7 days on racks in a chamber maintained at a temperature of 0°–4° C. (32°–39.2° F.) and at a relative humidity of 70–85 percent; thereafter the ham was covered with an amount of salt equal to 4–6 percent of the weight of the ham, with a sufficient amount of water added to ensure that the salt had adhered to the ham; thereafter the ham was placed for 21 day in a chamber maintained at a temperature of 0°–4° C. (32°–39.2° F.) and at a relative humidity of 70–85 percent; thereafter the salt was brushed off the ham; thereafter the ham was placed in a chamber maintained at a temperature of 1°–6° C. (33.8°–42.8° F.) and at a relative humidity of 65–80 percent for between 52 and 72 days; thereafter the ham was brushed and rinsed with water; thereafter the ham was placed in a chamber for 5–7 days at a temperature of 15°–23° C. (59°–73.4° F.) and at a relative humidity of 55–85 percent; thereafter the ham was placed for curing in a chamber maintained for a minimum of 314 days at a temperature of 15°–20° C. (59°–68° F.) and at a relative humidity of 65–80 percent at the beginning and increased by 5 percent every 2½ months until a relative humidity of 85 percent was reached; and during all of the procedures described above the ham had no contact with any meat or animal product other than pork fat that was heat treated to at least 76° C. (168.8° F.) that may have been placed over the ham during curing;

(i) The ham bears a hot iron brand or an ink seal (with the identifying number of the slaughtering establishment) which was placed thereon at the slaughtering establishment under the direct supervision of a person authorized to supervise such activity by the veterinary services of the national government of the country of origin, bears a button seal (approved by the Deputy Administrator, Veterinary Services, as being tamper-proof) on the hock that states the month and year the ham entered the processing establishment and a hot iron brand (with the identifying number of the processing establishment and the date salting began) which were placed thereon at the processing establishment immediately prior to salting, under the supervision of a person authorized to supervise such activity by the veterinary services of the national government of the country of origin;

(j) The ham came from an establishment where a person authorized by the veterinary services of the national government of the country of origin to conduct activities under this paragraph, maintained original records (which shall be kept for a minimum of two years) identifying the ham by the date it entered the processing establishment, by the slaughtering facility from which it came, and by the number of the certificate which accompanied the ham from the slaughtering facility to the processing establishment, and where such original records are maintained under lock and key by such person, with access to such original records restricted to officials of the government of the country of orgin, officials of the United States government, and such person maintaining the records;

(k) The ham came from a processing establishment which allows the unannounced entry into the establishment of Veterinary Services personnel, or other persons authorized by the Deputy Administrator, Veterinary Services, for the purpose of inspecting the establishment and records of the establishment;

(l) The ham was processed in a country which had been determined by the Deputy Administrator, Veterinary Services, to be free of rinderpest, and which has through its veterinary services submitted to the Deputy Administrator, Veterinary Services, a written statement stating that it conducts a program to authorize persons to supervise activities specified under this section;

(m) The ham came from a processing establishing that has entered into a trust fund agreement executed by the operator of the establishment or a representative of the establishment and Veterinary Services, and that pursuant to the trust fund agreement is current in paying all costs for a veterinarian of Veterinary Services to inspect the establishment (it is anticipated that such inspections will occur up to four times per year), including travel, salary, subsistence, administrative overhead, and other incidential expenses (including an excess baggage provision up to 150 pounds). In accordance with the terms of the trust fund agreement, the operator of the processing establishment shall deposit with the Deputy Administrator, Veterinary Services, an amount equal to the approximate costs for a veterinarian to inspect the establishment one time, including travel, salary, subsistence, administrative overhead and other incidental expenses (including an excess baggage provision up to 150 pounds), and as funds from that amount are obligated, bills for costs incurred based on official accounting records will be

[12] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations thereunder (9 CFR Part 301 *et seq.*), including requirements that the pork or pork products be prepared only in approved establishments.

issued to restore the deposit to its original level. Amounts to restore the deposit to its original level shall be paid within 14 days of receipt of such bills.

(n) The ham is accompanied at the time of importation into the United States by a certificate issued by a person authorized to issue such certificates by the veterinary services of the national government of the country of origin, stating that the ham was processed for at least 400 days and that all of the provisions of this section (9 CFR 94.17) have been complied with.

Done at Washington, DC this 12th day of February 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-3439 Filed 2-14-86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. EFT-2]

Electronic Fund Transfers; Proposed Update to Official Staff Commentary; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation; extension of comment period.

SUMMARY: By notice published on December 11, 1985 (50 FR 50623), the Board of Governors requested comment on proposed revisions to the official staff commentary to Regulation E (Electronic Fund Transfers). The proposed commentary changes were in the form of two new questions. Proposed question 3-7.5 would make clear that a biweekly mortgage program requiring payment by preauthorized electronic fund transfers (EFTs) would not violate the compulsory use prohibition in section 913 of the Electronic Fund Transfer Act (15 U.S.C. 1693(k)(1)). Proposed question 10-18.75 would make clear that the requirement that preauthorized EFTs be "authorized by the consumer only in writing" is not met by a payee signing a written authorization as the consumer's agent, based on the consumer's oral authorization of the preauthorized EFTs in a taped telephone conversation. Comment was requested on the proposal by February 7, 1986. In order to provide interested parties additional time in which to present their views, the Board is extending the comment period by two weeks.

EFFECTIVE DATE: The comment period is extended through February 21, 1986.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or (202) 452-2412.

List of Subjects in 12 CFR Part 205

Banks, Banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

By order of the Board of Governors, acting through its Secretary under delegated authority, February 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-3372 Filed 2-14-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-ASO-2]

Proposed Revocation of Control Zone, Miami, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revoke the control zone which is predicated on Dade-Collier Airport, Miami, Florida. The intended effect of this action is to raise the floor of controlled airspace, in the vicinity of the airport, from the surface to 700 feet above ground level. The basic requirements for retaining a control zone are that there must be communications capability to the surface of the airport and weather observations, both hourly and special, be taken and reported to the air traffic control facility having jurisdiction of the controlled airspace. Dade-Collier Airport does not meet the criteria for retention of the control zone since weather observations are not available.

DATE: Comments must be received on or before: March 30, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, 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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. _____." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will revoke the Dade-Collier Airport, Miami, Florida, control zone and raise the floor of controlled airspace in the vicinity of the airport from the surface to 700 feet above ground level. This action will provide additional uncontrolled airspace for the conduct of Visual Flight Rules aeronautical activity. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6B dated January 2, 1986.

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, Control zone.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

§ 71.171 [Amended]

2. By amending § 71.171 as follows:

Miami Dade-Collier Training and Transition Airport, FL—[Revoked].

By revoking the title and text.

Issued in East Point, Georgia, on February 6, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-3362 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-22883; File No. S7-5-86]

Depository Shipment Control Lists Transfer Instructions; Definition of Item

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Securities and Exchange Commission ("Commission") is publishing for comment proposed rule amendments designed to enhance confidence in and increase the efficiency of the National System for the Clearance and Settlement of Securities Transactions (the "National System"). The proposal would amend the definition of "Item" as it relates to transfer instructions on depository shipment control lists. Under the proposed definition, each line on a depository SCL would be a separate item.

DATE: Comments must be received on or before April 15, 1986.

ADDRESS: Persons wishing to submit written views, data, and comments should file three copies with John Wheeler, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. All comments should refer to File No. S7-5-86 and will be available at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: Joseph M. Furey, Esquire, at (202) 272-2416, Division of Market Regulation, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Recently, several transfer agents and depositories have expressed concern about the treatment of depository shipment control lists ("SCLs") in determining compliance with the turnaround requirements of Rule 17Ad-2 [1] under the Securities Exchange Act of 1934 (the "Act"). Transfer agent and depository participants at the 1984 Securities Processing Roundtable questioned the continuing validity of current rule interpretations specifying that each SCL, regardless of the number of lines or transfer instructions it contains, be considered one item for purposes of determining turnaround compliance.[2] To address these concerns, the Commission is proposing for comment amendments to Rule 17Ad-1(a), which defines the term "item" for purposes of Rules 17Ad-2 through 17Ad-7.[3] If adopted, the proposed amendments would allow transfer agents to count each line on an SCL as a separate item for purposes of determining compliance with the turnaround requirements.

II. Background

In 1977, the Commission adopted Rules 17Ad-1 through 17Ad-7 (the "turnaround rules").[4] These rules were designed to protect investors and persons facilitating transactions by or on behalf of investors and to contribute to the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. Rule 17Ad-2, in particular, seeks to assure that registered transfer agents perform their functions in a prompt and accurate manner by requiring them to turnaround 90% of the routine items they receive for processing within three business days. For purposes of these rules, an item is the basic unit for which turnaround times and other requirements are prescribed. An item is defined as the certificates of a single issue of securities presented under one ticket, or, if there is no ticket (as is often the case with mail items from individuals), presented at one time by one presentor.[5]

Transfer agents often receive submissions from depositories that contain many lines of individual transfer instructions concerning the same securities issue. These depository submissions generally are referred to as SCLs. SCLs are submitted to transfer agents either on paper or magnetic tape. SCLs contain either deposit or withdrawal instructions, but never both.

[1] 17 CFR 240.17Ad-2.

[2] *Report of the Division of Market Regulation 1984 Securities Processing Roundtable*, May 31, 1984 at 32-33.

[3] In accordance with section 17A(d)(3)(A)(i) of the Act, the Commission consulted with, and requested the views of, the federal bank regulatory agencies at least fifteen days prior to this announcement.

[4] 17 CFR 240.17Ad-1 through 17Ad-7. *See* Securities Exchange Act Release No. 13636, 42 FR 32404 (June 24, 1977).

[5] 42 FR at 32405.

Generally, deposit SCLs contain instructions to the transfer agent to transfer record ownership of securities from depository participants or their customers to the depository. One line of a deposit SCL might contain numerous individual transfer instructions. For example, one line of a deposit SCL could contain individual transfer instructions with respect to 10 certificates registered in the names of different customers of, for example, Paine Webber, all of which are to be transferred to the depository's nominee.

The second type of SCL is a withdrawal-by-transfer, by which registered ownership of securities is transferred from the depository to individual customers of depository participants or other entities that are not participants of the depository. Each line of a withdrawal-by-transfer SCL generally consists of one individual transfer instruction. For example, a line on a withdrawal-by-transfer SCL might provide that 200 shares of IBM registered to a depository are to be transferred to John A. Smith.

Transfer agents and depository participants at the 1984 Securities Processing Roundtable discussed the need for a review of the Commission's interpretation of the term "item." Some transfer agents advised the staff that the average number of lines on certain SCLs has doubled in recent years, with no additional credit given transfer agents with respect to turnaround compliance.[6] They noted that although the percentage of depository requests for transfer has increased in relation to all requests for transfer, undue weight is being given to non-depository items solely as a result of the definition of the term "item."

When the Commission adopted the turnaround rules, several commenters suggested that the term "item," for purposes of determining compliance with the turnaround rules, be defined to mean each individual transfer instruction for certificates of a single issue of securities included within a single ticket.

Under this definition, each individual transfer instruction contained on an SCL would be counted as one item. The Commission, however, concluded that each SCL a transfer agent received for processing should be counted as one item, regardless of the number of certificates that the transfer agent eventually issued pursuant to the SCL. The Commission believed this approach would yield a simple, uniform method for counting transfer agent production efforts. In addition, the depositories indicated that their operating procedures were such that the number of lines on each SCL should not materially increase, or at the least that any upward variation of the size of SCLs "would not be of a magnitude to create difficulties for transfer agents." Accordingly, the Commission adopted the position that each SCL should be considered an item.[7]

[6] Moreover, they indicated that each depository tape transmission sent to transfer agents is treated as an SCL and may contain anywhere from one to several hundred transfer instructions.

[7] The Depository Trust Company ("DTC"), the principal user of SCLs at that time, indicated that on the average SCLs would contain no more than twenty lines resulting in the issuance of no more than 24 certificates. *See* Securities Exchange Act Release No. 13636, 42 FR 32404 (June 24, 1977) at 32405. *See also*, Letter to Donald B. Herterich, President, Stock Transfer Association, Inc. dated May 6, 1981, in which Division of Market Regulation staff noted that if circumstances were to change—*i.e.*, if the number of transfer instructions contained in SCLs increased greatly—the staff would reconsider its interpretation of item as it relates to SCLs. The current interpretation of item was adopted in Securities Exchange Act Release No. 17111, 45 FR 59840 (September 11, 1980).

III. Discussion

In light of the increased number of SCLs transfer agents receive from depositories and the increased number of individual transfer instructions contained on each SCL, the Commission is proposing for comment amendments to Rule 17Ad–1 that, if adopted, would change the treatment of SCLs. Under the proposed amendments, each line of an SCL would be counted as a separate item for purposes of determining compliance with the turnaround rules.

The proposed amendments generally would retain the current definition of "item." Thus, certificates of the same issue of securities covered by one ticket presented for transfer would be treated as one item for purposes of Rule 17Ad–2. Accordingly, a single broker-originated-window-ticket ("BOWT") relating to multiple certificates would be treated, as it is today, as one item for purposes of Rule 17Ad–2. However, the proposed amendments would revise the current treatment of SCLs in connection with transfers to and from registered clearing agencies. Each line on a "deposit shipment control list" or a "withdrawal shipment control list" would be treated as a separate item for purposes of determining compliance with the turnaround requirements. A "deposit shipment control list" would be defined as a list of transfer instructions that accompanies certificates to be cancelled and reissued in the nominee name of a clearing agency registered under section 17A of the Act. Similarly, a withdrawal shipment control list would be defined as a list of instructions from a registered clearing agency that: (i) Directs the issuance of certificates to a clearing agency's participants or their customers; and (ii) either accompanies certificates to be cancelled or directs the transfer agent to reduce certificate or position balances maintained by the transfer agent on behalf of a clearing agency under that clearing agency's transfer agent custody program.

The Commission understands that deposit SCLs may contain one or more "BOWTs" and that each BOWT is listed on a separate line of the SCL. Under the proposed amendments, each BOWT would be treated as a separate item, rather than each of the transfer instructions and certificates covered by the BOWT. Thus, a BOWT covering multiple certificates would be treated as a single item whether included on a deposit shipment control list or presented directly to a transfer agent.

The proposed amendments would have certain collateral effects on other turnaround rules. For example, an increase in the number of items received for transfer and processing might change a transfer agent's status under Rule 17Ad–4(b), which provides an exemption from the three-day turnaround standards for certain transfer agents,[8] and exemptions from Rule 17Ad–3 and certain provisions of Rule 17Ad–6.[9] Although the definitions in Rule 17Ad–1 specifically apply to Rules 17Ad–2 through 17AD–7, the term "item" is also used in other Commission rules. For example, proposed Rule 17Ac2–2, if adopted, would exempt from filing certain portions of proposed Form TA–2 transfer agents that receive fewer than 500 items for processing and

[8] Rule 17Ad–4(b) sets forth the conditions under which a registered transfer agent may become "exempt" from the three-day turnaround performance standard and certain recordkeeping rules. To qualify as "exempt," a transfer agent, among other things, must receive fewer than 500 items for transfer and fewer than 500 items for processing during the preceding six months. Rule 17Ad–2(e) sets forth a five-day turnaround standard for "exempt" transfer agents that handle depository-eligible items, including SCLs.

[9] Rule 17Ad–3 prohibits transfer agents that fail to comply with turnaround requirements, under certain circumstances, from taking on any new transfer agent business. Rule 17Ad–6 requires transfer agents to maintain certain records. In addition, those transfer agents losing their "exempt" status under Rule 17Ad–4(b) also may be required to meet stricter time frames for posting information to the issuer's master securityholder file in connection with purchases, sales or transfer (*see* 17 CFR 240.17Ad–10(a)); and unless otherwise exempt under § 240.17Ad–13(d), may be required to obtain an annual report on the transfer agent's system of accounting control. The Commission encourages commenters to address whether alternative formulations of those exemptions would be appropriate, such as raising the exemption thresholds.

transfer in a six month period.[10] Also, the number of items received by a transfer agent is used as a measure in determining whether a transfer agent is a small entity for purposes of the Regulatory Flexibility Act and Commission rulemaking.[11] The Commission therefore invites commenters to address whether the term "item," as proposed to be defined, should only apply to Rules 17Ad–2 through 17Ad–7, rather than Rule 17Ac2–2 or other Rules that incorporate the term "item."

A. Bases for Amendments

In general, the Commission believes that the proposed amendments may be appropriate for several reasons. First, the amendments, if adopted, should enhance development of the national clearance and settlement system for securities transactions. Second, the proposed amendments should balance, more equitably to agents and depositories, the relative work transfer agents receive for processing depository and nondepository items. In addition, the Commission believes the proposed amendments would advance the goal of uniform transfer agent processing standards, particularly transfer agent turnaround requirements.[12]

B. National Clearance and Settlement System

In section 17A of the Act, Congress directed the Commission to use its authority to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. Acting pursuant to this authority, the Commission, among other things, has promulgated rules designed to ensure that transfer agents expeditiously and accurately process securities presented for transfer.[13] The Commission also has been actively involved in efforts to immobilize securities certificates at depositories, and to expand the use of book-entry accounting systems for the transfer of securities.[14]

As the volume of securities certificates immobilized in securities depositories has grown, so has the volume of SCLs and SCL instructions. Growth in the number of securities immobilized at depositories is expected to continue. Institutional and retail investors are increasingly aware of the efficiency, safety and cost-savings associated with securities immobilization and are expected to continue to take advantage of immobilization opportunities. Moreover, because of recent Municipal Securities Rulemaking Board ("MSRB") rule changes,[15] the number of municipal securities immobilized in securities depositories continues to grow dramatically. As this growth continues, SCLs will constitute a larger percentage of transfer agent work volume.

Consistent with the Congressional directive to establish a national system for the clearance and settlement of securities transactions, the Commission believes it appropriate to encourage further immobilization of securities certificates and more efficient processing of securities transactions. The current interpretation of item as it relates to SCLs, however, does not appear to further these goals. Transfer agents currently receive less turnaround credit for processing an SCL than other items submitted for transfer because SCLs are considered only one item. As SCL with ten lines might require much more work than a single presentment, but receives no greater credit. Moreover, as the volume of SCLs transfer agents receive increases, and as the number of transfer instructions on each SCL expands, transfer agents will continue to receive relatively less credit for processing a relatively greater volume of work. Thus, instead of encouraging expeditious processing of SCLs, the current interpretation creates a significant incentive for transfer agents in danger of not meeting their 90 percent turnaround requirement intentionally to bypass depository SCLs in favor of other items with fewer individual transfer instructions for which they will receive greater turnaround credit. In effect, this penalizes depositories, a result that inhibits rather than furthers the development of the national clearance and settlement system. The proposed amendments, on the other hand, by crediting transfer agents for processing each line of an SCL, would encourage transfer agents to expeditiously process depository SCLs and discourage them from processing nondepository items over depository items.

C. Equitable Credit for Depository and Nondepository Items

The Commission believes that counting each line contained in SCLs (particularly deposit SCLs) as a separate item for purposes of the turnaround rules more equitably balances the credit transfer agents receive for processing depository versus nondepository items. In reaching this conclusion the Commission believes this approach may be preferable to treating each individual transfer instruction contained on a deposit SCL as a separate item.

In order to provide uniformity between BOWTs presented to transfer agents by mail, at the transfer agent's offices, or through depositories, under the proposed amendments, each line of an SCL containing a BOWT, which may include a series of individual transfer instructions, will be considered one item. The Commission specifically invites commenters to address whether the treatment of BOWTs should be changed and, if so, whether the Commission should continue to maintain uniform treatment of BOWTs regardless of the delivery medium chosen. For example, commenters should consider whether each transfer instruction on a BOWT should be counted as a separate item, and whether the BOWT is presented by a broker or by a depository.

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[10] As proposed in Securities Exchange Act Release No. 21950 (April 17, 1985), 50 FR 15912 (April 23, 1985), portions of Form TA–2 need not be filed by transfer agents that receive fewer than 500 items for transfer and processing in a six month period and do not maintain master security-holder files for more than 1000 securityholder accounts.

[11] 17 CFR 240.0–10(h).

[12] In 1984, the Commission amended Rule 17Ad–2 to require exempt transfer agents that handle depository-eligible securities issues to complete, within five business days of receipt from securityholders, the transfer of record ownership with respect to 90% of all routine items presented for transfer each month. At that time, several commenters urged the Commission to require these transfer agents to meet the three business day time frame specified in Rule 17Ad–2(a), thereby establishing a uniform time frame for transfer and processing of all "routine" items involving depository-eligible securities issues. Although the Commission declined to adopt that suggestion in 1984, the Commission nevertheless announced its intention to establish a uniform three day time frame in the near future. The Commission believes the proposed amendments may represent an important step towards the goal of uniform processing standards for depository-eligible issues.

[13] *See* 17 CFR 240.17Ad–1 through 17Ad–14.

[14] *See, e.g.*, Division of Market Regulation Draft Staff Report, *Progress and Prospects: Depository Immobilization of Securities and Use of Book-Entry Systems*, June 14, 1985. Securities immobilization provides a safer, more efficient and cost-effective environment for securities transactions for several reasons. First, physical certificate movement is minimized. As a result, problems associated with lost and stolen securities certificates and error-prone physical handling are greatly reduced. Second, because securities transfers among depository participants are effected by book-entry movements, rather than physical delivery, settlement fails decrease and same day turnaround increases. Third, immobilization provides economies of centralization and encourages economical use of automated data processing, which increases efficiency at all stages of clearance and settlement. Finally, depositories provide centralized control and standardized procedures that improve safety and discipline in securities processing.

[15] *See* MSRB Rules G–12 and G–15. Under these Rules, effective February 1, 1985, most inter-dealer and institutional trades in depository eligible municipal securities must settle through clearing agency facilities.

D. Effect on Recordkeeping Requirements

The Commission recognizes that treating each line of an SCL as a separate routine item for purposes of determining compliance with the turnaround provisions would affect existing transfer agent recordkeeping systems. Rule 17Ad–6(a) requires registered transfer agents to make and keep current a receipt, ticket, schedule, log or other record showing the business day each routine and nonroutine item is received and made available to the presentor; and a log, tally, journal, schedule or other record showing monthly, among other things, the number of routine items received and processed within three business days, the number of routine items received and not processed within three business days, and the number of nonroutine items received and the time frame within which they were processed. Since each SCL currently is treated as one routine item, transfer agents record SCLs as a routine item in accordance with Rule 17Ad–6(a). By changing the number of items on an SCL from one to the number of lines that appear on the SCL, transfer agents would be required to modify their recordkeeping procedures to reflect this change. The Commission understands that such modifications would not create significant difficulties for transfer agents.[16] Nevertheless, because some modification would be required, the Commission specifically requests commenters to focus on this issue, quantifying the expected costs of modifying their respective recordkeeping procedures and weighing those costs against the benefits associated with credit for having processed more than one item.

IV. Summary of Initial Regulatory Flexibility Analysis

On February 10, 1986, the Commission prepared an Initial Regulatory Flexibility Analysis (the "Analysis") in accordance with 5 U.S.C. 603 as amended by the Regulatory Flexibility Act (the "RFA") regarding the proposed amendments to Rule 17Ad–1. The following is a summary of the Analysis.

The Analysis notes that the amendments to this Rule are being proposed as part of the Commission's ongoing evaluation of Rules 17Ad–1 through 17Ad–7. Under the proposed amendments, affected entities generally would be subjected to increased compliance costs to the extent that the number of items received for transfer and processing during the preceding six months increased beyond 500. If these transfer agents receive more than 500 items for transfer and 500 items for processing during the preceding six months, they would lose their exempt status under Rule 17Ad–4(b), and therefore would be subject to the more stringent three-day turnaround standard that applies to other transfer agents that handle depository-eligible issues. Loss of exempt status also would require these transfer agents to comply with certain recordkeeping provisions of Rule 17Ad–6 and, possibly, the annual study and evaluation of internal accounting control requirements of Rule 17Ad–13. The proposed definition of "item" also might affect Commission rules other than Rules 17Ad–1 through 17Ad–7 (the turnaround rules). For example, if Rule 17Ac2–2 and Form TA–2 are adopted as proposed, transfer agents who receive more than the 500 items for transfer and processing in a six month period might lose their exemption from filing certain portions of Form TA–2. Also, the number of items received for transfer and processing is used to determine whether a transfer agent qualifies as a "small entity" under Rule 0–10(h) for purposes of the RFA.

The Commission estimates in the Analysis that the proposed amendments could affect 700 of the 1400 registered transfer agents that qualify as small entities for purposes of the RFA. The estimate is only 700 out of 1400 transfer agents because many of the 1400 small entity transfer agents, particularly small entity bank transfer agents, perform transfer agent activities for their own depository-ineligible securities issues.[17] The Commission also notes in the Analysis that because many of the affected transfer agents already process SCL presentments within three or five business days, these transfer agents would not be affected significantly by the proposed amendments.

For those small entity transfer agents affected, however, the Commission notes that maintenance of logs of items received for tranfer and processing, as required by Rule 17Ad–6 for non-exempt transfer agents, can be established using relatively inexpensive recordkeeping systems. The Commission believes the primary expense associated with the loss of exempt status as it pertains to increased recordkeeping requirements would be increased personnel costs to process routine items for transfer within three, rather than five, business days. Finally, the Commission notes that small entity transfer agents losing their exempt status under Rule 17Ad–4(b), if unable to rely on another exemption provided in Rule 17Ad–13(d), would incur additional expenses in complying with Rule 17Ad–13's requirement that an independent accounting firm conduct an annual audit and prepare an annual report concerning the transfer agent's internal accounting controls.

A copy of the Analysis may be obtained from Joseph Furey, Esq. at (202) 272–2416.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Statutory Basis and Text of the Proposed Amendments

The Commission is proposing to amend Chapter II of title 17 of the Code of Federal Regulations as follows: Brackets indicate old text which will be removed, and arrows indicated text which will be added.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is proposed to be amended by adding the following citation.

Authority: Section 23, 48 stat. 901, as amended, 15 U.S.C. 78W. * * * § 240.17Ad–1 is also authorized under sections 2, 17, 17A and 23(a); 48 Stat. 841, as amended, 48 Stat. 897, as amended, 89 Stat. 137, 141, and 48 Stat. 901 (15 U.S.C. §§ 78b, 78q, 78q–1, 78w) * * *

2. Section 240.17Ad–1 is proposed to be amended by revising the introductory text and paragraph (a) as follows:

§ 240.17Ad–1 Definitions.

►Unless specified otherwise, ◄ [A]►a◄s used in this section and §§ 240.17Ad–2, 240.17Ad–3, 240.17Ad–4, 240.17Ad–5, 240.17Ad–6 and 240.17Ad–7:

(a)►(1)◄ The term "item" means a certificate or certificates of the same issue of securities covered by one ticket (or, if there is no ticket presented by one presentor) presented for transfer, or an instruction to a transfer agent which holds securities registered in the name of the presentor to transfer or to make available all or a portion of those securities. In the case of an outside registrar each certificate to be countersigned is an item.

►(2) Each line on a "deposit shipment control list" submitted by a registered clearing agency shall be treated as a separate item. A "deposit shipment

[16] The Commission understands that each SCL currently is accompanied by an index, either on a paper or tape medium, and that the number of lines on an SCL therefore can be discerned with little difficulty upon receipt.

[17] The proposed amendments would not change the definition of "item" as it relates to non-depository eligible securities issues.

control list means a list of transfer instructions that accompanies certificates to be cancelled and reissued in the nominee name of a registered clearing agency.

(3) Each line on a "withdrawal shipment control list" submitted by a registered clearing agency shall be treated as a separate item. A "withdrawal shipment control list" means a list of instructions (either in paper or electronic medium) that:

(i) directs issuance of certificates in the names of persons or entities other than the registered nominee of the registered clearing agency; and (ii) accompanies certificates to be cancelled, which are registered in the nominee name of a registered clearing agency, or directs the transfer agent to reduce certificate or position balances maintained by the transfer agent on behalf of a registered clearing agency under that clearing agency's transfer agent custody program.◄

* * * * *

Dated: February 10, 1986.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86-3434 Filed 2-14-86; 8:45 am]

BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-6-FRL-2970-9]

Standards of Performance for New Stationary Sources; Proposed Alternative Performance Test Requirement for Alcoa of Rockdale, TX

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve an alternative air emissions testing frequency requirement for Alcoa's primary aluminum reduction plant at Rockdale, Texas as provided for at 40 CFR 60.195(b). The intended effect of this proposed approval is to allow annual fluoride emissions performance tests on Alcoa's anode bake plant. The source would not be required to test fluoride emissions on a monthly basis. This action is approvable based on previous fluoride emission data provided by the company. This action should have no effect on the National Ambient Air Quality Standards.

DATE: Interested persons are invited to submit comments on this proposed action on or before March 20, 1986.

ADDRESS: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air, Pesticides and Toxics Division, 1201 Elm Street, Dallas, Texas 75270, Attention: Raymond Magyar (6T-ES).

Background information and comments received on the proposal will be available for public inspection at the address given above and at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Raymond Magyar at the above EPA address, telephone 214/767/9876.

SUPPLEMENTARY INFORMATION: On January 26, 1976 (41 FR 3828), EPA promulgated Standards of Performance for New Primary Aluminum Reduction Plants as Subpart S of 40 CFR Part 60, pursuant to the provisions of section 111 of the Clean Air Act. Under the original standards, affected facilities at a new primary aluminum reduction plant were required to conduct performance tests on startup and when required by the Agency under section 114 of the Clean Air Act. On June 30, 1980 (45 FR 44207), EPA revised 40 CFR 60.195 to require performance testing at least once per month for the life of an affected facility. At the same time, however, the Agency provided that alternative test requirements could be established for the primary control system or an anode bake plant if the source could demonstrate that emissions have low variability during day-to-day operations.

On November 15, 1978, the Environmental Protection Agency (EPA) delegated to the Texas Air Control Board (TACB) authority to administer Subpart S of 40 CFR Part 60. Under the terms of the delegation, performance tests were to be scheduled and performed in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the Administrator of EPA. Accordingly, the TACB has transmitted to EPA for its approval a petition for alternative test requirements submitted by Alcoa for its Rockdale, Texas plant.

Alcoa is requesting a change in the testing requirements established for primary aluminum reduction plants by 40 CFR Part 60. Specifically, the source wishes to be allowed to change the frequency of testing for anode baking furnaces known as numbers 162 and 164 from once a month to once a year. On the basis of the supporting information submitted, EPA now proposes to grant this request since it meets the requirements of 40 CFR 60.195(b). Actual emissions from the anode bake plant systems are far below the allowable emissions. The anode bake plant emissions have low variability during day-to-day operations, and they are less than half the allowable standard for fluorides. This alternative requirement would not preclude the Agency or the TACB from requiring performance testing at any time. In addition, the alternative requirement could be withdrawn at any time that the Administrator found that it was not adequate to assure compliance with the emission standards applicable to this source.

The public is invited to participate in this proposed rulemaking by submitting written comments during the next 30 days on the proposed alternative test requirements. After carefully considering all pertinent comments received, the Administrator will take final action on Alcoa's petition under 40 CFR 60.195(b).

Under 5 U.S.C. 605(b), I hereby certify that today's proposed action will not if promulgated, have a significant economic impact on a substantial number of small entities. Under Executive Order 12291, today's proposed action is not "major." Today's proposed action would change the requirements for only one entity, not a small entity, and would have minimal and positive economic effect on that entity. This proposed action has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, will be available for public inspection at the Region 6 office listed under **ADDRESS** above.

This notice of proposed approval is issued under the authority of sections 111, 114 and 301 of the Clean Air Act, as amended, 42 U.S.C. 7411, 7414 and 7601.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Intergovernmental relations, Metals.

Dated: December 31, 1985.

Frances E. Phillips,

Regional Administrator.

[FR Doc. 86-3402 Filed 2-14-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-349-P]

Medicare Program; Reasonable Charge Limitations

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

ACTION: Proposed rule.

SUMMARY: This proposed regulation would state the circumstances under which HCFA would consider establishing special reasonable charge payment limits for services (including supplies and equipment) reimbursed under Part B of the Medicare program, as will as the procedures it would follow in establishing them. The limits would be either a specific dollar amount, or a special method to be used in determining maximum reasonable charges to be allowed for a particular service or category of service.

The proposed rule would also specify procedures for public participation in establishing limits, and that procedures for exceptions would be included in each notice of limits, as appropriate.

The purpose of this proposed rule is to establish a stronger framework for setting special reasonable charge limits for services when the standard reimbursement methodology results in payments that are not reasonable. A related purpose is to protect the Medicare program from excessive outlays and to prevent any adverse effects on both Medicare beneficiaries and consumers in general that we believe would result from a lack of such limits.

DATES: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on March 20, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-349-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:.

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.; or

Room 132 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting please refer to BERC-349-P. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Ronald Wren, (301) 594-7107.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1842(b)(3) of the Social Security Act requires that all payments under Part B of the Medicare program must be reasonable.

Reasonable charge determinations under Part B are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for a service is generally the lowest of (1) The actual charge, (2) the customary charge made by a particular supplier, or (3) the prevailing charge, which is set at the 75th percentile in the range of customary charges for similar services in the locality. An economic index limits the annual increases in prevailing charges for physicians' services.

This standard method of determining the reasonable charge for service can, in some instances, result in payments that may not be reasonable. This may occur, for example when (1) The marketplace is not truly competitive because of limited suppliers; (2) the Medicare and Medicaid programs are the primary source of payment for a service; (3) the charge involves the use of new, expensive technology for which there is not an extensive charge history; (4) the charges do not reflect changing technology or increased facility with that technology (for example, when first done, a medical procedure may require considerable skill and entail substantial risk, but becomes more routine with additional experience); (5) prevailing charges in a locality are clearly out-of-line with prevailing charges in other localities; or (6) charges are grossly in excess of acquisition or production costs.

We are primarily concerned about those cases in which payments may be excessive. We believe that situations in which the reasonable charge mechanism results in a significantly deficient amount are virtually non-existent. Moreover, Medicare operating instructions (Medicare Carriers Manual, Part III, § 5010.2, "Equity Adjustments in Customary Charge Screens") already provide for adjustments in a customary charge profile in those unusual situations in which an increase in payment is appropriate.

II. Proposed Regulations

In order to ensure that Medicare payments are reasonable (not excessive), we propose to adopt special reasonable charge limits. The Medicare statute authorizes the Secretary to adopt special reasonable charge limits when the usual reimbursement mechanism under Part B of the program does not yield the desired result of reasonable payment. The Senate Finance Committee, in its report accompanying the Social Security Amendments of 1972, Pub. L. 92-603, expressed this purpose of section 1842(b) of the Act: ". . . present law provides for special reasonable charge rules and limits with respect to any item or service for which such special rules are found to be necessary and appropriate". (S. Rep. No. 1230, 92d Cong., 2d Sess. 193 (1972).) We believe that the proposed regulations follow the language and spirit of the law by establishing the process and criteria we would use in considering and setting limits when it appears that the standard process allows payment that is not reasonable.

We propose to add a new paragraph (g) to 42 CFR 405.502 which concerns the determination of reasonable charges. The new paragraph would provide that we may establish national reasonable charge limits for a category of service if we determine that the standard procedures for calculating reasonable charges result in unreasonably excessive charges. (We note that a category of service could contain only one particular service.) In determining the need for and in setting special payment limits, we would use information that is furnished by members of Congress, the public, carriers and others regarding excessive or unwarranted program expenditures that we routinely investigate.

We considered the possibility of trying to establish specific criteria for setting limits. We rejected this alternative, however, because the situations in which special reasonable charge limits could be necessary are varied, and an inflexible process could result in limits being based on factors not specifically relevant to the issue. We chose the proposed system because it permits us to set limits based on careful analysis of each individual situation, and to use criteria and data directly pertinent to that situation. We believe this is a more rational approach, both from the program viewpoint and those of affected beneficiaries, physicians and

other suppliers of services. In our view, the procedure we propose for developing and justifying these limits, including publishing them for public comment, will result in limits that are well-conceived, reasonable, and properly documented as fulfilling the purpose of these proposed regulations.

Thus, the regulations at § 405.502(g)(1) would describe factors to be considered in determining the need for and setting a limit. These factors include, but are not limited to, the following:

1. *Price markup*—We would compare the specific markup on a category of service with that on similar services and with general industry pricing trends.

2. *Utilization*—In some situations, we would impute a cost-effective utilization rate in order to establish a limit.

3. *Charges made*—We would compare the amounts charged to non-Medicare and Medicare patients, and charges made for similar services furnished to institutions or other large volume purchasers.

4. *Cost of providing the service or obtaining the supply equipment*—We would consider cost data in order to determine whether charges are significantly out of proportion with the costs of furnishing or acquiring the service.

5. *Charges in other areas*—We would consider the prevailing charges in other localities in determining whether a charge is inherently unreasonable. For example, we may consider as unreasonable prevailing charges that deviate more than a certain percentage above an area, regional or national average.

6. *Other appropriate factors*—We would consider other relevant factors in determining the need for and in setting a limit for a particular category of service.

As noted above, we would obtain some of this information from sources that have noted excessive or unwarranted program expenditures. We also would obtain this information from a variety of other sources, including not only charge data and price lists from Medicare, Medicaid and other government agencies, but also data from manufacturers, wholesalers and retail dealers, and studies, reports and research papers published by government agencies and private entities.

Once we have reviewed the available data on a specific category of service, we would determine whether a special reasonable charge limit is appropriate and, if so, what type of limit is needed and the dollar level, if applicable. If a dollar limit were not applicable, we would develop a special method the Medicare carriers would use in determining maximum reasonable charges for the category of service. For example, the limit might be expressed in terms of a relationship to prevailing charges for similar services.

The proposed regulations at § 405.502(g)(2) would provide that affected beneficiaries and suppliers would be able to request an exception to any limit if the criteria and circumstances for an exception, that will be issued with the notice of the limit, are met. This exception process would apply only when a special limit had been applied under § 405.502(g) and would not create any right to apply for exceptions in other cases. The exception process recognizes the fact that while special reasonable charge limits might be fair in the vast majority of cases, circumstances may arise in which their application would result in inequity for a particular beneficiary or supplier.

The proposed regulations would specify, at § 405.502(g)(3), that we would publish any proposed limit as a notice in the **Federal Register** and provide an opportunity for public comments. When all comments have been fully considered, we would also publish our final determination and our response to those comments, in the **Federal Register**.

Each notice published in the **Federal Register** would also set forth the criteria and circumstances, if any, under which a carrier may grant an exception to the specific limit. For example, a carrier might be permitted to grant an exception when a service is needed in a particular area, but the area is so sparsely populated that it cannot support cost-efficient utilization of the service. Carriers would review each request for an exception received from a beneficiary or a supplier and would grant it only in accordance with the published criteria for each specific limit.

It should be noted that an individual carrier or groups of carriers will retain their present authority to make inherent reasonableness determinations (which may involve setting a reasonable charge limit for a specific locality) without publishing a notice in the **Federal Register**. Existing regulations at 42 CFR 405.502(a)(7), concerning the determination of reasonable charges, provide that "other factors" may be found necessary and appropriate in judging whether a charge for a specific service is inherently reasonable. Carriers have and will continue to use this authority to make inherent reasonableness decisions. This differs from the proposed regulations in that the proposal would provide a basis for HCFA to promulgate national reasonable charge limits for particular services.

Our intention is to use the authority to establish limits in a selective manner. We envision using the authority only if it is clear that reliance on the standard reasonable charge mechanism and the carrier's existing inherent reasonableness authority cannot effectively deal with the problem. An example of this would be a totally new medical service that would be widely used and approved for Medicare coverage but for which the carriers' initial pricing of the service produced greatly inconsistent results.

We do not believe this proposal would have any substantial adverse effects on beneficiaries. When a beneficiary receives a covered medical service for which he or she may receive direct payment under Part B, the beneficiary may assign the right to that payment to the supplier of the services is the supplier agrees to the assignment. Under the terms of the assignment, a supplier agrees to accept the Medicare reasonable charge as payment in full for services and the beneficiary is responsible for a coinsurance amount. The establishment of limits on reasonable charges would lessen beneficiary cost sharing requirements if assignment is taken. More than 65 percent of all Part B claims are now paid under assignment. Further, as indicated above, the limits will be used selectively. Thus, the impact on beneficiaries will be minimal in most instances.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed major rule. A major rule is defined as any regulation that is likely to: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed regulation would have no direct effect on the economy or on Federal or State expenditures. It specifies rules under which special limits might be established. Any actual limits would be published in the **Federal Register**, first as a proposal that would allow the public a period to submit comments and data on the proposed

limits and, then as final limits. The final limits would not be promulagated without fully considering their economic impact. Therefore, we conclude that this proposed rule, in itself, would have no effect on the economy and no threshold criteria under E.O. 12291 would be exceeded. Consequently, an initial regulatory impact analysis is not required.

B. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulation would not have a significant economic impact on a substantial number of small entities. As discussed above, this proposed regulation would not, by itself, have an economic impact. Indirectly, it might result in future issuances whereby small entities might be affected. However, in each of these cases, procedures consistent with the RFA would be followed and a regulatory flexibility analysis performed, if warranted. Therefore, we conclude, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities and that an initial regulatory flexibility analysis is not required.

IV. Response to Comments

Because of the large number of pieces of correspondence we normally receive on proposed regulations, we cannot acknowledge or respond to them individually. However, we will consider all comments that are received by the end of the comment period and, if we proceed with a final rule, we will respond to those comments in the preamble to that rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405, Subpart E would be amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * *

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

* * * * *

1. The authority citation for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1842 (b) and (h), 1861 (b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886 and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395u (b) and (h), 1395x (b) and (v), 1395y(a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww and 1395xx).

2. Section 405.502 would be amended by adding a new paragraph (g) to read as follows:

§ 405.502. Criteria for determining reasonable charges.

* * * * *

(g) *Determination of reasonable charges in special circumstances.* (1) HCFA may establish special reasonable charge limits for a category of service if it determines that the standard rules for calculating reasonable charges set forth in this subpart result in unreasonably excessive charges. The limits would be either a specific dollar amount, or a special method to be used in determining maximum reasonable charges to be allowed. In determining the need for a limit, and in calculating a limit, HCFA will consider the available data that are relevant to the category of service. The factors to be considered may include, but are not limited to:

(i) *Price markup.* This is the relationship between the retail and wholesale prices or manufacturer's costs of a category of service. HCFA may consider the markup on similar services and information on general industry pricing trends.

(ii) *Utilization.* HCFA may impute a reasonable rate of use for a category of service in order to arrive at cost-effective utilization.

(iii) *Differences in charges.* HCFA may consider the differences in charges to non-Medicare and Medicare patients or to institutions and other large volume purchasers.

(iv) *Cost.* HCFA may consider cost data that indicate a substantial unjustified differential between costs and charges.

(v) *Charges in other localities.*

(vi) *Other relevant factors.*

(2) (i) A beneficiary or supplier may request an exception to a special reasonable charge limit.

(ii) The carrier will grant an exception to the special reasonable charge limits if the criteria and circumstances specified under paragraph (g)(3)(ii) of this section are met.

(3) (i) HCFA will publish in the **Federal Register** a proposed and a final special reasonable charge limit before it is adopted.

(ii) Each **Federal Register** notice proposing or adopting a special reasonable charge limit will set forth the criteria and circumstances, if any, under which a carrier may grant an exception to the limit.

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

Dated: October 23, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: January 13, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-3391 Filed 2-14-86; 8:45 am]

BILLING CODE 4120-01-M

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42 CFR Part 447

[BERC-275-P]

Medicaid Program; Revisions to Medicaid Payment for Hospital and Long-Term Care Facility Services

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

ACTION: Proposed rule.

SUMMARY: This rule proposes several changes to our current regulations on Medicaid payment for hospital and long-term care facility services. First, we would require submittal of assurances and related information by States for all changes in the methods and standards used for determining payment rates regardless of whether the State considers the changes to be significant or insignificant. Second, we would amend the existing regulations concerning payments to hospitals for inappropriate level of care services to clarify that coverage for this type of care is at the State's option. We would clarify that, if the State chooses to cover this type of care, Medicaid payment must be at rates commensurate with the level of care acutally received. Third, we would require the application of a separate upper payment limit for each category of facilities for which the State utilizes a separate payment methodology in setting payment rates for inpatient hospital or long-term facility services. In addition, we would clarify that Federal Financial Participation is not available for payments that exceed amounts allowable under the regulations

governing payments for inpatient hospital and long-term care services. Also, we would clarify the application of the upper payment limit to outpatient services. Finally, we would implement section 2369 of the Deficit Reduction Act of 1984 (Pub. L. 98–369) to allow States more flexibility concerning payment for routine extended care services provided in a swing-bed hospital.

These changes are intended cumulatively to promote increased economy in the administration of the Medicaid program while retaining State flexibility to the maximum extent possible.

DATE: To be considered, comments must be mailed or delivered to the appropriate address as provided below, and must be received by 5:00 p.m. on April 21, 1986.

ADDRESS: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–275–P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addesses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C.;

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

In commenting, please refer to BERC–275–P. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (Phone 202–245–7890).

FOR FURTHER INFORMATION CONTACT:

Janet Wellman, (301) 597–1939, Swing-Bed provisions

Tzvi Hefter, (301) 597–1808, All other provisions

SUPPLEMENTARY INFORMATION:

I. Changes in Submittal of Assurances and Related Information

A. Background

Section 1902(a)(13)(A) of the Social Security Act (the Act) (42 U.S.C. 1396a(a)(13)(A)), as amended by section 2173 of Pub. L. 97–35 (the Omnibus Budget Reconciliation Act of 1981) requires that a State must find, and provide satisfactory assurances to HCFA, that Medicaid payments for inpatient hospital and long-term care facility services provided under a State plan are made through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and ecnomically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards. In enacting this provision, Congress intended to reduce the previous burdensome requirements that the regulations imposed on States, and to allow States greater flexibility in adjusting payment rates in response to changing fiscal conditions. (See the Senate Finance Committee Report on H.R. 934 (Senate Report No. 96–471).) Congress reasoned that the Federal regulations implementing the prior "reasonable cost-related" and "reasonable cost" statutory requirements relied too greatly on the inflationary Medicare reasonable cost reimbursement principles. This provision of the Statute is now implemented in 42 CFR 447.253.

Section 447.253(b) specifies that the State agency must submit assurances that its rates are reasonable and adequate whenever the agency wishes to make a *significant* change in its methods and standards for determining the rate for inpatient hospital or long-term care facility services. Thus, under the current regulation, a State must submit to HCFA assurances and related information only when it is making what it has determined to be a *significant* change in its methods and standards for establishing rates. Implicit in this regulation is the assumption that a State's determination that a change is either significant or not significant would be based on a test reasonableness. This means that a State would exercise sound and practical judgment in making the determination. For example, it was expected that in making such a determination the State would consider the impact of the proposed change on both the rates and the number of providers that would be affected. However, based on our experience since this regulation was originally published as part of an interim final rule on September 30, 1981, and as a result of subsequent litigation of this issue, we have concluded that the determination by a State that a plan amendment is not significant is often problematic in that "significance" is a relative term. For example, a State may conclude that an amendment is not significant in terms of total Medicaid program impact. However, the providers and ultimately HCFA may reach a different conclusion in terms of impact on the affected providers. An additional problem has been that when a State determines an amendment is not significant, the State is not required to issue public notice of the change or to submit to HCFA related information with the amendment, with the result that the basis for the determination is frequently unclear.

B. Proposed Change

We are proposing to amend § 447.253 to provide that the State agency would be required to submit the required assurances whenever the agency makes a change in its methods and standards for determining the payment rate. The State agency also would be required to submit with the assurances the required related information in order to ensure consistency in the review of all State plan changes and that the review includes an evaluation of the impact on payment rates and availability of services. These proposed changes would eliminate the difference in procedures for significant and not significant plan amendments and thereby avoid confusion as to when assurances are required. In addition, the change would facilitate a more consistent and comprehensive review of all plan amendment changes for compliance with the requirements of the statute and regulations.

If a State plan amendment is minor and does not materially change the methods and standards used to compute payment rates and does not affect the average rate payable to facilities within a State, a State may either reiterate or submit a copy of the applicable assurances and related information that were previously approved by HCFA. It would only be necessary for a State to provide new assurances and revised related information when a proposed State plan change affects the amount of the average rate payable to facilities within the State. Accordingly, we do not anticipate that this proposed change will substantially increase the reporting burden on the States.

II. Payment for Inappropriate Level of Care Days

A. Background

Section 1902(a)(13)(A) of the Act, as cited above, also provides for lower Medicaid payment rates to reflect accurately the level of care actually received by hospital inpatients who receive services at an inappropriate level of care (under conditions similar to those set forth for the Medicare program in section 1861(v)(1)(G) of the Act (42 U.S.C. 1395x(v)(1)(G))). Essentially,

inappropriate level of care means the level of care furnished to individuals who are hospital inpatients but who require only skilled nursing (SNF) or intermediate care facility (ICF) services.

In effect, section 1902(a)(13)(A) of the Act conforms the required reduction in Medicaid payment rates for inappropriate level of care services to the Medicare requirement. This provision of the Medicaid statute is implemented in § 447.253 of the regulations. Specifically, § 447.253(b)(1)(ii)(B) requires that the methods and standards used by a State agency to determine Medicaid payment rates must provide that payment for hospital inpatients receiving services at an inappropriate level of care under conditions similar to those described in section 1861(v)(1)(G) of the Act will be made at lower rates, reflecting the level of care actually received, in a manner consistent with that section of the Act.

Generally, section 1861(v)(1)(G) of the Act prescribes payment for long-term care services that are received in a hospital because a bed was not available in a facility that is approved to provide the necessary level of care. For example, this section of the law applies when a Peer Review Organization (PRO) or other authorized body determines that inpatient hospital services for a patient are not medically necessary but that post-hospital extended care services for this same patient are medically necessary. Payment for these services is required to be made at a payment rate equal to the estimated adjusted State-wide average rate per patient-day paid for services provided in SNFs under the State Medicaid plan, for the State in which the hospital is located. In addition, section 1861(v)(1)(G) of the Act provides an exception to this general rule. If there is not an excess of hospital beds in the hospital providing the care and there is not an excess of hospital beds in the area of the hospital, then payment will be made at the regular rate for inpatient hospital services payable under Part A of Medicare, rather than at the reduced rate. The statute further provides that in the case of a public hospital, in determining whether or not there is an excess of hospital beds in the area of the hospital, the determination would be made on the basis of only the public hospitals (including the hospital providing care) that are in the area of the hospital and that are under common ownership with that hospital.

The references in the Medicaid statute and in the implementing regulations to section 1861(v)(1)(G) of the Act have caused some confusion as to exactly which requirements States are to meet when providing coverage for inappropriate level of care. Our policy for the Medicaid program with regard to inappropriate level of care days is that coverage is optional with the States. A State is not required to provide coverage and payment for inpatient hospital services furnished to individuals who do not require that level of care. However, if a State decides to provide for coverage of this type of care in hospitals, the State is obligated to find and assure us that its methods and standards for determining rates provide for reduced payment rates for hospital inpatients receiving an inappropriate (but covered) level of care, consistent with section 1861(v)(1)(G) of the Act.

We have not placed specific requirements on States concerning the relationship between the excess beds rules contained in section 1861(v)(1)(G) of the Act and the Medicaid program. States are not required under Medicaid to provide for the same exception as that required under Medicare for hospitals that do not have excess beds in the specific hospital or in the area of the hospital. States have the option of either reducing the rate in all cases, even where there are no excess beds, or providing for an exception to the reduced rate where there are no excess beds.

If a State wishes to pay the full inpatient hospital rate where there are no excess beds, it must establish criteria for an excess bed determination. The criteria would have to be reasonable and consistent with section 1861(v)(1)(G) of the Act. (HCFA has on an operational guideline basis allowed an 80 percent occupancy threshold as an acceptable definition of hospitals with no excess capacity.) We are not proposing to mandate that States provide for an excess bed exception, nor to prescribe parameters for criteria for the exception if a State chooses to adopt the excess bed exception, because the State is in a better position to develop reasonable standards for excess capacity determined in accordance with the State's needs, and health planning. Of course, the State's standards, if any, in this regard, as well as the payment methodology would have to be incorporated and approved as part of the State plan.

B. Proposed Clarification

We are proposing to clarify § 447.253(b)(1)(ii)(B) by specifying that coverage for services at an inappropriate (but covered) level of care provided to hospital inpatients is at the State's option. If the State elects to cover this type of care, then a statement of this coverage must be included in the State plan and payment for this type of care must be made at lower rates than those paid for other inpatient hospital services. The lower rates would be commensurate with the lower level of care required by the patient.

III. Upper Payment Limits

A. Background

Section 1902(a)(30) of the Act (42 U.S.C. 1396a(a)(30)) requires that State plan methods and standards used to determine payment rates result in payments that are consistent with efficiency, economy and quality care. This provision was orginally implemented by § 447.272 as issued in the interim final rule we published on September 30, 1981 (46 FR 47964). This section of the regulations was subsequently revised and redesignated in part as § 447.253 by final regulations published December 19, 1983 (48 FR 56046). Section 447.253 now requires that a State agency assure that it has estimated that under the proposed average payment rate, the State will not pay more in the aggregate for inpatient hospital services or long-term care facility services than the amount that would have been paid for the services under the Medicare principles of reimbursement. As a result of the enactment of section 962 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499) and section 2173 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), both of which amended Section 1902(a)(13)(A) of the Act, many States amended the payment provisions of their previously approved State plans. Several States have amended their State plans in order to utilize different payment methodologies for different classes or types of facilities approved to provide the same type of care. In order to meet the purpose of the application of the Medicare upper payment limit, it appears necessary to refine its application to fit these situations.

Intermediate care facilities (ICFs) are classified as either State operated or privately operated facilities. Based on this class distinction, a State may reimburse each class of facility on a different basis by using different methodologies for each class. Various Departmental audit agency reports have highlighted instances in which payments to a specific class of facility have been excessive. However, since the upper limit is currently applied on an aggregate basis for all long-term care facility or inpatient hospital services, these payments may not cause the upper

limit, as currently determined, to be exceeded.

As noted above, § 447.272 (46 FR 47973, September 30, 1981) of the interim final regulations implemented section 962 of Pub. L. 96–499 and section 2173 of Pub. L. 97–35. However, we did not specify when the upper limit requirement must be met. To correct this situation, in the final regulations issued on December 19, 1983 (48 FR 56046), we removed § 447.272 and made the upper limit requirement part of the general requirements in § 447.253 to show that the determination must be made by the State when the payment rate is set. However, based on our experience since making this change, we believe that a distinction must be made in the regulations between the upper limit assurance and the application of the separate program requirement of the upper limit.

B. Proposed Change

We are proposing to add a new § 447.272 to require that separate Medicare upper payment limits be computed for hospitals, SNFs, ICFs, and ICFs/MR. In addition, if a State utilizes separate payment methodologies within these categories of facilities, the State agency would be required to compute and apply a separate Medicare upper payment limit for each type of facility for which it has adopted a different payment method or standard within each category of facilities. This proposal would serve to establish more accurately the amount that would be paid to those facilities for those services under the Medicare principles of reimbursement. In our view, this proposal is necessary to assure that payments, irrespective of the use of various payment methodologies, are consistent with the intent of sections 1902(a)(13)(A) and 1902(a)(30) of the Act, which require that payments be reasonable and adequate and be consistent with efficiency, economy and quality of care.

We would also revise § 447.253(b)(2) to clarify that a State is required to provide an assurance that it has found that its proposed payment rate and ratesetting methodologies will pay no more to each category of facilities for inpatient hospital services or long-term care facility services than the Medicare upper limit, as specified in the new § 447.272. In establishing the upper limit to be applied to each category and ratesetting methodology within each category, the State would be required to apply the appropriate Medicare provisions (for example, reasonable cost reimbursement, the rate of increase limits on inpatient hospital costs enacted by section 101 of the Tax Equity and Fiscal Responsibility Act (Pub. L. 97–248), and the Medicare prospective payment system) in effect at the time. It should be noted that in establishing the upper limit for ICFs and ICFs/MR, Medicare principles of reasonable cost reimbursement must be considered. Even though Medicare does not cover ICF and ICF/MR services, it is the principles of reasonable cost reimbursement that should be utilized by the State in determining that it has met the upper limit requirement.

In effect, the new § 447.272 would provide that, aside from the requirement that a State assure HCFA under § 447.253(b)(2) that it has found that a proposed change in its payment rate is not expected to exceed what Medicare would pay, the Medicare upper payment limit constitutes a separate program requirement. Therefore, under section 1903(a)(1) of the Act, which deals with State payments, Federal financial participation (FFP) would not be available for any expenditure for which a State pays more to any category of facilities for inpatient hospital services or long-term care services than the amount that can reasonably be estimated to be paid for those services under the Medicare reimbursement principles in effect at the time since these payments would not constitute payment for "medical assistance under the plan". It is important to repeat that, in the application of the Medicare upper limit, the State is required to apply all the Medicare principles in effect at the time. These may include the specific requirements applicable to the allocation of home office costs to chain organizations and of costs to related organizations, as well as to general requirements that incurred costs, including administrative and overhead costs, be related to patient care in order to be allowable.

Finally, we have found that in certain instances the discrepancy between rates payable to similar facilities may be caused by the inclusion of non-covered services in the rate calculation. Section 1903(a)(1) of the Act provides that FFP is available to match only the expenditures incurred in providing medical assistance under the State plan. Further, section 1902(a)(13)(A) of the Act requires that payment rates be reasonable and adequate to meet the costs that *must* be incurred in the provision of care and services. It is clear that the Congressional intent is that payments be made only for providing care and services. Accordingly, in determining the amounts payable to facilities, we would require that a State consider only those factors specifically applicable to the provision of covered care and services to Medicaid patients. Therefore, we are proposing to add a new § 447.257 to specify that FFP is not available for State expenditures for services that exceed the amounts allowed under 42 CFR Part 447 Subpart C. That subpart governs payment for inpatient hospital and long-term care facility services. We believe it necessary to add this section in order to clarify that noncompliance with the provisions contained in Part 447 Subpart C would constitute not only a State plan violation but would also trigger a disallowance of FFP payments.

C. Clarification of Upper Payment Limit on Outpatient Hospital Services

We want to clarify our policy with respect to the upper limit on payments for hospital outpatient services. Section 1902(a)(30) of the Act, as previously discussed, requires that State payments are consistent with efficiency, economy and quality of care. Section 447.321 of our regulations specifies that a State, "may not pay more than the combined payments the provider gets from the beneficiaries and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare". This section has been misinterpreted to mean that the final calculation applies on a provider-by-provider basis. However, this is not our intent. Section 447.321 came into existence as the result of the recodification of the Medicaid regulations on September 29, 1978 (43 FR 45176). The prior Medicaid regulations (that is 42 CFR 450.30(b)(5)), stated in part that, "schedules of payment established by the State agency shall not exceed the combined payments received by providers". This prior Medicaid regulation required the upper limit to be calculated based on total payments. The recodification of 1978 was intended only to reorganize and simplify the regulations and not to make policy changes. Accordingly, the recodified regulation at § 447.321 should not be interpreted as a change in the outpatient upper limit from a total payments basis to a provider specific basis. We are, therefore, proposing to revise § 447.321 to state clearly that the upper limit for outpatient services is calculated based on total payments received by all providers, which of course would be the result of determining the payments made to individual providers during the period.

IV. Payment to Hospital Providers of Extended Care Services (Swing-Beds)

A. Background

Section 1913 of the Act (42 U.S.C. 13961) as enacted by section 904 of Pub. L. 96–499, established Medicaid reimbursement provisions for swing-beds (that is, a bed that is used by a hospital to furnish SNF or ICF services rather than acute inpatient care based on the hospital's needs at the time) comparable to the Medicare provisions contained in section 1883 of the Act. Section 1913 of the Act established the following provisions concerning Medicaid reimbursement for swing-beds:

- Swing-bed hospitals must be paid for SNF and ICF routine services at the statewide average rates paid under the State plan during the previous calendar year to SNFs and ICFs, as appropriate.
- The reasonable costs of ancillary services must be determined in the same way as for inpatient hospital services.
- In order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services due from all classes of long-term care patients must be subtracted from the hospital's total routine costs before determining reimbursement for routine hospital services under the State plan.

Regulations implementing section 1913 of the Act (§ 447.280) were published in the **Federal Register** on July 20, 1982 (47 FR 31518).

Section 2369(a) of the Deficit Reduction Act of 1984 (Pub. L. 98–369) enacted on July 18, 1984 amends section 1913(b) of the Act by allowing States to pay for swing-bed SNF and ICF routine services, at a rate equal to the average rate per patient day paid under the State plan to SNFs or ICFs (other than ICFs/MR), as appropriate, for routine services furnished during the previous calendar year, or at a payment rate established by the State in accordance with section 1902(a)(13)(A) of the Act. Section 1902(a)(13)(A) of the Act, as amended by section 2173 of Pub. L. 97–35, as discussed above, allows States considerable flexibility in setting payment rates for hospitals, SNFs, ICFs, as well as the long-term care ancillary and inpatient hospital services furnished by swing-bed hospitals. Section 1913, as amended by section 2369 of Pub. L. 98–369, merely extends this flexibility to States in setting payment rates for routine SNF or ICF services furnished in swing-bed hospitals. However, in accordance with the Conference Committee Report on Pub. L. 98–369 (Rep. No. 98–861, 98th Cong. 2d Sess., 1370 (1984)) the State would be required to apply the same payment method to all swing-bed hospitals within the State for purposes of Medicaid reimbursement. The amendment to section 1913 of the Act is effective for payment for services furnished after July 18, 1984.

B. Proposed Change

We are proposing to revise § 447.280 to implement section 2369 of Pub. L. 98–369. The revised § 447.280 would give States the flexibility to pay swing-bed hospitals for routine SNF and ICF services at either the average rate per patient day paid to SNFs or ICFs (other than ICFs/MR) in the State for services furnished during the previous calendar year or at a rate established by the State. If a State elects to establish its own rate for routine SNF oir ICF services furnished in a swing-bed, the rate must meet the State plan and payment requirements described in Part 447 Subpart C, as applicable (that is, those assurances and related information requirements that are appropriate for swing-bed services). The proposed § 447.280 also provides that the State must apply the same payment method to all swing-bed hospitals in the State.

V. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, consistent with the Regulatory Flexibility Act (5 U.S.C. 601–612) we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit hospitals. Under both the Executive Order and the Regulatory Flexibility Act, such analyses, must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize unnecessary burden or otherwise ensure the regulations to be cost-effective.

First, we do not believe that any savings would result from the proposed changes in the requirements for the submittal of assurances and related information. Nonetheless, we believe this change is necessary as explained above, even though the change would increase the paperwork burden on those States that choose to make changes in their methods and standards that would be considered to be not significant under the existing regulations. The increase in burden would be slight and would not increase their administrative costs significantly.

The proposed amendment regarding payment for inappropriate level of care days does not constitute a change in policy but merely clarifies our existing policy. We expect no savings or costs to result from this clarification. However, we are aware that some States are paying the full hospital rate for all or part of a hospital stay during which a hospital provides inappropriate level of care services. Therefore, we anticipate that bringing these States into compliance with our existing regulations would save around $5 million in the first Federal fiscal year, with increasing savings in subsequent years. Nonetheless, this would be independent from the effects of the proposed amendment, which merely makes it clear that a State may elect not to pay for inappropriate level of care services.

We are unable to estimate potential savings from the proposed upper payment limit for each type or category of facility services because we do not have sufficient data to permit us to quantify accurately the magnitude of the problem nationwide. Departmental audits have found substantial overstatement of costs for certain categories of facilities in various States. Based on the limited information available to us, we expect this proposal would primarily affect some facilities, owned by States, that are currently paid at levels that would exceed the proposed limits. As a result, the affected States would experience reduced FFP and an increased share of the costs of medical care furnished in affected facilities. In addition, calculation and application of the upper payment limits could result in some administrative costs to States. However, because we believe the problem described above is limited to relatively few States, we do not expect either the overall economic impact or the administrative costs to be significant.

Finally, we estimate the provisions regarding State payment for swing-bed services would have a negligible impact on program expenditures. There are only about 400 swing-bed hospitals, each of which has fewer than 50 beds. Further, even though the States would have increased flexibility in setting swing-bed payment rates, the potential range of options open to them would be constrained. A State would not be able to set rates that would be less than reasonable and adequate under the requirements of § 447.252, nor would it

be able to pay more than the upper limits described in the proposed § 447.272. Therefore, we do not expect these provisions to have a significant impact on potentially affected hospitals.

For the above reasons, we have determined that this proposed rule is not a major rule and that a regulatory impact analysis is not required. Further, the Secretary certifies under 5 U.S.C. 605(b), under the Regulatory Flexibility Act, that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

VI. Other Required Information

A. Paperwork Burden

Section 447.253(a) of this proposed rule contains information collection requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

A notice will be published in the **Federal Register** when approval is obtained. An individual or organization desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the preamble and to the Desk Officer for HCFA at the following address: Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, Attention: Fay Iudicello.

B. Public Comments

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to respond to them individually. However, we will consider all comments contained in correspondence that we receive by the date specified in the "Dates" section of this preamble and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

42. CFR Part 447 would be amended as set forth below:

PART 447—PAYMENTS FOR SERVICES

A. The authority citation for Part 447 continues to read as follows:

Authority. Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

B. Subpart C is amended as follows:

SUBPART C—PAYMENT FOR INPATIENT HOSPITAL AND LONG-TERM CARE FACILITY SERVICES

1. The table of contents for Subpart C is amended by adding an undesignated center heading and titles for new §§447.257 and 447.272 to read as follows:

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

Sec.

* * * * *

Federal Financial Participation

§447.257 FFP: Conditions relating to institutional reimbursement.

* * * * *

§447.272 Application of upper payment limits.

* * * * *

2. In section 447.253 paragraph (a) is revised, the introductory language of paragraph (b) is revised, the introductory language of paragraph (b)(1)(ii) is reprinted unchanged for the convenience of the reader, and paragraphs (b)(1)(ii)(B) and (b)(2) are revised to read as follows:

§447.253 Other requirements.

(a) *State assurances.* In order to receive HCFA approval of a State plan change in payment methods and standards, the Medicaid agency must make assurances satisfactory to HCFA that the requirements set forth in paragraphs (b) through (g) of this section are being met, must submit the related information required by § 447.255 of this subpart, and must comply with all other requirements of this subpart.

(b) *Findings.* Whenever the Medicaid agency makes a change in its methods and standards, but not less often than annually, the agency must make the following findings:

(1) *Payments rates.*

* * * * *

(ii) With respect to inpatient hospital services—

* * * * *

(B) If a State elects in its State plan to cover inappropriate level of care services (that is, services furnished to hospital inpatients who require a lower covered level of care such as skilled nursing or intermediate care services) under conditions similar to those described in section 1861(v)(1)(G) of the Act, the methods and standards used to determine payment rates must specify that the payments for this type of care must be made at rates lower than those for inpatient hospital level of care services, reflecting the level of care actually received, consistent with section 1861(v)(1)(G) of the Act; and

* * * * *

(2) *Upper payment limits.* The agency's proposed payment rate will not exceed the upper payment limits as specified in §447.272.

* * * * *

3. A new undesignated center heading and a new § 447.257 are added to read as follows:

Federal Financial Participation

§ 447.257 FFP: Conditions relating to institutional reimbursement.

FFP is not available for a State's expenditures for hospital inpatient or long-term care facility services that are in excess of the amounts allowable under this subpart.

4. A new § 447.272 is added to read follows:

§ 447.272 Application of upper payment limits.

Payments by an agency for inpatient hospital services or long-term care facility services to hospitals, SNFs, ICFs, or ICFs for the mentally retarded (ICFs/MR) may not exceed the amount that can reasonably be estimated would have been paid for the services under Medicare reimbursement principles in effect at the time the services were furnished. If a State uses separate ratesetting methodologies for these categories of facilities, then the agency must apply the upper payment limit to the payments made to each facility or group of facilities that is paid under each of the separate ratesetting methodologies.

5. Section 447.280 is revised to read as follows:

§ 447.280 Hospital providers of SNF and ICF services (swing-bed hospitals).

(a) *General rule.* If the State plan provides for SNF or ICF services furnished by a swing-bed hospital, as specified in §§ 440.40(a) and 44.150(f) of this chapter, the methods and standards used to determine payment rates for routine SNF or ICF services must—

(1) Provide for payment at the average rate per patient day paid to SNFs or ICFs, other than ICFs/MR, as applicable, for routine services furnished during the previous calendar year; or

(2) Meet the State plan and payment requirements described in this subpart, as applicable.

(b) *Application of the rule.* The payment methodology used by a State to set payment rates for routine SNF or ICF services must apply to all swing-bed hospitals in the State.

C. Subpart D is amended as follows:

Subpart D—Payment Methods for Other Institutional and Noninstitutional Services

1. Section 447.321 is revised to read as follows:

§ 447.321 Outpatient hospital services and clinic services: Upper limits of payment.

(a) *General rule.* FFP is not available for any payment that exceeds the amount that would be payable to providers under comparable circumstances under Medicare.

(b) *Application of the rule.* Payments by an agency for outpatient hospital services may not exceed the total payments received by all providers from beneficiaries and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare.

(Catalog of Federal Domestic Assistance Programs No. 13.714, Medical Assistance Program)

Dated: October 30, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: December 26, 1985.

Otis R. Bowen,

Secretary.

[FR Doc. 86-3392 Filed 2-14-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33, 75, 78, 94, 97, 108, 160, 167, 192, 196

[CGD 79-160]

Lifesaving Equipment; Line-Throwing Appliances, Required Equipment on Merchant Vessels

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This rule dealt with the requirements for line-throwing appliances for vessels on other than international voyages. This rule would also have removed the approval for lyle-gun type line-throwing appliances. This action is being withdrawn because some provisions of this rulemaking action are covered by other rulemaking dockets and a reevaluation of the remaining provisions indicates that the proposed changes may not now be appropriate from a safety viewpoint.

FOR FURTHER INFORMATION CONTACT: Lieutenant Donald W. Gold (G-MVI-1/14), Room 1400, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-1464.

Drafting Information: The principal persons involved in drafting this rule are: Lieutenant Donald Gold, Project Manager, Office of Merchant Marine Safety, and Lieutenant Sandra R. Sylvester, Project Attorney, Office of Chief Counsel.

SUPPLEMENTARY INFORMATION: On December 11, 1980, the Coast Guard published a proposed rule (45 FR 81616) concerning these amendments. Interested persons were given until March 11, 1981 to submit comments. A total of five comments were received. Three responders, from the offshore drilling industry, supported this proposal which would have removed the requirement for line-throwing appliances on mobile offshore drilling units (MODUs) except while on international voyage.

Limiting the requirement for line-throwing appliances on mobile offshore drilling units to only those on an international voyages was never the intent of this rulemaking action. On April 15, the MODU OCEAN EXPRESS capsized while moving between drilling locations on the Outer Continental Shelf. During the move, one of three tow lines in use parted. The tow line could not be reestablished due to the absence of a line-throwing device and the prevailing sea conditions. The resulting loss in directional control of the OCEAN EXPRESS allowed the unit to drift broadside to the seas and capsize. It is the intention of the Coast Guard that MODUs be equipped with line-throwing appliances while moving between geographic locations. A correction to the proposed rule was published on January 15, 1981 (46 FR 35732) to clarify the intent of this rulemaking action in regard to MODUs.

One responder supported the proposal as it related to vessels and one responder expressed concern over the deletion of line-throwing appliances on board tankers on voyages between Cook Inlet, Alaska and the 48 contiguous States. It is noted that definitions of international voyage in the various subchapters of Title 46 CFR include voyages between the contiguous States and Alaska within the scope of their definitions.

A comment was received which discussed a need for emergency towing equipment on certain tank vessels. The International Maritime Organization (IMO) has published a resolution concerning emergency towing requirements for disabled tankers.

One of the considerations discussed in the initial rulemaking notice was the assertion that there are sufficient shore based salvage vessels that provide proper towing capacity and recent advances in communications capability to obviate the need for vessels to carry the equipment themselves. The extension of offshore exploration and production ever farther offshore in the Gulf of Mexico has made the time delay in providing shore-based towing equipment to disabled vessels adrift in the oil production areas of the coast unacceptable. Some form of emergency towing equipment and a method of passing a tow line should be present on all vessels. The removal of the requirement that vessels operating in this area carry line-throwing equipment is inappropriate in light of the risk presented by disabled vessels adrift among oil production platforms.

In consideration of the foregoing, the notice of proposed rulemaking (CGD 79-160) is hereby withdrawn.

February 12, 1986.

W.J. Ecker,

Captain, U.S. Coast Guard, Acting Chief, Officer of Merchant Marine Safety.

[FR Doc. 86-3430 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580 and 581

[Docket No. 86-6]

Service Contracts

AGENCY: Federal Maritme Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to substantially revise its service contract regulations in a newly created part, based on comments received and experience gained in processing service contracts over the past year. This action would reaffirm that a shipper cannot commit all or a fixed portion of its cargo without the resulting arrangement becoming a Loyalty Contract and would clarify statutory concepts relating to parties to, and duration and geographical scope of, contracts. The rule would provide for additional filings to facilitate Commission surveillance and availability of terms to similarly situated shippers, and would also refine procedures involving the essential terms' publication and statements, contingency clauses, termination, and rejection of filings by the Commission. The Commission also invites comments on specified minimums for liquidated damages and for cargo and service

commitments, a new, combined format for filing, "most-favored-shipper" clauses and a possible exemption for carriers and conferences from the requirement of making foreign port ranges available to shippers under certain circumstances, each of which could be the subject of future rulemakings.

DATE: Comments due on or before April 21, 1986.

ADDRESS: Comments (original and 20 copies) to: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5740;

Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5796.

SUPPLEMENTARY INFORMATION: In 1984, the Federal Maritime Commission implemented the service contract provisions of section 8(c) of the Shipping Act of 1984 (46 U.S.C. app. 1707(c)). See Docket No. 84–21, *Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States—Service Contracts and Time/Volume Contracts.* An interim rule was published in the **Federal Register** on May 3, 1984 [49 FR 18849]; a revision to the interim rule was published on June 14, 1984 [49 FR 24701]; and a final rule was published as 46 CFR 580.7 on November 15, 1984 [49 FR 45364], with corrections on December 17, 1984 [49 FR 48927]. The final rule became effective on December 15, 1984.

Since the 1984 Act became effective on June 18, 1984, there have been some 3000 service contracts filed with the Commission. The Commission has closely scrutinized each of them and has, in addition, responded to numerous inquiries from the ocean shipping industry. This proposed rule attempts to address the various problems identified to date and, in some areas, to clarify for the shipping public the manner in which service-contract issues are now treated on an *ad hoc* basis.

One of the Commission's prime concerns throughout the preparation of the proposed rule is the extent to which many so-called service contracts have been drifting away from what it believes was the intent of Congress. As a general matter, it can be said that as the use of service contracts has become more widespread, the contracts themselves have become more amorphous. In many instances, the degree of flexibility allowed shippers calls into question the validity of the arrangement as a legally binding contract. It is hoped that the proposed changes to the service contract rule will aid in alleviating problems of this nature.

Structure

It is proposed to delete § 580.7 of Title 46, Code of Federal Regulations, governing the filing and content of service contracts and place the new service contract regulations in a newly created CFR Part 581, for clarity and facility of utilization. The following table attempts, in a general way, to "track" the previous sections in relation to the new structure:

New section	Old section
581.1	580.7(a)
581.2	
581.3	580.7(b) (1), (2); 580.7(e); 580.7(i); See also 580.7(g) (1); 580.7(h) (1); and 580.7(k)
581.4(a)	580.7(b)(3)
581.4(b)	580.7(h)(2) thru 580.7(h)(5)
581.5	580.(7)(b)(3)(ii); 580.7(g)(2)
581.6	580.7(g)(1)
581.7	580.7(d); 580.7(k)
581.8	580.7(f)
581.9	580.7(c)
581.10	580.7(j)
581.91	580.91

Section-by Section Analysis

Section 581.1—Definitions

The definitions of "Act," "Carrier," "Common carrier," "Filing," "Non-vessel-operating common carrier," "Ocean common carrier," "Ocean freight forwarder," "Person," Shipment" and "Submission" are carried over to the new part from Part 580 where the regulations concerning service contracts are currently located (at § 580.7(a)). The definition of "Commission" is added for convenience.

The definition of "Conference" is the same as that contained in § 580.2(f), except that the proposed new language provides that service contracts may also be entered into by "any association of ocean common carriers which is permitted, pursuant to an effective agreement, to fix rates and to enter into service contracts." This, the Commission believes, reflects current practices and effectuates the intent of the 1984 Act to authorize parties to a rate-fixing agreements, which do not utilize a common tariff, to enter into service contracts.

The revised definition of "Contract party" reflects the 1984 Act's intention that only vessel-operating ("ocean") carriers (or conferences) may offer a service contract, as *carrier*. The definition of "service contract" is revised to clarify that service contracts can be entered into by more than one carrier, conference, shipper or shippers' association.

Section (8)(c) of the 1984 Act (46 U.S.C. app. 1707(c)) requires that a service contract be filed with the Commission with a separate, concise statement of its essential terms to be made available to the general public in tariff format, and that the essential terms be made available to all shippers similarly situated. New definitions, "Essential Terms Publication" and "Statement of essential terms" are proposed to help clarify the three distinct aspects of "essential terms":

1. The "essential terms" set forth in the contract as defined in section 8(c) of the Act;

2. A "statement of essential terms" which is a concise summary of the essential terms in 1, above, and which must be filed with the Commission at the same time as the service contract, like a tariff page; and

3. An "Essential Terms Publication" containing the various statements of essential terms in 2, above, and maintained in tariff format for the purpose of making available the essential terms in 1, above, to similarly situated shippers.

The definitions of "Geographic area," "Port range," "Shipper," and "Shippers' association" are substantially the same as in the current rule. The definition of "Tariff of general applicability" is added to facilitate the use of this concept in several places in the rule.

Section 581.2—Scope and Application

Section 581.2(a)—Geographical scope (U.S. commerce only).

A number of proposed service contracts which have been filed with the Commission have attempted to include within the scope of the contract foreign-to-foreign movements. The Commission believes that this practice is, at the very least, legally questionable. The Commission does not accept rates in tariffs which are predicated on combining cargo in U.S. commerce with cargo that moves between foreign ports, and it can see no compelling reason why it should do so in the context of service contracts.

There is nothing in the legislative history of the 1984 Act that would indicate that Congress contemplated that foreign-to-foreign movements would be incorporated as part of a service contract. Moreover, if the Commission did accept such filings, it is doubtful that the Commission could monitor or

enforce the terms of the contracts. The Commission could not ensure that minimum volume commitments, penalty provisions and other essential terms were being implemented, so long as the foreign-to-foreign portion of a service contract remained beyond its jurisdiction.

As a result, proposed § 581.2(a) limits acceptable service contracts to those involving transportation of cargo which moves through a United States port in the foreign commerce of the United States. Service contracts covering any foreign-to-foreign movements would be rejected.

Section 581.2(b)—Parties: NVO's and Forwarders.

This paragraph clarifies that non-vessel-operating common carriers (NVOCC's) and ocean freight forwarders (OFF's), which cannot offer service contracts as carriers, may enter into them as shippers, but only under certain conditions. An NVOCC may sign only in its capacity as shipper to the offering underlying ocean carrier. An OFF, on the other hand, must make a choice between two mutually exclusive alternatives, *i.e.*, it must either sign as the actual shipper, in which case it may not collect compensation from the ocean carrier or sign as the shipper's agent, in which case, written authorization for its signature as agent must be submitted to the carrier or conference contract party, which must then file it with the service contract. In order to adequately enforce the provisions of the 1984 Act, the Commission believes it is necessary to require these clarifications of the roles of such entities under any given contract.

Section 581.3—Filing and Maintenance of Service Contract Materials

This section describes the types of documents which must be filed or maintained at the Commission, as well as, when, how, with whom, and by whom. It also provides for filings on commodities otherwise exempted from service contract regulations under certain conditions.

Section 581.3(a)(1)—Service Contract.

These provisions basically reflect the present requirements of § 580.7(b)(1) and (e), except that proposed paragraph (a)(1) makes a cross-reference to form and content requirements which are now in separate sections under the proposed rule.

Section 581.3(a)(2)—Statement of essential terms.

This subparagraph contains provisions currently found in § 580.7(i), but adds the clarification that statement-of-essential-terms pages are to be filed in the Essential Terms Publication to clarify the distinctions set forth in the discussion under § 581.1, above.

Section 581.3(a)(3)—Notice of changes to contract, contract party or rate; availability of changed term to similarly-situated shippers, and settlement of account.

One of the problems in administering the service contract provisions of the 1984 Act has been the inherent conflict between the parties' desire for flexibility and the statutory requirement that the essential terms be disclosed and offered to the public. Although service contracts themselves are private commercial arrangements, they must be legally binding contracts and the essential terms of such arrangements must be publicly offered to similarly situted shippers.

The essential terms to be made available in tariff format are originally filed contemporaneously with the underlying service contract. The Commission has developed and refined a system whereby the statement of the terms is made available in tariff format to the shipping public, which in turn, facilitates the essential terms, themselves, being made available to similarly-situated shippers.

Over the past year, however, the Commission has become increasingly concerned that the essential terms initially contained in a service contract may not, after a period of time, provide the same overall arrangement originally agreed to by the parties, due to some change of events, whether or not contemplated by the contract. Where such changes affect the basic arrangement, especially the effective rate or remuneration, they can readily become new essential terms which the Commission by law must ensure are made available to similarly-situated shippers. The Commission is also concerned that such changes do not otherwise result in conduct prohibited by the 1984 Act.

Unfortunately, the Commission's experience over the past year in administering the 1984 Act indicates that many substantive changes in existing service contracts may not have been made available as essential terms to similarly-situated shippers, nor effectively or timely brought to the attention of the Commission.

Accordingly, the proposed rule attempts to address these situations. In light of the Commission's experience in administering its current service contract rules, it has become clear that certain minimum restrictions on the available methods, of contract modification are necessary to ensure fulfillment of the legislative directives of section 8(c).

The areas which the Commission has identified as problems include the triggering of contract "contingency clauses" upon a described event, such as may be sometimes be found in a "force majeure" article; the failure to make available the newly operable essential term resulting from the occurrence of the described event to similarly-situated shippers; and, where not anticipated by a service contract clause, termination by mutual agreement or by breach or default because the minimum quantity required by the contract has not been met. Depending upon the circumstances, any of these occurrences can materially change the original understanding arrived at between shipper and carrier, but may not be promptly disclosed to another shipper or to the Commission, if disclosed at all.

Similarly, the carrier's assessment of a certain amount of contract liquidated damages, as well as its obligation to rerate shipments upon a deviation from an original term, require more stringent surveillance by the Commission to *inhibit facto* discrimination and the unlawful use of service contracts to circumvent otherwise applicable tariff rates.

Finally, for proper surveillance, the Commission must be promptly apprised of the results of the assessment of liquidated damages, rerating or other adjustment in the original contract compensation, *i.e.*, the final settlement, both as to the fact of settlement and the amount.

The individual situations previously discussed, their limitations and other duties of the parties are covered more thoroughly in the correlative sections, *i.e.*, §§ 581.5–581.8. Section 581.3(a)(3) merely provides that when such an event occurs, a detailed notice must be filed with the Commission within 30 days of the occurrence, in the same confidential manner as a service contract itself. While the Commission considered requiring the filings to be in the same, non-confidential manner as statements of essential terms, there appear to be substantial, practical difficulties with this approach, such as protecting the names of shippers, timeliness in relation to the original period of availability, etc. The one exception, contained in proposed § 581.6(b)(5), is that the carrier or conference must directly contact other shippers subject to the same, original essential terms and make available to them the newly operable essential term(s). The notice of this event can

simply be a copy of the letter to the shippers filed with the Commission.

Rather than make all circumstantial changes to essential terms available to all similarly situated shippers and, possibly, extending the period of availability, the approach of the proposed rule continues to allow commercial flexibility while, at the same time, providing for the minimum surveillance necessary to ensure compliance with law. It must also be emphasized that if there are no deviations or irregularities in the original service contract arrangement, nothing further need be filed.

In order to enable the Commission to determine who is entitled to a service contract provision, proposed section 581(a)(3)(v) requires the prompt filing of any change in the name of a contract party or affiliate entitled to use a contract.

Section 581.3(b)—Maintenance of Essential Terms Publication.

This proposed paragraph is based on current section 580.7(h)(1) but uses the new term "Essential Terms Publication" and restates the requirement that it be maintained in a "single, current" publication in the form prescribed under section 581.4(b)(2).

Section 581.3(c)—Who must file.

This paragraph identifies those who have the duty of filing and maintaining service contract materials. The appropriate carrier and/or conference would be required to file service contracts, statements of essential terms and notices under paragraph (a), and maintain an Essential Terms Publication under paragraph (b), of § 581.3.

Under the proposed rule, the conference must file service contracts (and corresponding statements of essential terms) not only where executed on behalf of the conference, but also, where permitted by the conference to be executed by one or more of its member lines. Moreover, when a contract covers service not within the scope of the conference, and the conference files it on behalf of a member line, the statement of essential terms must be filed in the Essential Terms Publications of both the conference and carrier involved.

Section 581.3(d)—Exempt commodities.

This paragraph continues to provide the option contained in current §§ 580.7(b) (1) and (2), *i.e.*, that an exempted commodity, such as forest products, may be included in a service contract and that, upon filing, such a contract will be subject to the same requirements as contracts covering non-exempt commodities. The proposed requirement in subparagraph (2), however, limits the option to where there already is a rate on the exempted commodity in a tariff of general applicability. Otherwise, if the contract were to be rejected or for other reasons rerated, there would be no governing tariff to use as the basis for determining the proper charges. This proposed approach to exempt commodity service contracts appears to comport with the statutory treatment of such contracts. Parties to these arrangements are not required to file them with the Commission. If they do file them, however, they become subject to the requirements of this rule, including the requirement that they have a rate for the exempt commodity on file in a tariff of general applicability.

Section 581.4—Form and Manner

This section contains the basic form requirements for the three types of service-contract materials and is based on current §§ 580.7(b)(3) and 580.7(h).

Section 581.4(a)—Service Contract.

As a result of experience gained over the past year, the Commission is expressly requiring that service contract provisions be clear, legible and accurate and that other references within the document to contract parties be consistent with the first reference. The form prescribed is intended to facilitate processing. The paragraph provides that conference members, as well as members of shippers' associations, need not be listed, but retains the requirement that the accurate, legal names of all other affiliates entitled to contract terms be set forth. The duty to describe the shipment records is retained, but a new requirement is added in view of proposed § 581.10(b), *i.e.*, to list the name, address and telephone number of the individual who will make shipment records available to the Commission.

Section 581.4(b)(1)—Statement of essential terms.

In addition to minor format requirements for the statements of essential terms, this proposed subparagraph requires the period of availability of terms to shippers under proposed § 581.6(b) to be set forth in a prominent place and that such period show both the beginning date and the expiration date. It is important for both the Commission and similarly-situated shippers to be able to immediately and accurately determine the period of availability.

Section 581.4(b)(2)—Essential Terms Publication.

In addition to format refinements from the current rule, this proposed subparagraph adds a requirement that the Essential Terms Publication contain an index of the statements of essential terms. This will enable shippers who might be interested in a comparable contract to be made aware of a contract's effective date and cancellation date. The indexing requirement will also serve to facilitate Commission processing. Because the Essential Terms Publication will contain such indices and other materials different from the actual statements of essential terms, the proposed rule will also now require that all pages of the Publication be printed in black on yellow paper [like statements of essential terms].

Section 581.5—Content of Essential Terms; Contingency and Force Majeure Clauses

This section is based on current § 580.7(g)(2) and clarifies the statutory content requirements for essential terms that must be in the service contract and which must be concisely summarized in the statements of essential terms that are filed in the Essential Terms Publication. Proposed subparagraph (a)(3)(viii) sets forth more specific requirements for events contemplated by contract clauses which change the original arrangement and paragraphs (b) and (c) contain new provisions for notice to the Commission of the occurrence of such events and the duty of one contract party to notify the other contract party of adjusted amounts due which result from such changes.

Section 581.5(a)—Essential Terms—certainty and consistency.

As further discussed below, this paragraph provides that the essential terms may not be uncertain, vague or ambiguous and that the contract may not provide for future modification by mutual agreement of the parties other than in full compliance with Commission regulations. While basic contract law might permit such modification, the requirement to make essential terms available to similarly situated shippers militates against a contract "novation" which dilutes the rights of other shippers. As provided under proposed section 581.7, substantial changes which are not covered by the original essential terms of a contract, such as breach or default because minimum volume requirements have not been met, cause the existing service contract to be terminated with rerating of the shipments, and any further arrangement must be contained in a new contract or governed by the applicable tariff.

Section 581.5(a)—Essential terms required by statute.

Section 8(c) of the 1984 Act (46 U.S.C. app. 1707(c)) provides that the essential terms shall include:

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination of geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for nonperformance, if any. Proposed section 581.5(a) repeats and clarifies these statutory requirements. In addition to provisions carried over from current § 580.7, the proposed rule requires that the duration of the contract be set forth as a specific, fixed time period, with a beginning date and ending date. The word "duration" is used here and elsewhere to avoid confusion with the word "term" ("essential term") or the word "period" ("period of availability").

It should be noted each of these mandatory provisions must be set ferth in both the contract and also the statement of essential terms. If not, then either or both will be rejected. Moreover, the Commission will monitor such provisions to ensure that they are not being utilized to circumvent the statute's tariff requirements, *e.g.*, by service or cargo-volume commitments that are obviously minimal as consideration for corresponding contractual privileges; and liquidated damages that are similarly out of proportion to the injury sustained by breach, *i.e.* either much too high or much too low under the circumstances. [See the discussion under § 581.(a)(3)(viii) below.] In addition, the Commission will reject service contracts and essential terms which do not contain the *defined* service level required by the statute, *e.g.*, assured space, transmit time, port rotation, and/or similar service features. It is *not* sufficient for a contract or statement of essential terms merely to recite that the carrier agrees to offer regular service during the contract period.

Section 581.5(a)(3)(v)—Loyalty Contracts.

In issuing a final rule governing service contracts in Docket No. 84–21, the Commission determined that any contract for carriage which specifies that the shipper may obtain a lower rate by committing all or a fixed portion of its cargo to that carrier or conference is a loyalty contract. Section 10(b)(9) of the 1984 Act (46 U.S.C. app. 1709(b)(9)), prohibits the use of a loyalty contract, except in conformity with the antitrust laws.

The Commission's determination in Docket 84–21 was challenged in a petition for reconsideration filed on behalf of various conferences.[1] Petitioners argued that service contracts and time volume rates could properly be based on the shipper committing all or a fixed portion of its cargo to the carrier or conference. In view of, *inter alia*, section 10(b)(9) of the 1984 Act, and after considering all the arguments submitted on this issue, the Commission rejected Petitioners' argument. However, in its Order of April 5, 1985 denying this and other petitions for reconsideration of the Commission's final rules implementing the 1984 Act, the Commission advised:

> It is the intention of the Commission to take this same approach to another issue raised in the Petitions and to inaugurate a future rulemaking on service contracts which will address the question of whether the Shipping Act of 1984 allows a service contract to be stated in terms of a fixed portion or percentage of the total quantity of the commodity described in the contract.

Since that time, the Commission has seen nothing to alter its earlier position. A reduced rate which is conditioned upon the shipper committing all or a fixed portion of its cargo to the carrier or conference does not depend on the volume of cargo shipped, but rather on the loyalty of the shipper. The shipper, whether it ships a single container per year or hundreds of containers, is effectively tied to the carrier or conference. Regardless of the name by which the carrier or conference may call such an arrangement, the Commission believes that it must be considered a loyalty contract and not a service contract for purposes of regulation under the 1984 Act.

Accordingly, § 581.5(a)(3)(v) of the proposed rule precludes carriers and conference from utilizing service contracts which states the minimum quantity necessary to obtain the rate in terms of a fixed percentage of the shipper's cargo. This provision is in accordance with the previously stated view of the Commission that any rate which is conditioned on the shipper committing all or a fixed portion of its cargo to the carrier or conference must be treated as a loyalty contract.

[1] The Petition for Reconsideration was filed January 3, 1985 on behalf of Australia/Eastern U.S.A. Freight Conference; Greece/U.S. Atlantic Rate Agreement; Iberian/U.S. North Atlantic Westbound Freight Conference; Med-Gulf Conference; Mediterranean-North Pacific Coast Freight Conference; U.S. Atlantic & Gulf/Australia-New Zealand Conference; and West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference.

Section 581.5(a)(3)(viii)—Contingencies, Force Majeure, etc.

Some service contracts which have been received in the past year contain contract provisions which permit subsequent modification to an original, essential term, but which are so vague as to be incomprehensible. Others contain provisions which are so highly subjective that they give one party virtual "carte blanche" to alter the contractual relation. An example of the latter is a so-called "commercial contingency clause" (usually keyed to a "Force Majeure" article) which allows a shipper to cancel or modify a contract if, in "its sole discretion" it determines that it is unable to market its products in the area which the service contract covers. Such contracts may lack the mutuality of obligation which is an essential requirement for a contract at law.

Provisions such as these, which allow modification or termination based upon vague or subjective criteria, appear to render the shipper's "obligations" under the contract a nullity and the publication of essential terms becomes essentially meaningless. To obviate this situation, proposed § 581.5 provides that, subject to rejection, essential terms of a service contract may not be "uncertain, vague or ambiguous," nor contain any provision "permitting modification by the parties other than in full compliance with" part 581 §§ 581.5(a) (1) and (2). Moreover, where parties to service contracts are going to provide for deviations from the initial arrangement in the contracts themselves, the circumstances permitting such deviations must be "readily verifiable and objectively measurable" § 581.5(a)(3)(viii)—Introductory Text). These requirements would appear to benefit everyone involved in service contracts. As between the parties, they would remove a potential source of future disputes. They will also permit the Commission to more easily determine whether a service contract has been complied with. Lastly, similarly situated shippers can better understand the initial offering and determine whether thy wish to take advantage of it through a comparable contract.

Presently, § 581.7(g)(2)(vii) states, in general, that the essential terms must include "liquidated damages for nonperformance, if any," but also sets forth requirements for one particular type of nonperformance, *i.e.*, the failure to meet the volume requirement. Proposed § 581.5 clarifies these two situations.

Section 581.5(a)(3)(vii) states that the essential terms shall include liquidated

damages for nonperformance, if any. This is consistent with the language in section 8 of the 1984 Act. Any given service contract contains a multitude of obligations on the part of either party and the proposed regulation permits the parties to agree in advance on an amount of liquidated damages for the breach of any particular obligation. Parties to service contracts should be aware, however, that this does not mean that their discretion is unlimited in the area of liquidated damages. The Commission has received a few contracts in which the liquidated damages for failure to meet the volume commitment are *de minimis*. Some contracts have even contained clauses stating that a defaulting party need pay no damages. These contracts would appear to constitute devices to evade the otherwise applicable tariff rate. In certain situations, they would appear to result in a lack of mutuality of obligation. Parties to service contracts should keep in mind that liquidated damages, by their very nature, must bear some good-faith relation to the actual injury which will be sustained, if a breach of the contract occurs.

Proposed § 581.5(a)(3)(viii)(C) relates to the situation where there is a failure to meet the volume requirement for which the parties have made provision in their initial contract. The new rule requires that, when parties make provision for such an eventuality, their contract must include the "rate, charge, or rate basis which will be applied." This will enable similarly situated shippers and the Commission to adequately assess the complete agreement between the parties.

Section 581.5(a)(3)(viii) also classifies as an essential term, those clauses which relate to options for renewal or extension of the contract duration, discontinuance of the contract, assignability of the contract by either basic party and any other deviation from an original, essential term of the contract.

It is the policy of the Commission not to interfere with or abridge the commonlaw rights of parties to a service contract beyond the necessary requirements imposed by law. The listed contingencies, however, without adequate disclosure of both their authorization by the contract and their occurrence, can all too easily be utilized as devices or means to evade a tariff rate or as vehicles for discrimination. Where such contingencies are made part of the contractual arrangement, they must be fully described as essential terms.

Section 581.5(b)—Notice.

This proposed new paragraph provides that notice be sent to the Commission within 30 days of: (1) Any account adjustment resulting from either nonperformance for which liquidated damages may lie, or the occurrence of any event under a contingency or force majeure clause; and (2) the final settlement of such adjusted account. (See the discussion under §§ 581.3(a)(3) and 585.5(c).)

Section 585.5(c)—Issuance of proposed final accounting.

In addition to the occurrence of an event which could alter the original, basic arrangement of a service contract and, as a result, be used as a device for evasion of the requirements of the 1984 Act, the Commission is also concerned about the opportunity for abuse in the area of collection or non-collection of the final amount due under such contracts, especially where the account requires adjustment for liquidated damages for breach or for rerating under the tariff. Where, for example, the contract does provide for realistic liquidated damages for breach of the cargo-volume or service commitments and the collection of those liquidated damages is not diligently pursued, the regulatory scheme of the 1984 Act may be undermined. The effect is the same as having no rate at all, under either a tariff or service contract.

Accordingly, proposed § 581.3(c) requires that, once there has been a change to the basic compensation under the original terms of the service contract, which is adjusted because of the occurrence of an event contemplated by another essential term (*e.g.*, liquidated damages, rerating, etc.), the final amount due one party or another under the service contract must be billed promptly after the contract is terminated or discontinued, by a proposed, detailed billing or account stated of the adjusted total amount within 30 days of termination of the contract. As provided in § 581.5(b)(2) [see discussion above], notice of this billing or account stated must also be submitted to the Commission, which can be accomplished by merely filing a copy of the billing or account stated under § 581.3(a)(3)(iv). Lastly, notice of final disposition (*e.g.*, collection) must also be submitted under § 581.3(a)(3)(v). (See discussion under that section.)

Section 581.6—Availability of Essential Terms

As suggested by experience and comments received by the Commission, the procedures for a similarly-situated shipper obtaining a contract's essential terms, now contained in § 580.7(g)(1), require clarification and expansion. To that end, proposed §§ 581.6(b) (1)–(4), would: (1) Require the request by the shipper to be in writing; (2) establish a time limit for carrier/conference response; and (3) provide that the resulting contract may not become effective until it is signed by all necessary parties and filed with the Commission.

The period of availability under proposed paragraph (b)(1) is no less than 30 days from the date of filing of the service contract, which period will be suspended if there is a notice of intent to reject under proposed § 581.8(d).

Where the service contract provides for an expressly described event which may cause deviation from one original essential term of the contract (triggering another essential term) under proposed § 581.5(a)(3)(viii), notice of such event and the same opportunity must be immediately made available to other shippers and shippers associations subject to the same, original essential terms, with copies to the Commission under § 581.3(a)(3)(ii). The same would be true for a reversion to the original term after the condition, *e.g.*, disability, etc., has expired.

Section 581.7—Modification, Termination or Breach not Covered by the Contract

This section is based on current §§ 580.7(d) and (k) and covers changes to the original essential terms which are not contemplated by any clause in the contract (as contrasted with proposed section 581.5, above, covering the occurrence of events which change the original contract arrangement and which are provided for by contract clauses). The fundamental requirement of present § 580.7(d), *i.e.*, that essential terms of contracts may not be modified by mutual agreement of the parties after their publication, has not been altered. (See also proposed § 581.5(a)(2) which prohibits a contract clause permitting modification other than in full compliance with Part 581.)

A serious problem in service contract administration has been the premature termination of contracts because a shipper cannot meet its volume commitments. While the parties may mutually agree to terminate the contract, it was not clear in the current rule whether a carrier could unilaterally terminate the contract when a shipper breached its volume commitment. The rule is clarified in new § 581.7 to permit a carrier to terminate a contract under such a circumstance, but, if the contract is terminated, either by mutual agreement or by breach not covered by

the contract, further implementation of the service contract is prohibited.

The Commission proposes that, in the absence of a valid contract rate to be applied, previous shipments must be rerated according to the otherwise applicable tariff. Fulfillment of a meaningful volume cargo commitment is the legislative *quid pro quo* for being relieved of the obligation to adhere to tariff rates. As discussed under § 581.5, liquidated damages are only relevant as between the contract parties and do not necessarily satisfy the statutory requirement to adhere to tariff rates which would apply in the absence of a valid service contract.

As under proposed §§ 581.5 (b) and (c), there is a requirement for an account adjustment based on a rerating resulting from termination, breach or default not provided for by contract clause (proposed § 581.7(b)(4)), and notices similar to those described under § 581.5(b) are required to be filed under § 581.3(a)(3).

Section 581.8—Contract Rejection and Notice; Implementation

The Commission is also proposing to amend its procedures for the return and rejection of service contracts or statements of essential terms, presently in § 580.7(f). The amended procedure gives the Commission 30 days, rather than 15, within which to notify the filing party of its intent to reject a service contract and/or statement of essential terms for failure to conform to the form, content or filing requirements of the Act or the Commission's rules. In such situations, the Commission will continue to furnish an explanation of its reasons for intending to reject. The parties would then have 20 days, rather than 15, within which to refile a corrected contract or statement of essential terms.

If the contract or statement is not refiled within 20 days or if it is, but it still does not conform, the Commission could then reject it. If rejected, all services performed under the contract would have to be rerated in accordance with applicable tariff provisions and detailed notice of the rerating and final settlement resulting from the rerating must be filed with the Commission under proposed § 581.3(a)(3). (See also the discussion under §§ 581.5 (b) and (c).) To do otherwise, would allow the parties to obtain the benefit of a contract that was found unlawful. Proposed § 581.8(c)(2)(i) also makes it clear that further or continued use of a service contract after rejection is prohibited.

Section 581.8(d) also proposes to suspend the minimum 30-day period of availability of essential terms upon receipt of a notice of intent to reject and to start a new 30-day period upon refiling of a conforming contract or statement of essential terms.

Section 581.9—Confidentiality

This section is substantially the same as current section 580.7(c), *i.e.*, service contracts and amendments to non-essential terms (*e.g.*, names of affiliates, addresses, etc.) will be held confidential to the full extent permitted by law.

Section 581.10—Recordkeeping and Audit

This section includes the provisions of present § 580.7(j), except that a further requirement is added to ensure that contract shipment records are maintained on a current basis to facilitate inspection by the Commission.

A new requirement is proposed to be added that the carrier or conference maintaining shipment records tender such records to the Commission upon request. To this end, the Commission reconsidered the requirement to maintain shipment records in the United States, which was deleted from the original interim rule. (See 49 FR 45364 et seq., Nov. 15, 1984.) At this time, however, the Commission believes that it is sufficient for surveillance purposes to be given the opportunity to audit such records upon reasonable request. If necessary, of course, the Commission could seek such records by order. Upon request by the Commission, the responsible individual listed in the service contract under proposed § 581.4(a)(2)(ii)(B) will be required by proposed § 581.10(b) to tender the requested records to the Commission. If this becomes difficult to administer, the Commission may have to return to the requirement to maintain shipment records in the United States.

Section 581.91—OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act

This section will eventually display the control numbers issued by the Office of Management and Budget for the information collection requirements of new Part 581. The collection of information requirements contained in the original § 580.7 of Title 46, Code of Federal Regulations, were approved by the Office of Management and Budget (OMB) under provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3504) and have been assigned control number 3072–0044 (See 46 CFR 580.91). The new requirements contained in new part 581 have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. A copy of the request for OMB review and supporting documentation may be obtained from the Commission's Secretary. Comments on the information collection aspects of this rule should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Maritime Commission.

The Commission believes that the proposed rule will better assist it in its task of monitoring compliance with the service contract requirements of the Act and its regulations. Moreover, these provisions should provide the parties to service contracts with clearer guidance as to their obligations under such circumstances.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or geographic regions; or,

(3) Significant adverse effect on competition, employment, investment productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jursidictions.

Comments on Foreign Port Range, Specified Minimums, Combined Form, "Most-Favored-Shipper" Clauses and Other Matters

Foreign Port Range.

One of the essential terms of a service contract which must be made available to similarly situated shippers is "the origin and destination port ranges in the case of port-to-port movements . . . ." Consistent with the 1984 Act's legislative history, the Commission has defined "port range" to mean "those ports in the countries of loading or unloading of the contract cargo that are regularly served by the contracting carrier or conference, as specified in the tariff applicable to the service in which the contract is to be employed, even if the contract itself contemplates use of but a single port within that range." 46 CFR 580.7(a)(3). As a result, a carrier

entering into a service contract to a particular port must presently offer those same essential terms to all similarly situated shippers within the port range.

This requirement does not appear to have caused any problems when applied to United States ports, since U.S. port ranges are relatively compact and the same rate generally applies regardless of the port. Foreign ports, however, present a different set of circumstances. In the first place, the ports within a foreign port range are often geographically dispersed over a wide area. In addition, the rates to ports within these ranges vary considerably, reflecting, in part, the differences in the distances involved in ocean transportation.

In light of these factors, it may be that carriers are reluctant to enter into port-to-port service contracts involving foreign ports. Moreover, if they are entering into such arrangements, their essential terms offering may not fully comport with the port range requirement. The Commission is interested, therefore, in ascertaining whether the port range requirement is inhibiting in any way the use of service contracts in foreign commerce and, if so, whether an adjustment from the requirement for foreign ports might be warranted. Interested parties are invited to comment on the merits of a foreign port range adjustment and, in so doing, to address with particularity any problems which presently exist. In addition, commenters should address the Commission's authority to grant such an exemption and are free to offer alternative solutions.

Specified Minimums—Cargo and Service Commitments and Liquidated Damages

As indicated in the commentary on proposed section 581.5, the Commission is concerned about contracts where the volume commitments are so low that the contract may be being utilized as a device to circumvent otherwise applicable tariff requirements. The same can also be said for carrier service commitments which appear to be *de minimis* when compared to the shipper's volume commitments, as well as contractual liquidated damages which bear no relation to the otherwise applicable tariff rate. These situations suggest the possible desirability of requiring service contract "minimums," *e.g.*, a certain number of containers committed, commensurate with the number and frequency of voyages, and liquidated damages which are realistic in relation to the tariff rate that would apply in the absence of the service contract for whose breach or termination the damages are assessed. The Commission also invites comments on the need for additional regulations in this area.

More Convenient, Combined Form

After processing three thousand service contracts, the Commission has developed certain procedures to facilitate their filing and maintenance, some of which appear in the proposed rule. In addition to those requirements which directly affect the shipping public, however, the Commission has developed internal systems to cope with the increased volume and complexity of filed contracts not originally foreseen when the rules were first developed in 1984. For example, service contract information is currently being placed (confidentially, when appropriate) into an automated data processing system since this may be the only practical way such data can be conveniently retrieved. This could be facilitated by, for example, using optical scanning equipment.

The Commission is, therefore, considering, and invites comments on, a new filing format which would eliminate multiple submissions. This could consist of one filing with detachable sections, for example:

1. Machine-readable ADP form (data confidential, where necessary);
2. Essential terms; and
3. Shipper data and signature (confidential).

Most-Favored-Shipper Clauses.

The Commission is also inviting comment on what, for lack of a better term, are referred to as "most-favored-shipper" clauses. Under such arrangements, a carrier agrees to lower the agreed-upon service contract rate to meet a rate, either offered to that particular shipper by another carrier, or a lower rate which is being offered to any shipper in the trade by the service-contract carrier or by any other carrier or rate group. The use of such clauses may call into question whether the shipper is agreeing to ship a specific minimum volume in exchange for a specific rate as statutorily required. Such clauses also could in effect remove the "risk" of entering into a service contract on the shipper's part, possibly negating any rate stability that service contracts are generally intended to confer. The Commission, therefore, is seeking comment on the use of "most-favored-shipper" clauses, whether they are a problem in practice and whether they should be prohibited or in some manner limited.

Other Service Contract Problems and Suggestions.

Similarly, comments are invited apprising the Commission of other service contract problems that may have arisen over the past year and which are not addressed by the instant rule. Commenters are requested to propose suggested solutions.

List of Subjects in 46 CFR Parts 580 and 581:

Administrative practice and procedure, Antitrust, Automatic data processing, Cargo vessels, Confidential business information, Contracts, Exports, Freight forwarders, Imports, Maritime carriers, Penalties, Rates and fares, Reporting and recordkeeping requirements.

Therefore, for the reasons set forth in the preamble and pursuant to 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707, 1709, 1712, 1714–1716 and 1718, Title 46, Code of Federal Regulations, is amended as follows:

PART 580—[AMENDED]

1. The Authority Citation to Part 580 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707, 1709, 1712, 1714–1716 and 1718.

§ 580.7 [Removed]

2. Section 580.7 is removed:

3. A new Part 581 is added to read as follows:

PART 581—SERVICE CONTRACTS

Sec.
581.1 Definitions.
581.2 Scope and application.
581.3 Filing and maintenance of service contract materials.
581.4 Form and manner.
581.5 Content of essential terms; contingency clauses.
581.6 Availability of essential terms.
581.7 Modification, termination or breach not covered by the contract.
581.8 Contract rejection and notice; implementation.
581.9 Confidentiality.
581.10 Recordkeeping and audit.
581.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 46 U.S.C. 553; 46 U.S.C. app. 1702, 1706, 1707, 1709, 1712, 1714–1716 and 1718.

§ 581.1 Definitions.

In this part:

(a) *"Act"* means the Shipping Act of 1984 [46 U.S.C. app. 1701–1720].

(b) *"Carrier"* or *"common carrier"* means a person holding itself out to the general public to provide transportation by water of cargo between the United

States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from port or point of receipt to the port or point of destination; and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

(c) *"Commission"* means the Federal Maritime Commission.

(d) *"Conference"* means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff. The term shall also include any association of ocean common carriers which is permitted, pursuant to an effective agreement, to fix rates and to enter into service contracts, but the term does not include a joint service, consortium, pooling, sailing or transshipment agreement.

(e) *"Contract party"* means any party signing a service contract as an ocean common carrier, conference, shipper or shippers' association.

(f) *"Essential Terms Publication"* means the single publication which is maintained by each carrier or conference for service contract(s) and which contains statements of essential terms for every such contract.

(g) *"File"* or *"Filing"* of service contract materials means actual receipt at the Commission's Washington, D.C. offices.

(h) *"Geographic area"* means the general location from which and/or to which cargo subject to a service contract will move in intermodal service.

(i) *"Non-vessel-operating (NVO) common carrier"* means a common carrier that does not operate the vessels by which the ocean transportation is provided and is a shipper in its relationship with an ocean common carrier.

(j) *"Ocean common carrier"* means a vessel-operating common carrier; but the term does not include one engaged in ocean transportation by ferry boat or ocean tramp.

(k) *"Ocean freight forwarder"* means a person in the United States that:

(1) Dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(2) Processes the documentation or performs related activities incident to those shipments.

(l) *"Person"* includes individuals, corporations, partnerships and associations existing under or authorized by the laws of the United States or of a foreign country.

(m) *"Port range"* includes those ports of loading or unloading of service-contract cargo that are regularly served by the contracting carrier or conference, as specified in its tariff of general applicability, even if the contract itself contemplates use of but a single port within that range.

(n) *"Service contract"* means a contract between one or more shippers or shippers' associations and one or more ocean common carriers or conferences, in which the shipper makes a commitment to provide a certain minimum quantity of its cargo or freight revenue over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of either party.

(o) *"Shipment"* means all of the cargo carried under the terms of a single bill of lading.

(p) *"Shipper"* means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(q) *"Shippers' association"* means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

(r) *"Statement of essential terms"* means the concise summary of all essential terms of a service contract required to be filed with the Commission and made available to the general public in tariff format by the carrier or conference in its Essential Terms Publication.

(s) *"Submit"* or *"submission"* means "file" or "filing" under this section.

(t) *"Tariff of general applicability"* means the effective tariff, on file at the Commission under Part 580 of this chapter, that would apply to the transportation in the absence of a service contract.

§ 581.2 Scope and application.

(a) *Geographical Scope.* Service contracts shall apply only to transportation of cargo moving from, to or through a United States port in the foreign commerce of the United States.

(b) *Parties: NVO's and Forwarders.*—(1) A *non-vessel-operating common carrier* may sign a service contract only in its capacity as a shipper to the offering ocean common carrier or conference.

(2) (i) A *licensed ocean freight forwarder* may sign a service contract only in its capacity either as the actual shipper or as forwarding agent for and on behalf of a named shipper contract party.

(ii) Whenever a licensed ocean freight forwarder:

(A) Signs a service contract as the actual shipper, all bills of lading covering shipments under the contract shall indicate as "shipper" [on the shipper line of the bill of lading] the name of the licensed ocean freight forwarder, and in no event may the forwarder collect ocean freight compensation on such shipments; or

(B) Acts as forwarding agent in signing a service contract, written authorization for such signature as agent shall be submitted to the carrier or conference contract party; shall accompany the service-contract filing under § 581.3(a)(1); and shall be kept confidential under § 581.9.

§ 581.3 Filing and maintenance of service contract materials.

(a) *Filing.* There shall be filed with the Director, Bureau of Tariffs, the following:

(1) *Service contract.* On or before the effective date of every service contract, a true and complete copy of the contract shall be submitted in form and content as provided by §§ 581.4(a) and 581.5, in single copy contained in a double envelope which contains no other material, as follows:

(i) The outer envelope shall be addressed to the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

(ii) The inner envelope shall be sealed, contain only the executed contract, and shall state: "This Envelope Contains a Confidential Service Contract."

(iii) The top of each page of a filed service contract shall be stamped "Confidential."

(2) *Statement of essential terms.* At the same time as the filing of the service contract under paragraph (a)(1) of this section, the statement of essential terms of the contract shall be submitted:

(i) In form and content as provided in §§ 581.4(b) and 581.5;

(ii) In tariff format;

(iii) On page(s) to be included in the Essential Terms Publication as described in paragraph (b) of this section; and

(iv) (A) With an accompanying transmittal letter in an evelope which

contains only matter relating to essential terms; and

(B) The envelope and the inside address on the transmittal letter are to be addressed to the "Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573."

(3) *Notices of: change to contract, contract party or rate; availability of changed terms to similarly-situated shippers; and settlement of account.* There shall be filed with the Commission pursuant to the procedures of paragraph (a)(1) of this section, a detailed notice, within 30 days of the occurence, of:

(i) The making available of newly operable essential terms to similarly situated shippers under § 581.6(b)(5);

(ii) Termination by mutual agreement, breach or default not covered by the service contract under § 581.7(b);

(iii) The adjustment of accounts, by rerating, liquidated damages, or otherwise under §§ 581.5–581.8;

(iv) Final settlement of any account adjusted as described in paragraph (a)(3)(iii) of this section, attested to by the involved shipper or shippers' association; and

(v) Any change to:

(A) The name of a basic contract party under § 581.4(a)(1)(v); and

(B) The list of affiliates under § 581.4(a)(1)(vi) of any contract party entitled to receive or authorized to offer services under the contract.

(b) *Essential Terms Publication; maintenance.* Each carrier or conference shall maintain a single, current Essential Terms Publication in the form prescribed under § 581.4(b)(2).

(c) *Who must file.* (1) As further provided in paragraph (c)(2) of this section, the duty under this part to file service contracts, statements of essential terms and notices, and to maintain an Essential Terms Publication, shall be upon:

(i) A service-contract signatory carrier which is not a member of a confernce for the services covered by the contract; or

(ii) The conference which:

(A) Is signatory to the service contract; or

(B) Has one or more member carriers signatory to a service contract for a service otherwise covered by the conference agreement.

(2) When a conference files a service contract for and on behalf of one or more of its member lines and the contract covers service from, to or between ports and/or points not included within the scope of the conference, the complete text of the statement of essential terms shall be simultaneously filed in the Essential Terms Publications of both the conference(s) and carrier(s) involved, which shall comply with all other Essential Terms Publication filing and maintenance requirements under paragraph (b) of this section and § 581.4(b).

(d) *Exempt commodities.* (1) Except as provided in paragraphs (d)(2) and (d)(3) of this section, this section does not apply to contracts relating to bulk cargo, forest products, recycled metal scrap, waste paper or paper waste.

(2) An exempt commodity listed in paragraph (d)(1) of this section may be included in a service contract filed with the Commission, but only if there is a tariff of general applicability for the transportation which contains a specific commodity rate for the exempted commodity.

(3) Upon filing under this paragraph, the service contract and essential terms shall be subject to the same requirements as those contracts involving non-exempt commodities.

§ 581.4 Form and manner.

(a) *Service contract.* Every service contract shall clearly, legibly and accurately set forth in the following order:

(1) On the first page, preceding any other provisions:

(i) A unique service contract number bearing the prefix "SC";

(ii) The FMC number [FMC No. ____] of the carrier's or conference's Essential Terms Publication;

(iii) A reference to the statement of essential terms number ["ET No. ____"] as provided in paragraph (b)(1)(iii) of this section;

(iv) The FMC number(s) [FMC No. ____] of the tariff(s) of general applicability;

(v) The names of the contract parties. Any further references in the contract to such parties shall be consistent with the first reference (*e.g.*, "[exact name]," "carrier," "shipper," or "association," etc.); and

(vi) Every affiliate of each contract party named under paragraph (a)(1)(v) of this section entitled to receive or authorized to offer services under the contract, except that in the case of a contract signed by a conference or shippers' association, individual members need not be named. In the event the list of affiliates is too lengthy to be included on the first page, reference shall be made to the exact location of such information; and

(2) Following the first page of the service contract:

(i) The complete terms of the contract, including all essential terms required under § 581.5; and

(ii) (A) A description of the shipment records which will be maintained to support the contract; and

(B) The name, address and telephone number of the individual who will make shipment records available to the Commission for inspection under § 581.10.

(b) *Essential terms.*—(1) *Statement of essential terms.* Every statement of essential terms shall:

(i) Be printed in black on yellow paper;

(ii) Be subject to the form and manner requirements applicable to governing tariffs as set forth in Part 580 of this chapter;

(iii) Be identified by an essential-terms number bearing the prefix "ET No." which shall be located on the top of each page of the statement of the essential terms; and

(iv) Contain on the first page, in a manner similar to that set forth in §§ 580.5(a)(8) and 580.5(a)(10) of this chapter, the period of availability of essential terms to similarly situated shippers under § 581.6(b), *i.e.*, both the beginning date [which shall be the date the contract is filed at the Commission] and the expiration date [which shall be no less than 30 days after the beginning date].

(2) *Essential Terms Publication.* The Essential Terms Publication shall:

(i) Have all its pages printed in black on yellow paper;

(ii) Be subject to the form and manner requirements applicable to governing tariffs as set forth in Part 580 of this chapter;

(iii) (A) Contain a currently maintained "Index of Statements of Essential Terms" structured as follows:

ET No.	Effective date	Expiration date	Page No(s).	Section No(s).	Date of cancellation of page(s)

The Index shall include for every statement of essential terms, the ET number, as provided in paragraph (b)(1)(iii) of this section, the effective duration, as provided in § 581.5(a)(3)(i), the page and section number(s) [where used], and a column for cancellation dates which shall be used as an

alternative to cancelling each individual page of the Essential Terms Publication; and

(B) The statement of essential terms may not be cancelled until after the duration of the contract, including any renewal or extension, has expired;

(iv) Include an alphabetical index of the commodities covered by the service contracts in which each commodity shall make reference to the relevant ET number or numbers;

(v) Contain on its title page, or in a rule, reference to each carrier's or conference tariff of general applicability; and

(vi) Be referenced in each of the carrier's or conference's tariffs of general applicability, where required to be filed under the Act and this chapter.

§ 581.5 Content of essential terms; contingency clauses.

(a) *Essential terms:*

(1) May not be uncertain, vague or ambiguous;

(2) May not contain any provision permitting modification by the parties other than in full compliance with this part; and

(3) Shall include the following:

(i) The *duration* of the contract, stated as a specific, fixed time period, with a beginning date and ending date;

(ii) The *origin and destination port ranges* in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements, except that, in service contracts, the origin and destination of cargo moving under the contract need not be stated in the form of "port ranges" or "geographic areas" but shall reflect the actual locations agreed to by the contract parties;

(iii) *The contract rate, rates or rate schedule(s),* including any additional or other charges [*i.e.*, general rate increases, surcharges, terminal handling charges, etc.] that apply, and any and all conditions and terms of service or operation or concessions which in any way affect such rates or charges;

(iv) *The commodity or commodities* involved;

(v) *The minimum quantity of cargo or freight revenue* necessary to obtain the rate or rate schedule(s), except that the minimum quantity of cargo committed by the shipper may not be expressed as a fixed percentage of the shipper's cargo.

(vi) The *service commitments* of the carrier or conference, such as, assured space, transit time, port rotation or similar service features;

(vii) *Liquidated damages for nonperformance,* if any; and

(viii) Where a contract clause provides that there can be a deviation from an original, essential term of a service contract, based upon any stated event occurring subsequent to the execution of the contract, a clear and specific description of the event, the existence or occurrence of which shall be readily verifiable and objectively measurable. This requirement applies to, *inter alia,* the following types of situations:

(A) Retroactive rate adjustments based upon experienced costs;

(B) Reductions in the quantity of cargo or amount of revenues required under the contract;

(C) Failure to meet a volume requirement during the contract duration, in which case the contract shall set forth a rate, charge, or rate basis which will be applied;

(D) Options for renewal or extension of the contract duration with or without any change in the contract rate or rate schedule;

(E) Discontinuance of the contract;

(F) Assignment of the contract; and

(G) Any other deviation from any original essential terms of the contract.

(b) *Notice.* Detailed notice shall be given to the Commission under § 581.3(a)(3) within 30 days of:

(1) Any account adjustment resulting from either liability for liquidated damages under paragraph (a)(3)(vii) of this section, or the occurrence of an event described in paragraph (a)(3)(viii) of this section; and

(2) Final settlement of any account adjusted under paragraph (b)(1) of this section.

(c) *Issuance of proposed final accounting.* Any proposed final account adjustment resulting from liability for liquidated damages or the occurrence of an event under paragraph (b)(1) of this section shall be issued to the appropriate contract party within 30 days of the termination or discontinuance of the service contract.

§ 581.6 Availability of essential terms.

(a) *Availability of statement.* A statement of the essential terms of each service contract as set forth in tariff format shall be made available to the general public pursuant to the requirements of this section and §§ 581.3, 581.4(b) and 581.5.

(b) *Availability of terms.* (1) The essential terms of each service contract shall be made available to all other shippers or shippers' associations similarly situated under the same terms and conditions for a specified period of no less than thirty (30) days from the date of filing of the service contract as may be adjusted under § 581.8(d).

(2) Whenever a shipper or shippers' association desires to enter into a service contract with the same essential terms, a request shall be submitted to the carrier or conference in writing.

(3) The carrier or conference shall reply to the request by mailing, or other suitable form of delivery, within 14 days of the receipt of the request, either a contract offer with the same essential terms which can be accepted and signed by the recipient upon receipt, or a valid reason in writing why the applicant is not entitled to such a contract.

(4) The service contract resulting from a request under this section may not go into effect until an executed copy, signed by all necessary parties, is filed with the Commission under this section.

(5) In the case of any expressly described event which results in a change to an original essential term by the operation of a contract clause in the service contract under § 581.5(a)(3)(viii), the newly operable essential term(s) shall be immediately made available in writing to other shippers and shippers' associations subject to the same, original essential terms, with copies to the Commission under § 581.3(a)(3)(ii).

§ 581.7 Modification, termination or breach not covered by the contract.

For purposes of this part:

(a) *Modification.* The essential terms originally set forth in a service contract may not be modified during the duration of the contract.

(b) *Termination or breach not covered by contract.* In the event of a contract termination which is not provided for in the contract itself and which results from mutual agreement of the parties or from breach or default because the minimum quantity required by the contract has not been met:

(1) Further or continued implementation of the service contract is prohibited;

(2) The cargo previously carried under the contract shall be rerated according to the otherwise applicable tariff provisions of the carrier or conference in effect at the time of each shipment; and

(3) Detailed notice shall be given to the Commission under § 581.3(a)(3) within 30 days of:

(i) The occurrence of the contract termination, breach or default under this paragraph;

(ii) any rerating or other account adjustment resulting from the contract termination, breach or default under this paragraph; and

(iii) Final settlement of the account adjusted under paragraph (b)(3)(ii) of this section.

(4) Any proposed rerating or other final account adjustment resulting from termination, breach or default under this paragraph shall be issued by the carrier or conference to the shipper or shippers' association within 30 days of the termination of the service contract.

§ 581.8 Contract rejection and notice; implementation.

(a) *Initial filing and notice of intent to reject.*

(1) Within 30 days after the initial filing of the contract and statement of essential terms, the Commission may notify the filing party of the Commission's intent to reject a service contract and/or statement of essential terms that does not conform to the form, content and filing requirements of the Act or this part. The Commission will provide an explanation of the reasons for such intent to reject.

(2) The parties will have 20 days after the date appearing on the notice of intent to reject to resubmit the contract and/or statement of essential terms, modified to satisfy the Commission's concerns, as set forth in paragraph (a)(1) of this section.

(b) *Rejection.* The Commission may reject the contract and/or statement of essential terms if the objectionable contract or statement:

(1) Is not resubmitted within 20 days of the notice of intent to reject; or

(2) Is resubmitted within 20 days of the notice of intent to reject as provided in paragraph (a)(2) of this section, but still does not conform to the form, content or filing requirements of the Act or this part, as set forth in paragraph (a)(1) of this section.

(c) *Implementation; prohibition and rerating.* (1) Performance under a service contract may begin without prior Commission authorization on the day both the service contract and statement of essential terms are on file with the Commission, except as provided in paragraph (c)(2) of this section:

(2) When the fiing parties receive notice that the service contract or statement of essential terms has been rejected under paragraph (b) of this section:

(i) Further or continued implementation of the service contract is prohibited;

(ii) All services performed under the contract shall be rerated in accordance with the otherwise applicable tariff provisions for such services with notice to the shipper or shippers' association within 30 days of the date of rejection; and

(iii) Detailed notice shall be given to the Commission under § 581.3(a)(3) within 30 days of:

(A) The rerating or other account adjustment resulting from rejection under this paragraph; and

(B) Final settlement of the account adjusted under paragrpah (c)(2)(iii)(A) of this section.

(d) *Period of availability.* The minimum 3-day period of availability of essential terms required by § 581.6(b) shall be suspended on the date of the notice of intent to reject a service contract and/or statement of essential terms under paragraph (a)(1) of this section and a new 30-day period shall commence upon the resubmission thereof under paragraph (a)(2) of this section.

§ 581.9 Confidentiality.

(a) *Service contracts.* All service contracts filed with the Commission shall, to the full extent permitted by law, be held in confidence.

(b) *Amendments to non-essential terms.* Amendments to non-essential terms of a service contract shall be accorded similar confidential treatment.

§ 581.10 Recordkeeping and audit.

Every common carrier or conference shall:

(a) Maintain service contract shipment records currently and for a period of five years from the termination of each contract; and

(b) Tender service contract shipment records to the Commission for inspection upon request.

§ 581.91 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations [46 CFR 581] have been approved by the Office of Management and Budget [OMB] in accordance with 44 U.S.C. Chapter 35 and have been assigned OMB Control Number [1].

By the Commission

John Robert Ewers,

Secretary.

[FR Doc. 86-3410 Filed 12-14-86; 8:45 am]

BILLING CODE 6730-01-M

[1] To be set forth in final rule after being supplied by OMB.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 176, 177, 178, and 180

[Docket Nos. HM-183, 183A]

Meeting on Proposed Revisions to Requirements for Cargo Tanks

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration (RSPA), DOT.

ACTION: Meeting on proposed revisions to cargo tank requirements.

SUMMARY: In response to a request by the Truck Trailer Manufacturers Association (TTMA), a meeting will be held. The purpose of this meeting will be to discuss certain technical areas pertaining to the manufacture, repair and requalification of specification cargo tanks as proposed under Docket Nos. HM-183, 183A, Notice No. 85-4 [50 FR 37766, September 17, 1985; 50 FR 49866, December 5, 1985]. Anticipated items to be discussed by representatives of TTMA and RSPA at this meeting include, but are not limited to, the following:

1. Dynamic highway induced loads,
2. Application of the ASME Code to low pressure MC 306 and MC 307 cargo tanks,
3. Accident damage protection loads,
4. Vents fittings, and closures,
5. Authorized Inspector (third party inspection).

Interested persons are invited to attend.

DATE: the meeting will be held on March 4, 1986, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held in Room 7200, Nassif Building, 400 Seventh Street, SW., Washington DC.

A recording of the meeting will be made available in the Dockets Branch. The Dockets Branch is located in Room 8426 of the Nassif Building (office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except public holidays).

FOR FURTHER INFORMATION CONTACT: Hattie L. Mitchell, (202) 426-2075; office hours are from 8:00 a.m. to 4:30 p.m., Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590.

Issued in Washington, D.C., on February 11, 1986 under the authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86-3381 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Withdrawal of Critical Habitat Proposals for the Key Largo Woodrat and the Key Largo Cotton Mouse

AGENCY: Fish and Wildlife Serivce, Interior.

ACTION: Notice of Withdrawal of Proposed Rule.

SUMMARY: The Service gives notice of its withdrawal of proposed critical habitat for the Key Largo woodrat (*Neotoma floridana smalli*) and the Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*). Both species are native to Key Largo, Monroe County, Florida, and were proposed as endangered species, with critical habitat, on February 9, 1984, and were listed as endangered on August 31, 1984. Designation of critical habitat was deferred to expedite the listing process. Public land acquisition and preliminary land planning efforts involved in an ongoing Habitat Conservation Plan, pursuant to Section 10(a) of the Endangered Species Act, as amended, indicate that it is not prudent to designate critical habitat for the Key Largo woodrat and Key Largo cotton mouse at this time.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Office, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791-2580 or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

The Key Largo woodrat (*Neotoma floridana smalli*) and the Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*) are small mammals native to the tropical hardwood forests of Key Largo, Monroe County, Florida. The range of both species on Key Largo has been reduced by commercial and residential development, and future development, if unplanned, could continue to destroy habitat of these species.

In the **Federal Register** of September 21, 1983 (48 FR 43040), the Service issued an emergency rule determining endangered status for the Key Largo woodrat and cotton mouse, pursuant to the Endangered Species Act of 1973, as amended. The emergency designation expired on May 18, 1984. On February 9, 1984 (49 FR 4951), the Service proposed endangered status and critical habitat for both species under the usual procedures of the Act. A public hearing on the proposal was held April 24, 1984, in Tavernier, Monroe County, Florida. On August 31, 1984 (49 FR 34504), the Service published a final rule determining endangered status for the Key Largo woodrat and cotton mouse. The critical habitat designation was deleted from the final rule to expedite the listing process, as provided for by section 4(b)(6)(C) of the Act, as amended in 1982. Section 4(b)(6)(C) requires, however, that critical habitat be designated within 2 years of its proposal, if not designated concurrently with the final regulation listing the species.

The comment period for critical habitat designation was reopened on November 21, 1984 (49 FR 45887), and August 30, 1985 (50 FR 35271). The extensions of the comment period were to allow for receiving additional information which would affect critical habitat designation. The primary source of such information was anticipated to be the Habitat Conservation Plan (HCP), being developed for North Key Largo pursuant to section 10(a) of the Act, as described below.

Following the proposal of the two species as endangered species, certain landowners on North Key Largo expressed an interest in development of a HCP pursuant to section 10(a) of the Act. Under section 10(a), the Service may issue a permit authorizing the taking of listed species as an incident to otherwise lawful activities.

The Service may issue a Section 10(a) incidental take permit provided that, among other things, the permit application is supported by a HCP whose implementation will ensure the long term conservation of the species and the taking of the species will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. Issuance of such a permit is subject to the requirements of section 7(a)(2) of the Act as well as section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(2)(C). Subsequent to the listing of the Key Largo woodrat and cotton mouse as endangered species, the U.S. Congress allocated $98,000, to be matched with non-Federal funds, to be used in developing a HCP. The Service, which was charged with administering the Congressional funding, entered into a grant agreement with the Florida Department of Community Affairs (DCA) under which Monroe County, in cooperation with the DCA, will prepare a HCP for North Key Largo. The HCP will be used to support an application to the Service for a permit to authorize taking endangered species as an incident to development on North Key Largo.

The proposed issuance of the incidental take permit may have significant effects on the quality of the human environment and thus will be the subject of an environmental impact statement (EIS) prepared pursuant to section 102(2)(C) of the NEPA. Scoping meetings, to determine the issues and alternatives to be considered in the EIS, were announced on April 11, 1985 (50 FR 14299), and October 19, 1985 (50 FR 41224); and held on May 16, and October 23, 1985.

A prototype HCP was originally scheduled for completion by September 1985; however, this date has been met, due to the large number of agencies, landowners, and other parties with an interest in the process. It appears now that a draft HCP will not be available before February 1986.

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's criteria for designation of critical habitat (50 CFR Part 424.12; see **Federal Register** of October 1, 1984, 49 FR 38900) specify that critical habitat designation is not prudent when such designation would not be beneficial to the species. It is the Service's decision that critical habitat designation is neither beneficial nor prudent for the Key Largo woodrat and cotton mouse for the following reasons.

Since the February 9, 1984, proposal of these species as endangered, with critical habitat, several changes have occurred. Public land acquisition has proceeded by the U.S. Fish and Wildlife Service (Crocodile Lake National Wildlife Refuge) and Florida's Department of Natural Resources (North Key Largo and New Mahogany Hammock projects). The Federal acquisition will total approximately 7,000 acres, roughly 385 of which are presently habitat for the woodrat and cotton mouse. The State projects include 986 acres, about 300 of which are present woodrat-cotton mouse habitat. Public land acquisitions will therefore

include just over half of the habitat currently known to be occupied by the two species. The remaining woodrat-cotton mouse habitat on North Key Largo is in private ownership, but would be subject to the beneficial conservation provisions of the HCP. The most likely alternatives for development under the HCP would take place without widespread destruction of hardwood hammocks, with development to be clustered, particularly in areas that have already been cleared. Service approval of a section 10(a) permit would require that incidental take not appreciably reduce the likelihood of the survival and recovery of the Key Largo woodrat and cotton mouse. The permitting process itself will be subject to consultation under section 7(a)(2) of the Act, which requires any Federal agency to insure that its actions are not likely to jeopardize the existence of any endangered or threatened species.

A recent study of the Key Largo woodrat and cotton mouse (Goodyear 1985) slightly expanded previously documented range (Barbour and Humphrey, 1982). The study also showed that the cotton mouse was capable of colonizing areas in early successional stages following burns. The woodrat and cotton mouse are still known to occur naturally only on North Key Largo, north of U.S. 1–S905 intersection.

Since the listing of these species, a major Section 7 consultation between the Rural Electrification Administration and the Service has been completed; the lack of critical habitat designation did not affect the resultant biological opinion, which recommended that Federal funding not subsidize electrical delivery to hammock areas supporting the Key Largo woodrat or cotton mouse. It is anticipated that any such future consultations would likewise protect the species and their habitat without the designation of critical habitat. Since critical habitat, by definition, affects only Federal agency activities, it has no application to or regulatory effect on purely private, county, or State actions. Critical habitat designation does not preclude development activities within the designated area, nor does it establish a reserve or indicate an area that is likely to be acquired by the Federal government. Critical habitat serves as an indication to Federal agencies of areas in which their planning may need to consider the needs of endangered or threatened species. If a Federal action outside critical habitat may affect an endangered or threatened species, the action would still be subject to Section 7 consultation; coversely, if a Federal action within critical habitat does not affect a listed species, no consultation is required and the action would not conflict with the Act. Since the areas in which the Key Largo woodrat and cotton mouse occur are well-defined (hardwood hammocks of North Key Largo), and since the areas are currently subject to intensive planning efforts, it is extremely unlikely that any Federal action could be proposed or carried out without coming to the Service's attention. Moreover, the Service believes that the requirements of the Endangered Species Act will ensure that no actions adverse to the species or their habitat will occur.

For all of the above reasons, the Service concludes that designation of critical habitat for the Key Largo woodrat and Key Largo cotton mouse is not prudent. The Service is therefore withdrawing the proposal of February 9, 1984, to designate critical habitat for these species.

References

Barbour, D.B., and S.R. Humphrey. 1982. Status and habitat of the Key Largo woodrat and cotton mouse (*Noetoma floridana smalli*) and (*Peromyscus gossypinus allapaticola*). J. Mamm. 63:144–148.

Goodyear, N.C. 1985. Results of a study of Key Largo woodrats and cotton mice: Phase I. Unpublished report to North Key Largo Study Committee, 76 pp.

Author

The primary author of this notice is Dr. Michael Bentzien, U.S. Fish and Wildlife Service, Endangered Species Field Office, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq;* 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).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: February 9, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-3413 Filed 2-14-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 40211-4050]

Foreign Fishing; Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Notice of proposed allocation of reserve and request for public comment.

SUMMARY: NOAA proposes to allocate 51,030 metric tons (mt) of Atlantic mackerel to the total allowable level of foreign fishing (TALFF). This action is allowed by regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). The intended effect of the allocation is to promote full use of the optimum yield by all harvesters in this fishery.

DATE: Comments must be submitted in writing on or before March 5, 1986.

ADDRESS: Comments should be sent to Salvatore A. Testaverde, NMFS, State Fish Pier, Gloucester, MA 01930–3097. Mark "Comments on Atlantic Mackerel Reserve" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–218–3600, extension 273.

SUPPLEMENTARY INFORMATION: Section 655.23(a)(1) established a mechanism to allocate all or part of the mackerel reserve to TALFF (48 FR 44834, September 30, 1983). For the 1985–86 fishing year (April 1, 1985, through March 31, 1986), a reserve of 51,050 mt of Atlantic mackerel was established (50 FR 20103, May 14, 1985). The regulations require the Director, Northeast Region, NMFS (Regional Director), to project the total domestic harvest for the entire fishing year, based on U.S. landings from April through September and the results of a survey of the intent of domestic fishermen to harvest mackerel during the remainder of the year. Based upon this projection, the Regional Director determines the dipsoition of the reserve allocation.

The reported domestic commercial harvest of Atlantic mackerel from April 1, 1985, through December 31, 1985, was approximately 4,300 mt, and this figure was used to project the total catch for the entire fishing year. The Regional Director estimates that the U.S. harvest for the fishing year, including an estimated recreational catch of 10,200 mt, would total 17,000 to 18,000 mt. The November-December 1985 survey of Atlantic mackerel processors indicated

that they intend to take approximately 13,000 mt for the fishing year.

The new TALFF of 102,100 mt may accommodate directed fishing for Atlantic mackerel for all nations within the fishery conservation zone for the remainder of the fishing year. Note that 51,030 mt is released and not 51,050 mt, since the Allowable Catch (AC), the total of DAH and TALFF, cannot exceed 225,300 mt. Bycatch TALFF specifications will be adjusted accordingly as specified for squid at § 655.21(b)(1)(iv) and for butterfish at § 655.21(b)(3)(iii). The following species incidental catch TALFF specifications will increase: *Loligo*, 1 percent; *Illex*, 1 percent; and butterfish, 1 percent.

This table lists the sum of all adjustments since the beginning of the 1985–1986 fishing year for the Atlantic mackerel and other species bycatch specifications in metric tons for the maximum optimum yield (Max OY), allowable catch (AC), allowable biological catch (ABC), proposed initial optimum yield (IOY), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), Reserve, and total allowable level of foreign fishing (TALFF).

1985–1986 Fishing Year Specifications (in metric tons)

	Squid		Butterfish	Atlantic mackerel
	Loligo	Illex		
Max OY	44,000	30,000	[1] 16,000	225,300
AC				225,300
ABC	44,000	30,000	[1] 16,000	
Proposed IOY	30,735	20,410	12,655	225,300
DAH	22,500	16,000	11,000	[2] 123,200
DAP	20,500	11,500	11,000	13,000
JVP	2,000	4,500		100,000
Reserve	0	0	0	20
TALFF	8,235	4,410	1,655	102,100

[1] Up to the figure given.
[2] Includes 10,200 mt for recreational catch.

The domestic annual harvest of 123,200 mt, including the joint venture processing amount of 100,000 mt, is expected to accommodate and continue the development of the domestic fishing industry on a long-range basis.

Comments on this proposed allocation of resserve will be considered by the Regional Director in the final allocation decision.

Other Matters

This action is required by 50 CFR Part 655, and complies with Executive Order 12291.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 655

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: February 12, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-3477 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 641

[Docket No. 51181-5181]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to amend the implementing regulations for the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The regulations for the FMP exempted persons fishing from headboats from the minimum size limit and incidental catch allowance for red snapper until May 8, 1986. The proposed rule will extend the exemption period one year until May 8, 1987, and make minor word changes in the effort limitations section. The intent of the proposed rule is to provide additional time to conduct survival studies for undersized red snapper and to evaluate the economics of these measures.

DATE: Comments must be received on or before March 20, 1986.

ADDRESS: Comments on the proposed rule should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: The FMP was approved June 3, 1984 and implemented on October 9, 1984 (49 FR 39553). The implementing rule contained an exemption from the minimum size limit and incidental catch allowance for undersized red snapper for persons fishing from headboats until May 8, 1986.

This exemption was authorized because of the strong reliance of the headboat industry on small red snapper, and the deficiency of data that would allow specification of the economic impacts associated with these measures on that particular sector of the fishery. Concern was also expressed by the headboat industry regarding the survivability of the undersized fish that their customers would be required to release. During the 18-month exemption period, studies were to be conducted to determine if there is an acceptable rate of survival of red snapper hooked at various depths and released at the surface, and the extent to which size limits and catch allowances for undersized fish affect the economic viability of various sectors of the fishery, especially the headboat sector in the northwestern Gulf of Mexico which purportedly is largely dependent upon the catch of small red snapper.

Studies to date to evaluate the survival of released reef fishes (particularly red snapper) have met with limited success. Some information has been obtained by NMFS at depths of 90–100 feet off Texas and off the coast of Florida; however, studies attempted in deeper waters (165 feet) off Texas from a fixed platform and from a headboat in May 1985 were relatively unsuccessful because of the unavailability of red snapper. NMFS is presently attempting to identify areas of sufficient red snapper abundance to repeat the study later this year.

Although a certain amount of statistical data are being collected under existing programs, information sufficient for evaluating the economic impacts of the red snapper size limit and catch allowance for undersized fish will not become available until the reef fish data reporting system for this FMP is implemented. A regulatory amendment to institute such data reporting requirements is currently under review, but at best will not be implemented until early 1986. The data reporting requirements have already been approved by OMB. This revised schedule would allow for the collection of at least one full year of statistical information to evaluate the impacts of these measures on various sectors of the fishery before implementation of a proposed amendment to the FMP by May 1987. New stock assessment data will also be available in February 1986.

In view of the above, the Council believes it will be in a better position to evaluate the management structure and recommend any necessary modifications to the FMP when these data become available. Therefore, the Council has requested further deferral of the headboat exemption.

Also, the text in § 641.25 is proposed to be revised to clarify that the limitation of 200 traps applies to those traps actually assigned to a vessel.

Classification

The Assistant Administrator for Fisheries, NOAA, has previously determined that the FMP and

implementing regulations, of which this proposed rule is to be a part, is consistent with the national standards ans other provisions of the Magnuson Act and other applicable law (49 FR 39548, October 9, 1984).

It was previously determined, on the basis of a regulatory impact review (RIR) and regulatory flexibility analysis (RFA) that rules to implement the FMP are not major under Executive Order 12291. The RIR and RFA were summarized in the preamble to the final rule for the FMP (see 49 FR 39548) and are not repeated here. This is an extension of the time period for a measure in the final rule and, therefore, a supplemental RIR has not been prepared.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the proposed rule simply extends an exemption in the implementing regulations. The proposed rule will lessen impacts on the headboat fleet for an extended period of time.

This rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing.

Dated: February 12, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 641.23, paragraph (b)(2) is revised to read as follows:

§ 641.23 Size and incidental catch restrictions.

* * * * *

(b) * * *

(2) Persons fishing from headboats in the FCZ are exempt from the minimum size limit and incidental catch limit for red snapper until May 8, 1987.

* * * * *

3. Section 641.25 is revised to read as follows:

§ 641.25 Effort limitations.

The maximum number of fish traps that may be assigned to a vessel in the FCZ is 200.

[FR Doc. 86-3475 Filed 2-13-86; 8:48 a.m.]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 32
Tuesday, February 18, 1986

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.

ACTION

National Volunteer Advisory Council Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the National Volunteer Advisory Council.

Date, time and place: March 5, 1986, 9:00 a.m., the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Purpose: To select nominees for the President's Volunteer Action Awards for 1986, and hold the regular Council meeting.

In accordance with the determination of the Director of ACTION, this meeting will be partially closed to the public, from 9:30 a.m. until 3:00 p.m., pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code. The determination of the Director of ACTION is available to the public at 806 Connecticut Avenue, NW., Washington, DC 20525, during regular working hours of 8:30 a.m. to 5:30 p.m.

For further information contact: Gayle Speirs, Executive Secretariat, at (202) 634–9380.

Signed this 12th day of February, 1985, in Washington, DC.

Donna M. Alvarado,

Director of ACTION.

[FR Doc 86–3473 Filed 2–14–86; 8:45 am]

BILLING CODE 6050–28–M

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States, to be held at 10:00 a.m. on Monday, February 24, 1986 Covington and Burling, 1201 Pennsylvania Avenue, NW., Main Conference Room (11th floor), Washington, D.C.

The Committee will meet to discuss the following projects:

(a) The intervention and competition advocacy programs of the Antitrust Division of the Department of Justice and the Federal Trade Commission, studied for ACUS by Susan Braden, Esq.

(b) The use by federal agencies of private attorneys, studied for ACUS by Charles G. Kopp and Mark L. Alderman, Esqs. of the firm by Wolf, Block, Schorr and Solis-Chohen of Philadelphis, Pennsylvania.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference by Friday, February 21. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L. Street, NW., Suite 500,. Washington, D.C. (Telephone: 202–254–7065.) Minutes of the meetings will be available on request.

Richard K. Berg,

General Counsel.

February 13, 1986.

[FR Doc. 86–3594 Filed 2–14–86; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Forest Service

Availability of Final Addendum to the Final Environmental Impact Statement on Gypsy Moth Suppression and Eradication Projects

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

ACTION: Notice of availability.

SUMMARY: The Animal and Plant Health Inspection Service and the Forest Service hereby give notice of the availability of a final addendum to the Final Environmental Impact Statement (FEIS) on Gypsy Moth Suppression and Eradication Projects—as Supplemented, 1985. The final addendum contains a plain language version of a worst case analysis discussed in the FEIS filed with the U.S. Environmental Protection Agency on March 18, 1985. The final addendum responds to a ruling in *Oregon Environmental Council* v. *Kunzman* (Civil No. 82–504–RE) which found that the FEIS was legally adequate, but that the worst case analysis in Appendix F failed to meet the regulatory requirements for clarity.

ADDRESSES: Interested parties may obtain copies of the final addendum or FEIS, as Supplemented, 1985, by writing:

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302–E, Administration Building, 14th & Independence Ave., NW., Washington, DC 20250

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 657 Federal Building, Room 511 N.W. Broadway, Portland, OR 97209–3490

Northeastern Area State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008

Northeastern Area State and Private Forestry, Forest Service, U.S. Department of Agriculture, 180 Canfield Street, Morgantown, WV 26505

Copies may be inspected at the above locations as well as at the following other field offices:

Plant Division, Oregon Department of Agriculture, Agricultural Building, Salem, OR 97310

Gypsy Moth Office, Oregon Department of Agriculture, 950 W. 13th Street, Eugene, OR 97402

Pacific Southwest Region, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 630 Sansome Street, San Francisco, CA 94111

Eastern Region, Regional Forester, U.S. Department of Agriculture, 310 W. Wisconsin Avenue, Room 500, Milwaukee, WI 53203

Pacific Northwest Region, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 319 Southwest Pine Street, P.O. Box 3623, Portland, OR 97208

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436–8295.

Peter Orr, Assistant Director, Insect and Disease Management Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008 (215) 461–3153.

SUPPLEMENTARY INFORMATION: The 1985 Final Environmental Impact Statement (FEIS), as supplemented, on gypsy moth suppression and eradication projects was filed with the U.S. Environmental Protection Agency and made available to the public on March 18, 1985. Since the issuance of the FEIS, as supplemented, the United States District Court of Oregon ruled on April 26, 1985, that although the body of the FEIS was legally adequate, the worst case analysis in Appendix F failed to meet the regulatory requirement of readability (*Oregon Environmental Council* v. *Kunzman,* Civil No. 82–504–RE). As a result of this ruling, the Forest Service and Animal Plant Health Inspection Service prepared a plain language summary of the health risk analysis presented in Appendix F.

A notice was published on October 25, 1985, (50 FR 43430–43431) announcing the availability and requesting comments on a draft addendum to the FEIS. The official comment period ended December 12, 1985. However, comments on the draft were accepted and responded to through December 23. In preparing the final addendum, all comments regarding the addendum were reviewed and considered in detail. The primary portion of the addendum to the FEIS contains a plain language version of the human health risks presented in Appendix F and translates the technical data into language that all readers can understand. This version is contained in Appendix H. Appendix I includes toxicity information presented to the court during *OEC* v. *Kunzman,* and Appendix J contains the comment letters and agency responses. The final addendum is being sent to agencies, organizations, and individuals listed in Appendix B of the FEIS, as Supplemented.

For the Forest Service.

R. Max Peterson,

Chief, Forest Service.

Dated: February 12, 1986.

For the Animal and Plant Health Inspection Service.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

Dated: February 12, 1986.

[FR Doc. 86–3387 Filed 2–14–86; 8:45 am]

BILLING CODE 3410-34-M

BILLING CODE 3410-11-M

Forest Service

Management Plan for the Illinois Wild and Scenic River; Siskiyou National Forest; Josephine and Curry Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of river management plan.

SUMMARY: The Illinois River was designated as a component of the National Wild and Scenic River System by Pub. L. 98–494, October 19, 1984. The Forest Service hereby gives notice of the availability for public inspection of the final Illinois River Management Plan. The plan establishes the classification of the river by section, establishes the detailed boundary of the classified river, and prescribes future management and development.

EFFECTIVE DATE: The management plan for the Illinois Wild and Scenic River becomes effective May 19, 1986.

ADDRESSES: The River Management Plan is available for public inspection and review at the following offices:

Director, Recreation Staff, Forest Service, USDA, Room 4231, South Agriculture Building, 12th and Independence Avenue, SW., Washington, DC 20013.

Regional Forester, Pacific Northwest Region, Forest Service, USDA, 319 S.W. Pine Street, Portland, Oregon 97208.

Forest Supervisor, Siskiyou National Forest, 200 N.E. Greenfield Road, Grants Pass, Oregon 97526.

District Ranger, Gold Beach Ranger District, Siskiyou National Forest, 1225 South Ellensburg, Box 7, Gold Beach, Oregon 97444.

District Ranger, Illinois Valley District, Siskiyou National Forest, 26568 Redwood Highway, Cave Junction, Oregon 97523.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lennon, Recreation Staff, Forest Service, P.O. Box 2417, Washington, DC 20013, phone no. (202) 447–2311.

Dated: February 5, 1986.

F. Dale Robertson,

Associate Chief.

[FR Doc. 86–3386 Filed 2–14–86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received timely requests to conduct administrative reviews of various antidumping and countervailing duty orders and suspended investigations with January anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: February 18, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32558) a notice outlining the procedures for requesting administrative reviews during the anniversary month of a proceeding. The Department has received timely requests, in accordance with §§ 353.53a(a) (1), (2), and (4) and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and suspended investigations with January anniversary dates.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and suspended investigations. We intend to issue the final results of these reviews not later than February 28, 1987.

	Periods to be reviewed
Antidumping Duty Proceedings and Firms	
Anhydrous sodium metasilicate from France: Rhone-Poulenc	1-12/85
Truck trailer axles from Hungary: RABA	1-12/85
Cell-site transceivers from Japan:	
Kokusai Electric	6/12/84-12/31/85
Mitsubishi Electric	6/12/84-12/31/85
Countervailing Duty Proceedings	
Fabricated automotive glass from Mexico	11/84-12/85
Roses and other cut flowers from Colombia	7/83-12/85
Carbon steel wire rod from Trinidad/Tobago	1-12/85
Nonrubber footwear from Argentina	1-12/85

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and sections 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated: February 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-3406 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-DS-M

Carleton College et al.; Notice of Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 86-064. Applicant: Carleton College, One North College Street, Northfield, MN 55057. Instrument: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL Co., Ltd., Japan.

Intended use: The instrument is intended to be used to conduct various studies in the following courses: Plants in Action, Energetics and Genetics, Cell Biology, Cell Physiology, Plant Physiology, Phycology, Mycology, Genetics, Advanced Genetics, Neurobiology, Developmental Botany, Plant Anatomy/Morphology, Reproductive Physiology, Growth and Development, Independent Study and Honors Research. Application received by Commissioner of Customs: December 13, 1985.

Docket Number: 86-066. Applicant: Harvard University, Purchasing Department, 1350 Massachusetts Avenue, Cambridge, MA 02138.

Instrument: Electron Microscope, Model EM 109 with Accessories.

Manufacturer: Carl Zeiss Inc., West Germany. Intended use: The instrument is intended to be used for the study of the role of ultraviolet light in the mechanism of melanocyte function. The research involves both *in vivo* and *in vitro* melanogenesis in mammals, especially humans. Application received by Commissioner of Customs: December 13, 1985.

Docket Number: 86-070. Applicant: Saint Joseph Medical Center, 501 South Buena Vista Street, Burbank, CA 91505-4866. Instrument: Kidney Lithotripter. Manufacturer: Dornier System GmbH, West Germany.

Intended use: Investigations of the efficacy of the lithotripter in the medical treatment of renal and ureterolithiasis. The education of other physicians and medical personnel in the use and maintenance of the lithotripter and its accessories. Application received by Commissioner of Customs: December 13, 1985.

Docket Number: 86-072. Applicant: University of California, San Diego, Department of Chemistry, B-017, La Jolla, CA 02093. Instrument: Gas Source Isotope Ratio Mass Spectrometer System, Model 251EM.

Manufacturer: Finnigan Corporation, West Germany. Intended use: The instrument will be used to measure the stable isotopic ratios of oxygen, carbon, nitrogen and sulfur. Experiments will be performed for stable isotopic analysis of meteoritic inclusions in order to enhance understanding of solar system evaluation, analysis of balloon collected samples for their nitrogen and oxygen isotopic ratios and analysis of isotopic fractionations in laboratory experiments. In addition, the instrument will be used for educational purposes in the courses Chemistry 199, Chemistry 251, and Chemistry 299. Application received by Commissioner of Customs: December 13, 1985.

Docket Number: 86-073. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana IL 61801. Instrument: Excimer Laser, Model EMG 150E. Manufacturer: Lambda-Physik GmbH, West Germany. Intended use: The instrument will be used in conjunction with a dye laser to carry out studies of the structure and kinetics of atoms and molecules. Application received by Commissioner of Customs: December 13, 1985.

Docket Number: 86-074. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801. Instrument: Dye Laser, Model FL 2002. Manufacturer: Lambda Physik, West Germany. Intended use: The dye laser's output will be used to examine the properties of gases, surfaces and plasmas using Laser-Induced-Fluorescence, stimulated Raman scattering and multi-photon-ionization techniques. Application received by Commissioner of Customs: December 13, 1985.

Docket number: 86-075. Applicant: University of Michigan, Kresge Hearing Research Institute, 1301 E. Ann Street, Ann Arbor, MI 48109.

Instrument: Electron Microscope, Model JEM-1200EX with Accessories.

Manufacturer: JEOL, Japan. Intended use: Examination of the cochlea and auditory portions of the brain to investigate the structure, connections, and transmitters of the normal auditory system and examination of the pathology and plasticity of the auditory system. In addition, the instrument will be used in studies to develop prosthetic devices to aid in hearing and to relate auditory anatomy to auditory function. Also the instrument will be used for training graduate students in Physiological Acoustics, Psychology, Toxicology and other disciplines; postdoctoral fellows and residents in Otolaryngology; and visiting scientists. Application received by Commissioner of Customs: December 13, 1985.

Docket number: 86-093. Applicant: Macalester College, 1600 Grand Avenue, St. Paul, MN 55105. Instrument: Electron Microscope, Model EM 109 with attachments. Manufacturer: Carl Zeiss, West Germany. Intended use: The instrument will be used to examine a variety of biological materials for information concerning the morphology and cellular ultrastructure. In addition, the instrument will be used for educational purposes in General Biology I and II, Cell Biology, Electron Microscopy and other biology courses. Application received by Commissioner of Customs: January 17, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-3407 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Issuance of General Permit

On February 4, 1986, a general permit to incidentally take marine mammals during commercial fishing operations in 1986 was issued to:

Associacion Nacional de Armadores de Buques Congeladores de Pesquerias Varias, Vigo, Spain

in Category 1: Towed or Dragged Gear, to take 5 harbor seals and 15 cetaceans.

All takings are incidental to commercial fishing operations within the U.S. Fishery Conservation Zone, pursuant to 50 CFR 216.24.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC.

Dated: February 5, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-3385 Filed 2-14-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1986 a service to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: March 20, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

Addition

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1986, October 15, 1985 (50 FR 41809):

Janitorial/Custodial, Jacob Javits Federal Building, 26 Federal Plaza, together with Court of International trade, 1 Federal Plaza and Center Street Garage, 203-209 Center Street, New York, New York.

C.W. Fletcher,

Executive Director.

[FR Doc. 86-3417 Filed 2-14-86; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986; Proposed Additions; Correction

In FR Doc. 86-2738 appearing on page 4786 in the issue of Friday, February 7, 1986, make the following correction:

In the second column, the second entry should read:

Commissary Shelf Stocking and Custodial

Fort Irwin, California

Because of this change, the time for receipt of comments on the proposed addition of this service is extended until March 20, 1986.

C.W. Fletcher,

Executive Director.

[FR Doc. 86-3418 Filed 2-14-86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Blue Ribbon Commission on Defense Management; Closed Meeting

ACTION: Notice of Closed Meeting.

SUMMARY: The President's Blue Ribbon Commission on Defense Management announces a forthcoming meeting beginning at 8:30 a.m. on March 12 and 13, 1986, at 735 Jackson Place, NW., Washington, D.C. 20503.

Discussion during the meeting will include classified matters of national security and other matters which cannot be addressed in open forum throughout. Such discussions cannot reasonably be segregated for separate open and closed sessions without defeating the effectiveness and purpose of the overall meeting. Accordingly, consistent with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b (c)(1) and (c)(9)(B) of Title 5, United States Code, this meeting will be closed to the public.

Agenda: The Commission will meet to continue its consideration of defense management policy and procedures and its preparation of reports to the President on acquisition and procurement issues and on defense organization.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert E. Hetu (Public Affairs), 1899 L Street NW., Suite 400, Washington, D.C. 20036. Telephone: (202) 466-7080 or (202) 395-3198.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 12, 1986.

[FR Doc. 86-3432 Filed 2-14-86; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Alternative Flood Control Solutions Along San Luis Obispo Creek, San Luis Obispo County, CA

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action:* A feasibility of San Luis Obispo County Streams was authorized under section 119(a) of the Water Resources Development Act of 1974, which stated: "The Secretary of the Army is hereby authorized and directed to cause surveys to be made of the following locations for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Pub. L. 91-611): . . . San Luis Obispo County, California." The Corps is considering various flood control solutions for the communities along San Luis Obispo Creek in the vicinity of the City of San Luis Obispo, California.

2. *Alternatives:* Preliminary studies investigated several potential alternative flood control solutions.

Upstream dam and detention basin alternatives were economically infeasible and have been eliminated from further study. Eight combinations of the four remaining flood control measures, along with the No Action alternative, constitute the project alternatives. The four flood control measures are: (a) Construction of a diversion channel to divert high flows from San Luis Obispo Creek where it enters the undercity culvert, flowing along either Marsh Street or Pacific Street, returning to San Luis Obispo Creek just below its confluence with Stenner Creek; (b) Installation of movable floodwalls along Marsh Street and/or Higuera Street between the entrance to the undercity culvert and the confluence of San Luis Obispo Creek and Stenner Creek; (c) Modification (raising) of the Marsh Street Bridge (at its crossing of San Luis Obispo Creek); and (d) Channel widening of San Luis Obispo Creek between its confluence with Stenner Creek and the sewage treatment plant. The nine alternatives to be evaluated in the DEIS are: (1) The No Action alternative; (2) Measure (a) only; (3) Measures (a) and (d); (4) Measures (a), (c), and (d); (5) Measure (b) only; (6) Measures (b) and (d); (7) Measures (b), (c), and (d); (8) Measure (c) only; and (9) Measures (c) and (d).

3. *Scoping Process:* Public workshop session are planned for March 1986 to assist the Corps to further develop and refine the project alternatives. The workshops will help screen alternatives and identify concerns and issues for further study. Federal, State, and local agencies, local organizations, and members of the public are invited to participate in the scoping process, including U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, California Department of Fish and Game, California Coastal Commission, the City and County of San Luis Obispo, the San Luis Obispo Land Conservancy, ECOSLO, and local chapters of Audubon Society and Sierra Club. The Corps is also coordinating formally with appropriate agencies to identify and resolve potential environmental problems. The main environmental concerns identified thus far include: (a) Impacts to spawning and rearing habitat (via altered water quality or substrate) for the local Steelhead Trout fishery, (b) destruction of valuable riparian habitat along San Luis Obispo Creek between the Stenner Creek confluence and the sewage treatment plant, (c) disruption of downtown commerce during and after the installation of the movable floodwalls (d) potential impacts to significant cultural and historical structures in the city of San Luis Obispo, and (e) secondary impacts to current land use from induced growth.

4. *Future Public Meetings:* The public workshop is scheduled for mid March 1986 for the purpose of hearing public views regarding the project alternatives.

5. *Availability of the Draft EIS:* The DEIS is anticipated to be circulated for public review for 45 days on or about 1 Sept. 1986.

6. *Questions about the proposed action, upcoming public meetings, and the DEIS can be answered by:* Mr. Byrt Wammack, Project Manager, Water Resources Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053–2325.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86–3549 Filed 2–14–86; 8:45 am]

BILLING CODE 3710-KF-M

DEPARTMENT OF ENERGY

Solicitation for Partnerships in Low-Income Residential Retrofit

AGENCY: Department of Energy.

ACTION: Notice of Solicitation Number DE–PS01–86CE63466 Partnerships in Low-Income Residential Retrofit.

SUMMARY: The United States Department of Energy, Office of State and Local Assistance Programs, Energy Management Programs, is entering into a pilot competitive grants program to provide technical and financial assistance for up to five states to demonstrate their ability to stimulate non-federal support which will result in low-income home energy improvements. Up to five grants of $100,000 per state will be made subject to the availability of funds.

The objective of this solicitation is to assess the capability of the states to encourage the retrofitting of low-income homes by private and non-profit entities. The project also seeks to determine the extent to which the private and non-profit sectors are willing to provide the resources needed to improve the energy efficiency of low-income homes, and the extent to which the resources provided can be translated into high-quality retrofits equal to those provided under the Weatherization Assistance Program.

Eligibility: The fifty states and the District of Columbia are eligible under this solicitation.

Solicitations will be issued in February of 1986. Written requests should be sent to: U.S. Department of Energy, Office of Procurement Operations, Forrestal Building, Room 1J–005, 1000 Independence Avenue, SW., Washington, D.C. 20535, Attn: Document Control Specialist, MA–451.1

Point of Contact: Pat Wyatt, telephone number (202) 252–1236.

Issued in Washington, D.C. on February 11, 1986.

Edward T. Lovett,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 86–3461 Filed 1–14–86; 8:45 am]

BILLING CODE 6450-01-M

Receipt and Financial Settlement Provisions for Nuclear Research Reactor Fuels

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy is amending the provisions of its current policy providing for the receipt and financial settlement of U.S.-origin spent research reactor fuels to include certain research reactor fuels in which the uranium-235 content is less than 20 percent of the total uranium weight. Additionally, the Department is providing its financial settlement terms for providing this service.

FOR FURTHER INFORMATION CONTACT: Louis R. Willett, Mail Stop DP–131, Office of Nuclear Materials Production, U.S. Department of Energy, Washington, DC 20545, 301/353–3968.

SUPPLEMENTARY INFORMATION: On November 9, 1982, the Department of Energy announced in the Federal Register that is was extending until December 31, 1987, its policy for the receipt and financial settlement of U.S.-origin spent research reactor fuels (47 FR 50737). At that time, the provisions of this policy were restricted to: (1) uranium-aluminum research reactor fuels with enrichments; i.e., uranium-235 content as a percentage of total uranium weight, of greater than 20 percent; and (2) uranium-zirconium hydride TRIGA fuel types. In this notice, DOE indicated that it was studying the reprocessing of uranium-aluminum fuel compositions with uranium enrichments of less than 20 percent and would extend the provisions of the notice to include these

LEU fuels if a reprocessing capability could be established.

The DOE has determined that reprocessing capabilities for LEU fuels will be available and is, therefore, prepared to extend the provisions of its current policy to include the LEU uranium-aluminum fuel types currently under development. The conditions governing DOE's offer to provide this service remain unchanged; i.e., that commercial fuel processing services must be unavailable at reasonable terms and conditions and that the reactor fuel must be of U.S. origin (composed of nuclear materials produced or enriched in this country). The fuel processing charges used for settlement under this program for LEU fuel receipt are based upon the estimated actual cost of providing this service at a DOE spent fuel processing facility.

In its reviews of this policy extension, DOE has determined: (1) No commercial fuel processing services for LEU fuels are expected to be available to meet anticipated needs; (2) basic beneficial nuclear research would have to be curtailed absent a spent fuel disposal capability; and (3) availability of an LEU fuels disposal capability will encourage the conversion of research reactors currently using highly enriched uranium to LEU. Since it is anticipated that these disposal services for LEU fuels will not be needed until completion of reactor conversions planned for the late 1980's, DOE proposes to extend the LEU fuel receipt provisions from the date of this publication through December 31, 1992. The need for extension beyond this time will be evaluated when appropriate.

To provide for inclusion of LEU fuels in DOE's current policy, the terms and conditions for DOE services described in paragraphs numbered 1 through 11 in the **Federal Register** notice entitled "Receipt and Financial Settlement Provisions for Nuclear Research Reactor Fuels" 47 FR 50737 published November 9, 1982, are hereby deleted and the following substituted in place:

1. This policy applies to irradiated nuclear research reactor fuels and blanket materials (reactor materials). This policy pertains only to reactor materials from research reactors other than those involved in the conduct of research and development activities leading to the demonstration of the practical value of such reactor for industrial or commercial purposes.

2. Commercial fuel processing must be unavailable at reasonable terms and conditions.

3. The fuel must be of U.S origin—that is, composed of nuclear materials produced or enriched in the United States.

4. This policy applies solely to the following types of reactor fuels:

a. Aluminum-clad reactor fuels where the uranium-235 content is greater than 20 percent, by weight, of the total uranium content. The active fuel region of these fuels may be configured as uranium-aluminum alloy, uranium oxide or uranium-aluminide. Fuels containing significant quantities of uranium-233 are excluded from receipt.

b. Aluminum-clad reactor fuels where the uranium-235 content is less than or equal to 20 percent by weight of the total uranium content. The active fuel regions of these fuels may be configured as uranium-silicide, uranium-aluminide or uranium oxide. Fuels containing significant quantities of uranium-233 are excluded from receipt.

c. Aluminum or stainless steel clad, uranium-zirconium hydride (other than uranium-233) TRIGA fuel types.

The percentage of uranium-235 of the eligible fuel types shall be that measured or estimated at the time of delivery to DOE.

5. DOE will undertake, under contracts individually negotiated with persons licensed pursuant to sections 53.a.(4), 63.a.(4), 103 or 104 of the Atomic Energy Act of 1954, and persons operating research reactors abroad fueled with materials produced or enriched in the United States, who possess or will possess eligible reactor materials, to receive such reactor materials at DOE-designated facilities, and to make a settlement, therefore, in accordance with this Notice and other established DOE policies. This settlement will take into account the charges for chemical processing of received reactor materials and any conversion of recovered uranium to the standard form, uranium hexafluoride, for which specifications and prices have been established by DOE. Furthermore, DOE may chemically process and convert all such received reactor materials to the extent, in such manner, and at such time, and place as it deems advisable, or otherwise dispose of such materials as it may deem advisable.

6. DOE's commitment to provide fuel receipt and financial settlement services will terminate on the following dates:

a. For research reactor fuels described in 4.a. and 4.c.-December 31, 1987; and

7. Firm charges for DOE services provided under this policy will be a part of each contract. These charges will be expressed in terms of a unit weight charge fixed by DOE to the reactor materials in question, to apply over the total number of units of weight.

The charges for chemical processing services provided under this policy will reflect the Government's full cost for providing this service, in accordance with the provisions of 10 CFR Part 1009. The basic charges for processing services will be reviewed periodically and adjusted when necessary.

8. For those research reactor fuels described in 4.a. and 4.c. above, as of January 1, 1983, the following charges will be applied to DOE processing services under this policy:

a. For aluminum-clad research reactor fuels, including alloy, oxide and aluminide composition, $1000 per kilogram of total delivered weight. Of this charge, $375 is capital related and $625 is related to operating costs; and

b. For aluminum and stainless steel-clad uranium-zirconium hydride research reactor fuel, $1050 per kilogram of total delivered weight. Of this charge, $395 is capital related and $655 is related to operating costs.

The capital-related charges for DOE-provided services shall be adjusted to reflect changes in price levels from the base date of June 1982, in accordance with the Official Monthly Construction Cost Indices appearing in "Engineering News Record." The operations-related charges for DOE-provided services shall be adjusted to reflect changes in price levels from the base date of June 1982, in accordance with the Basic Inorganic Chemical Index appearing in "Wholesale Price Indexes," published by the U.S. Bureau of Labor Statistics.

9. For those research reactor fuels described in 4.b. above, as of July 1, 1985, the following charges will be applied to DOE processing services under this policy:

a. For uranium oxide fuel compositions—$660 per kilogram of total delivered weight;

b. For uranium-silicide compositions—$835 per kilogram of total delivered weight; and

c. For uranium-aluminide compositions—$1110 per kilogram of total delivered weight.

DOE will periodically review the charges for processing of these research reactor fuels and revise said charges as appropriate.

10. The charge for conversion to uranium hexafluoride of the purified nitrate salt of uranium that is converted by DOE in its processing of reactor materials is $175 per kilogram of contained uranium.

11. A minimum charge of $44,500 will

be applied to each batch of fuel material delivered to DOE under the provisions of this policy. This charge reflects the minimum cost to DOE of providing processing services for small-batched fuel materials. The size of the processing batch to be shipped shall be as specified by the person seeking the processing services. DOE will permit a person to combine its batch with those of other persons in order to avoid the full impact of the minimum charge for handling a small batch size. Persons must notify DOE of their intent to combine batches prior to the delivery of any reactor materials to be included in a proposed batch. Specific arrangements must include a formula for distributing the processing charges and other settlement factors associated with delivery of the reactor materials to DOE.

12. DOE has the option of compensating the reactor operator for enriched uranium recovered in the processing of reactor materials delivered to DOE facilities in accordance with the appropriate DOE-published price schedule for enriched uranium material. Such compensation by DOE will consist of providing materials or services of equivalent value. DOE will, thereby, acquire title to the uranium for which it provides compensation. DOE will also acquire title, without cost, to all waste and other materials contained in the reactor materials.

The enriched uranium recovered in processing reactor materials (or its equivalent) delivered to DOE facilities and not compensated for by DOE, shall be returned to the reactor operator. Enriched uranium will be returned to the reactor operator f.o.b. the DOE processing site, in a reactor-operator furnished cask suitable for shipment offsite.

13. In lieu of processing uranium-zirconium hydride fuel types, DOE will agree to provide disposition services for such fuels. In this case, no compensation for recovered uranium will be made. Research reactor operators may prefer to write off the value of uranium contained in the fuel and accept this service. Additional information concerning DOE's disposition service may be obtained from the Manager, Idaho Operations Office, U.S. Deprtment of Energy, 785 DOE Place, Idaho Falls, Idaho 83402.

Dated: January 3, 1986.

Sylvester R. Foley, Jr.,

Assistant Secretary for Defense Programs.

[FR Doc. 86-3452 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements; Proposed Subsequent Arrangement Between European Atomic Energy Community and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/SW(EU)-136, for the retransfer of 10,500 grams of uranium, containing 350 grams of uranium-235, from Lingen, the Federal Republic of Germany to Studsvik, Sweden. The nuclear material is included in 250 barrels of contaminated waste, which is to be incinerated and returned to the European Community for disposal as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: February 10, 1985.

For the Department of Energy.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-3462 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S-EU-872, to the Franco-Belge de Fabrication de Combustibles, Romans-suv-Isere, France, 148.4 grams of natural uranium for use as standard reference materials.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice. For the Department of Energy.

Dated: February 10, 1986.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-3460 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Changes to DOE Energy Information Reporting and Record-Keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of energy information reporting and record-keeping requirements.

SUMMARY: Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511), for which EIA is responsible. DOE management and procurement assistance collections, which are the responsibility of the Office of Management and Administration, are no longer included in these notices.

During the first quarter of fiscal year 1986 (October 1, 1985 through December 31, 1985), changes were made to the October 1, 1985, inventory of DOE information collections, which was published in the **Federal Register**, 50 FR 50938 (December 13, 1985). The changes are listed below, and include new information collections approved by the Office of Management and Budget (OMB), collections extended, reinstated, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extension, or requirement reinstatement, the current DOE control

or form number, the title, the OMB control number, and the OMB approval expiration date are listed by DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. Information collections not utilizing structured forms are designated by an asterisk (*) placed to the right of the control or form number.

FOR FURTHER INFORMATION CONTACT: Joyce Beattie, EI–73, Energy Information Administration, Mail Stop 1H–023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–2313.

Information on the availability of single, blank information copies of those collections utilizing structured forms may be obtained by contacting the National Energy Information Center, EI–22, Forrestal Building, U.S. Department of Energy, Washington, DC 20585 (202) 252–8800.

Issued in Washington, D.C. February 12, 1986.

Dr. H. A. Merklein,

Administrator, Energy Information Administration.

DOE ENERGY INFORMATION COLLECTIONS EXTENDED

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Economic Regulatory Administration			
ERA-329R *	Regulatory Reporting and Recordkeeping Requirements Pursuant to 10 CFR 500, 501, 503, 504	19030075	07/31/88	10 CFR 500, 501, 503, 504, 505, 508, 515.
ERA-330R *	Electric Utility Conservation Plans	19030078	10/31/87	10 CFR 508.
ERA-766R *	Recordkeeping Requirements of DOE's General Allocation and Price Rules	19030073	10/12/87	10 CFR 210.1, 211.69, 213.6, 221.36.
	Energy Information Administration			
EIA-1	Weekly Coal Monitoring Report—General Industries (Standby Form)	19050167	11/30/88	
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants	19050167	06/30/86	
EIA-4	Weekly Coal Monitoring Report—Coke Plants (Standby Form)	19050167	11/30/88	
EIA-5	Coke Plant Report—Quarterly	19050167	06/30/86	
EIA-6	Coal Distribution Report	19050167	06/30/86	
EIA-7A	Coal Production Report	19050167	06/30/86	
EIA-20	Weekly Coal Monitoring Report of Coal-Burning Electric Utilities (Standby Form)	19050167	11/30/88	
EIA-28	Financial Reporting System	19050149	12/31/86	
EIA-182	Domestic Crude Oil First Purchase Report	19050143	01/31/87	
	Federal Energy Regulatory Commission			
FERC-580	General Interrogatory On Fuel Purchase Practices	19020137	03/31/86	
FPC-14	Annual Report for Importers and Exporters of Natural Gas	19020027	12/31/88	18 CFR 260.4.

DOE ENERGY INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE

DOE No.	Title	OMB control No.	Discontinued date	CFR citation
	Energy Information Administration			
EIA-5A	Coke Plant Report—Annual Supplement	19050013	12/11/85	
EIA-7A(SUPP)	Coal Production Report (Supplement)	19050150	12/11/85	
EIA-97	Boiler Order Report	19050123	12/11/85	

NOTE.—Forms EIA-5A, EIA-7A(SUPP), and EIA-97 have been temporarily discontinued pending final action by the Office of Management and Budget.

REINSTATED DOE ENERGY INFORMATION COLLECTIONS

DOE No.	Title	OMB control No.	Expiration date	CFR citation
NONE.				

NEW DOE ENERGY INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Energy Information Administration			
EIA-846	Manufacturing Energy Consumption (Survey Pilot Test)	19050166	04/30/86	
EIA-863	Petroleum Production Sales Identification Survey	19050168	12/31/88	

CHANGES IN CONTINUING DOE ENERGY INFORMATION COLLECTIONS

DOE No. as previously listed	Changes
EIA-194	OMB Number changed from 1905-0083 to 1902-0142
EIA-800	OMB Number changed to 1905-0165, clearance extended through 1/31/89 and some revisions were made to the forms.
EIA-801	
EIA-802	
EIA-803	
EIA-804	
EIA-806	
EIA-810	
EIA-811	
EIA-812	
EIA-814	
EIA-816	
EIA-817	
EIA-818	
EIA-820	
EIA-825	
EIA-821	Minor revision to form.
FERC-1	Revision to reporting requirements.
FERC-8	Revision to reporting requirements and extension to 12/31/88.
FERC-16	Revision to reporting requirements and extension to 12/31/88.
FERC-516	Revision to reporting requirements and extension to 11/30/88.
FERC-73	Revision to reporting requirements.
FERC-500	
FERC-505	
FERC-530	
FERC-531	
FERC-532	
FERC-537	
FERC-542	
FERC-547	
FERC-549	
FERC-567	
FERC-568	
FERC-548	Revision to reporting requirements and extension to 11/30/88.

[FR Doc. 86-3448 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-C&E-86-11 OFP Case No. 50300-9299-20-22]

Powerplant and Industrial Fuel Use: Boston Edison Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting Boston Edison Company Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 .

SUMMARY: On October 24, 1985, Boston Edison Company (BEC), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a proposed new peakload powerplant at its existing Walpole substation (Walpole), from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

BEC requested a permanent peakload exemption under 10 CFR 503.41 for a simple cycle combustion turbine generating facility with a maximum net electrical generation of 85 MW. Low sulfur No. 2 fuel oil will be the primary fuel, utilized at a maximum rate of 950 MM Btu/hr. The proposed facility will be located at the existing Walpole substation, Walpole Station 146, South Street, Walpole, Massachusetts. The turbine will be capable of using commercial grade natural gas when available.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to BEC Walpole a permanent peakload powerplant exemption from the prohibitions of FUA for the proposed simple cycle combustion turbine facility at the aforementioned installation.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATE: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on April 19, 1986.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045 Washington, D.C. 20585, Telephone (202) 252-4523.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-113, Washington, D.C. 20585, Telephone (202) 252-6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. BEC has filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed Walpole facility's simple-cycle combustion turbine installation.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to the petition in the **Federal Register** on December 6, 1985 (50 FR 49987), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of BEC's petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requestiing a public hearing closed January 21, 1986. No comments were received and no hearing was requested.

BEC certified in its Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definitions for "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multipiled by 1500 hours."

BEC has further certified that it will, prior to operating the unit under the exemption, secure all applicable environmental permits and approval pursuant thereto.

As ERA has determined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(11) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that BEC has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants BEC a permanent exemption for a peakload

powerplant to be installed at its Walpole facility in Walpole, Massachusetts, permitting the use of petroleum or natural gas as a primary energy source in the unit.

Pursuant to section 102(c) of the Act and 10 CFR 501.63 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C. on February 10, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-3455 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-024; OFP Case No. 61055-9285-20-24]

Powerplant and Industrial Fuel Use; ARCO Petroleum Products Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to ARCO Petroleum Products Company Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to ARCO Petroleum Products Company, a division of the Atlantic Richfield Company (ARCO). The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a combined cycle process facility located in Carson, California. The final exemption order and detailed information are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: The order shall take effect on April 19, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
John Boyd, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, D.C. 20585, Telephone (202) 252-4523.
Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building—Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-6749.

SUPPLEMENTARY INFORMATION: On July 30, 1985 ARCO petitioned ERA for a permanent cogeneration exemption from prohibitions of FUA for a facility consisting of four gas turbines that have a rated electrical generating capacity of 344 MW. The turbines are coupled with heat recovery boilers that produce a maximum of 1.2 million pounds of steam per hour to satisfy ARCO's refinery needs.

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold to Southern California Edison Company.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including ARCO's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on September 20, 1985 (50 FR 39755), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on November 13, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that ARCO has satisfied the eligibility requirement for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to ARCO to permit the use of natural gas as the primary energy source for its cogeneration facility.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, D.C. on February 10, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-3456 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-25; OFP Case No. 66020-9308-21, 21-24]

Powerplant and Industrial Fuel Use; Acceptance of Petition for Exemption and Availability of Certification by Pacific Thermonetics, Inc.

AGENCY: Economic Regulatory Administration.

ACTION: Notice.

SUMMARY: On January 13, 1986, Pacific Thermonetics, Inc. (PTI) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for their Crockett Cogeneration Facility located in Crockett, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in certain new powerplants. Final rules setting forth the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503 Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

ERA has determined that the petition appears to include sufficient evidence to

support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before April 14, 1986. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Office of Fuels Programs, Room GA–045, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Docket No. ERA–C&E–86–25 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Division of Coal & Electricity, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA–045, Washington, D.C. 20585, Telephone (202) 252–8233.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: PTI proposes to construct a 230 Megawatt (MW) cogeneration facility to produce steam for industrial use and to generate electrical power. The facility will be located at the C&H Sugar Company (C&H) refinery in the town of Crockett, California in Contra Costa County. The facility is designed to produce sufficient steam for C&H to run the sugar refinery in a cost effective manner and to generate electricity for sale to Pacific Gas and Electric Company (PG&E).

The facility will consist of two gas turbine generators with a rated capacity of 80 MW each and two 35 MW steam turbine generators. The firing rate for each of the combustion units will be 908.5 MMBtu per hour. The exhaust heat from the gas turbines will be used to generate steam in the Heat Recovery Steam Generators (HRSGs) which will then be sent to the steam turbines. The HRSGs will be supplementally fired with natural gas, not in excess of 800,000 million Btu's per calendar year. Natural gas will be piped to the site from an upgraded PG&E gas transmission line located about one-half mile away from the site beneath the Carquinez Bridge.

The facility will burn oil only in a curtailment situation. The maximum number of hours that the facility may burn fuel oil is 330 hours per year.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), PTI has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of oil or natural gas and an alternate fuel for the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of §503.37(c) (and in addition to the certifications discussed above), PTI has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 et seq.; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as possible. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that PTI is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on February 10, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–3454 Filed 2–14–86; 8:45 am]

BILLING CODE 6450–0–M

Federal Energy Regulatory Commission

[Docket No. CP84–654–013 and CP82–119–017]

Algonquin Gas Transmission Co.; Filing Changes in FERC Gas Tariff

February 11, 1986.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on February 3, 1986, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Second Revised Second Substitute Seventh Revised Sheet No. 203 proposed to be effective November 1, 1985.

Revised Second Alternate Eighth Revised Sheet No. 203 proposed to be effective December 31, 1985

Revised Ninth Revised Sheet No. 203 proposed to be effective January 1, 1986

Revised Tenth Revised Sheet No. 203 proposed to be effective January 1, 1986

Revised Substitute Tenth Revised Sheet No. 203 proposed to be effective January 1, 1986

Revised Second Substitute Third Revised Sheet No. 204 proposed to be effective November 1, 1985

Revised Second Alternate Fourth Revised Sheet No. 204 proposed to be effective December 31, 1985

Revised Fifth Revised Sheet No. 204 proposed to be effective January 1, 1986

Revised Sixth Revised Sheet No. 204 proposed to be effective February 1, 1986
Revised Seventh Revised Sheet No. 204 proposed to be effective February 1, 1986
Second Substitute Original Sheet No. 205 proposed to be effective December 31, 1985
Revised First Revised Sheet No. 205 proposed to be effective January 1, 1986
Revised Second Revised Sheet No. 205 proposed to be effective February 1, 1986
Substitute First Revised Sheet No. 222 proposed to be effective November 1, 1985
Second Substitute Second Revised Sheet No. 222 proposed to be effective December 31, 1985

Algonquin Gas states that these tariff sheets are being filed to reflect adjusted rates for service under Rate Schedules T–CON, F–2 and F–3 for the period November 1, 1985 through October 31, 1986 and Rate Schedule F–4 service for the period December 31, 1985 through October 31, 1986. These changes are made in accordance with the provisions of two Commission-approved settlement agreements in Algonquin Gas' Docket Nos. CP82–119–004 through –009, and reflect the application of the methodology previously approved by the Commission to the actual cost facts known with respect to the facilities constructed to render Rate Schedule T–CON, F–2 and F–3 service beginning November 1, 1985, and Rate Schedule F–4 Service beginning December 31, 1985.

Algonquin Gas requests that the Commission accept such tariff sheets, to be effective as proposed.

Algonquin Gas proposes to make a refund (including interest) for monies overcollected under Rate Schedules T–CON, F–2, F–3 and F–4 for the period beginning November 1, 1985 until the next month's billing following Commission acceptance of the revised rates filed herein.

Algonquin Gas notes that a copy of this filing is being served upon each affected party 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 Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before February 19, 1986. 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. 86–3483 Filed 2–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA85–2–61–003]

Bayou Interstate Pipeline System; Compliance Filing

February 11, 1986.

Take notice that on January 31, 1986 Bayou Interstate Pipeline System (Bayou), tendered for filing First Revised Original Sheet No. 76 of its FERC Gas Tariff, Original Volume No. 1. Bayou states that the tariff sheet was filed to comply with Ordering Paragraph B of the Commission's July 31, 1985 "Order Accepting for Filing and Suspending Tariff Sheets Subject to Refund and Conditions," 32 FERC ¶ 61,200 (1985), related to exchange gas transactions. Bayou further states that the tariff sheet was amended to add Account Nos. 801 and 802 to the Gas Cost Charge provision and to the Current Average Gas Cost provision. Copies of the filing were mailed to Bayou's jurisdictional customer and interested state regulatory 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 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 February 19, 1986. 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. 86–3484 Filed 2–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA86–9–000]

Illinois Power Co., Petition for Exemption From Incremental Pricing and for Interim Relief

Issued: February 11, 1986.

Take notice that on January 24, 1986, Illinois Power Company (Illinois Power) filed with the Director, Office of Pipeline and Producer Regulation, pursuant to section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) a petition for interim and permanent exemptions, effective January 1, 1986, from the Commission's incremental pricing regulations which impose a surcharge on its natural gas sales to ten non-exempt industrial boiler fuel customers located in the State of Illinois.

In support of its petition, Illinois Power states that without exemption relief the incremental pricing surcharge will cause the gas cost of the specific industrial customers to exceed the cost of available alternative fuels and that such increased costs will likely cause these customers to (1) switch to alternative fuels such as coal, fuel oil, or propane, (2) relocate production lines to other areas where available fuels are not subject to incremental pricing, or (3) cease or significantly reduce operations. Illinois Power states that the loss of gas sales to the said industrial customers will result in its high priority customers paying a larger portion of its fixed costs. Illinois Power requests interim relief from the incremental pricing regulations pending Commission action on its petition for a permanent exemption.

The procedures applicable to the conduct of this proceeding are set forth in Rules 1101–1117 (Subpart K) of the Commission's rules of practice and procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–3485 Filed 2–14–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RE80–69–006]

Interstate Power Co.; Application for Exemption

February 10, 1986

Take notice that Interstate Power Company (IPC), filed an application on December 24, 1985 for exemption from certain requirements of Part 290 of the

Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44FR58687, October 11, 1979). Exemption is sought from the requirement to file on or before prior to June 30, 1984 and bennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption IPC states, in part, that it should not be required to file the specified data for the following reasons:

IPC believes that the purposes of Section 133 of PURPA have been met since the primary customer load research data and all required cost of service studies have been furnished to the State regulatory commissions; the majority of the historical data required to be filed is duplicated by other federal and state reporting requirements; the State regulatory commissions have or are currently reviewing the federal standards as required by the Part 290 regulations; the cost of providing an additional report for 1984 and in the future would be very expensive with little foreseeable benefit for our State regulatory commissions and our customers.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. K. M. Ragsdale, Staff Counsel, Interstate Power Company, 1000 Main Street, Dubuque, Iowa 52001

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3486 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-46-000]

Minnesota Public Utilities Commission and Department of Public Service et al.; Complaint and Motion for Summary Disposition

February 12, 1986.

Take notice that on January 29, 1986, the Minnesota Public Utilities Commission and Department of Public Service, the Iowa State Commerce Commission and Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Complainants) tendered for filing a Complaint and Motion For Summary Disposition against Northern Natural Gas Company, Division of InterNorth, Inc. (Northern Natural). Complainants request that the Commission order Northern Natural to immediately reduce its rates to reflect, dollar for dollar, the additional net jurisdictional revenues resulting from the sale of Peoples Natural Gas Company (Peoples). Complainants request summary disposition of the complaint.

Complainants state that Northern Natural made a general rate filing on September 26, 1985 in Docket No. RP85-206-000 in which it treated Peoples, then a division of InterNorth, Inc. as a nonjurisdictional customer. Complainants state the filing noted that Peoples had been sold and that its status would change to a jurisdictional customer, and at that time Northern Natural's rate filing in Docket No. RP85-206-000 would be modified to reflect the change. Complainants assert Northern Natural stated, in response to an information request, that the effect of the change would be to reduce certain rates. Complainants assert Northern Natural has not filed to adjust its rates to reflect the sale of Peoples. Complainants believe it is not reasonable to wait until the conclusion of Northern Natural's rate case in Docket No. RP85-206-000 to reflect the effects of the Peoples sale in rates. Complainants, therefore, request the Commission to act immediately as waiting until the conclusion of Northern Natural's general rate case will result in Northern Natural collecting $105,479.50 per week of excessive and unwarranted revenues from its customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 March 14, 1986. 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. Complainants state that a copy of the complaint has been served on Northern. Northern's answer shall be due on or before March 14, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3468 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-45-001]

Nebraska Public Power District; Application for Exemption

February 10, 1986

Take notice that Nebraska Public Power District (NPPD), filed an application on January 27, 1986 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44-FR-58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1986 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption NPPD states, in part, that it should not be required to file the specified data for the following reason:

Provision of the required data requires extensive research and the purchase and installation of special metering equipment. The accompanying expense is considered an unnecessary burden to NPPD's ratepayers.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

DC 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Larry Liss, Wholesale Rate Specialist, Nebraska Public Power District, P.O. Box 499, Columbus, Nebraska 68601–0499.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–3487 Filed 2–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT86–2–000]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

February 11, 1986.

Take notice that Northwest Central Pipeline Corporation (Northwest Central) on January 31, 1986, tendered for filing to become a part of its FERC Gas Tariff:

Original Volume No. 1
- Title Page
- First Revised Sheet Nos. 3, 78, 80, and 116
- Second Revised Sheet Nos. 2, 77, 79, 143, 145, 147, and 153
- Third Revised Sheet Nos. 144, 149–152, and 154

Original Volume No. 2
- Title Page
- Original Sheet Nos. 88A and 155A
- First Revised Sheet Nos. 1, 28, 80, 83–88, 137–139, 142–152, 154, 155 and 193
- Second Revised Sheet No. 153
- Third Revised Sheet Nos. 191, and 207–209

These pages comprise a general maintenance filing to update Northwest Central's FERC Gas Tariff, Original Volume Nos. 1 and 2.

Northwest Central states that copies of its filing were 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, NW., 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 February 19, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–3488 Filed 2–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85–13–009]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

February 11, 1986.

Take notice that on January 31, 1986 Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheet:

Substitute Original Sheet No. 411

On July 12, 1985, Northwest tendered for filing and acceptance Original Volume No. 1–A pursuant to Northwest's Offer of Settlement in the above referenced docket which was approved by Commission order dated May 31, 1985. Staff has requested and Northwest has agreed to add a statement providing for the payment of interest on deposits required by Northwest to section 5.9 of the General Transportation Terms and Conditions of Northwest's Original Volume No. 1–A. The tariff sheet listed above constitutes that revision.

Northwest requests an effective date of May 1, 1985, for the above tariff sheet which is the effective date of the rates approved by a Commission order dated May 31, 1985. *Northwest Pipeline Corp.*, 31 FERC ¶ 61,263 (1985).

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before February 19, 1986. 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. 86–3489 Filed 2–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86–4–29–000, 001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

February 10, 1986.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on February 2, 1986, tendered for filing Thirty-Ninth Revised Sheet No. 12 to its FERC Gas Tariff Second Revised Volume No. 1. The proposed effective date is February 1, 1986. The revised tariff sheet reflects a storage "tracking" rate decrease effective February 1, 1986 in accordance with Section 26 of Transco's General Terms and Conditions. Section 26 provides for, among other things, changes in rates for storage service rendered under Transco's Rate Schedule S–2 to reflect changes in charges by Texas Eastern Transmission Corporation (Texas Eastern) under Texas Eastern's Rate Schedule X–28.

As a result of Texas Eastern's filing of December 31, 1985 in Docket No. TA86–2–17–000, 001, proposed effective February 1, 1986, Transco will decrease its demand charge and demand charge adjustment in Rate Schedule S–2 in order to flow through to Transco's customers a decrease of approximately $53,000 annually from the amount included in Transco's filing of November 1, 1985.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any persons 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 Rule 211 and Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 18, 1986. 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. 86–3490 Filed 2–14–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI63-1513-000]

Tenneco Oil Co.; Application for Limited-Term Abandonment

February 12, 1986.

Take notice that on January 28, 1986, as supplemented on February 5, 1986, Tenneco Oil Company (Applicant), P.O. Box 2511, Houston, Texas 77001 filed an application pursuant to section 7(b) of the Natural Gas Act and 18 CFR 2.77 and 157.30 of the Commission's Regulations thereunder for authorization to abandon on a limited-term basis for a period of one year, service originally certificated in Docket No. CI63-1513 pursuant to a May 8, 1963, sales contract on file as Tenneco's FERC Gas Rate Schedule No. 166. The certificate authorized sales to Valero Interstate Transmission Company (VITCO) from the McAllen Ranch Field, Hidalgo County, Texas, and gas subject to the certificate qualifies under NGPA section 104 as Post 1974 gas. VITCO resold the gas, along with gas purchased from other producers, to Transcontinental Gas Pipeline Corporation (Transco). The Transco/VITCO contract expired on December 12, 1983, and Applicant's contract with VITCO expired in 1984. Upon expiration of the Transco/VITCO contract, Transco filed to cease purchases and VITCO filed for abandonment authorization on behalf of the producers which sold gas to VITCO and for abandonment of its sale to Transco. Under the VITCO proposal, VITCO would be the sole marketing agent for the producers. Several producers opposed VITCO's request.

A settlement between the parties was approved by the Commission by order of August 2, 1985, issued in *Transcontinental Gas Pipe Line Corporation*, Docket Nos. CP84-183-000 and CP84-183-001; *Valero Interstate Transmission Company*, Docket No. CP85-186-000; and *Shell Western E&P Inc.*, Docket Nos. CI85-206-000, CI85-207-000 and CI85-213-000, 32 FERC ¶ 61,208 (1985). Under the terms of the settlement, producers, including Applicant, received limited-term abandonment of their certificated gas for 180 days, with the last day being January 28, 1986. The producers were to be their own exclusive marketers of gas for the first 90 days and VITCO could sell 50% of the producers' deliverability for the seocnd 90 days. The settlement provides that if at the end of 180 days VITCO has not developed a market to guarantee takes of 50% of the producers' deliverability for a five-year period, the Commission would set the producer abandonment applications for an expedited hearing.

Applicant, herein seeks a limited-term abandonment for a period of one year, while giving VITCO the monthly right to nominate and take the gas it requires for system supply. Since the August 2, 1985, order described above, Applicant has been selling all released gas in intrastate commerce to THC Pipeline Company (THC) for system supply. Applicant states that although VITCO has the option to call on 50% of such released gas during the second 90-day period, VITCO purchased no gas from Applicant during that period. Applicant proposes that excess volumes not nominated or taken by VITCO would then be abandoned to permit continued sales to THC or any other purchaser or for use by Applicant for its own purposes. Applicant states that unless the Commission grants abandonment it will be forced to shut in its affected supplies with potential revenue losses estimated at $10,000 a day. By letter dated February 5, 1986, Applicant states that average daily deliverability from its interest in the wells subject to this application is 3,400 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should, on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3469 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-14227-000 and CI77-337-001]

Union Texas Petroleum Corp.; Applications for Abandonment of Service

February 11, 1986.

Take notice that on January 21, 1986, as supplemented on January 30, 1986, in Docket No. G-14227-000 and on January 17, 1986, as supplemented on January 29, 1986, in Docket No. CI77-337-001, Union Texas Petroleum Corporation (Applicant) P.O. Box 2120, Houston, Texas 77252-2120 filed applications pursuant to section 7(b) of the Natural Gas Act and 18 CFR 2.77 and 157.30 of the Commission's regulations thereunder for authorization to partially abandon for a period of three years its sales to Transcontinental Gas Pipe Line Corporation (Transco) certificated in Docket Nos. G-14227 and CI77-337, respectively. Applicant proposes to abandon up to 90% of deliverability (5,000 mcf/d) in Docket No. G-14227-000 from the Lower Vacherie Field, St. James and LaFourche Parishes, the High Island Area Block 154 Field (HI 154), Offshore Texas. Applicant states that Transco has curtailed deliveries from the leases to approximately 5% of capacity subjecting Applicant to substantially reduced takes without payment. Applicant states that the gas from HI 154 qualifies under NGPA section 104 as replacement/recompletion gas and 1973/1974 biennium gas. The gas from the Lower Vacherie Field qualifies under NGPA section 104 as replacement/recompletion gas. Applicant further states that if abandonment is granted, it intends to provide Transco with take-or-pay relief for any quantities of gas released and sold to third parties. In addition, Applicant states it will, within the limits of any agreement with a third party for the abandoned and released quantities, deliver, upon Transco's request, the daily contract quantity as provided under the current gas purchase contracts.

Any person desiring to be heard or to make any protests with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3472 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-275-000 et al.]

Central Illinois Light Co. et al.; Electric Rate and Corporate Regulation Filings

February 10, 1986.

Take notice that the following filings have been made with the Commission:

1. Central Illinois Light Company

[Docket No. ER86-275-000]

Take notice that on January 31, 1986, Central Illinois Light Company (CILCO) tendered for filing an executed transmission agreement with the Illinois Municipal Energy Agency (IMEA) providing for specified transmission service to a designated interconnection point between CILCO and the Village of Chatham, Illinois. CILCO, with the support of IMEA and Chatham, requests waiver of the Commission's notice requirements to permit an effective date of February 1, 1986.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER86-280-000]

Take notice that on February 3, 1986, Florida Power & Light Company (FPL) tendered for filing an Exhibit A to its FERC Electric Tariff, Second Revised Volume No. 1, for a new delivery point for service to Seminole Electric Cooperative, Inc. ("Ellenton").

FPL requests an effective date of January 14, 1986, which corresponds to the commencement of service to the Ellenton delivery point, and therefore requests waiver of the Commission's notice requirements.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Central and South West Services, Inc.

[Docket No. ER86-277-000]

Take notice that on January 31, 1986, Central and South West Services, Inc. ("CSWS"), on behalf of the four Central and South West Corporation operating companies, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and West Texas Utilities Company, tendered for filing an Internal Transmission Loss Compensation Procedure and a Transaction Cost Compensation Procedure for the Central and South West System. The Internal Transmission Loss Compensation Procedure establishes a method for allocating responsibility to internal transmission losses resulting from energy transfers among the four Operating Companies. The Transaction Cost Compensation Procedure establishes a method for allocating among the four Operating Companies transmission service charges by non-CSW entities. CSWS requests that the Transaction Cost Compensation Procedure be made effective as of December 14, 1984 and that the Internal Loss Compensation Procedure be made effective as of the date of commencement of operations under the CSW Energy Management System. Accordingly, CSWS requests waiver of the notice requirements under the Federal Power Act.

Copies of the filing have been served on the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utilities Commission of Texas. Copies of the filing are also available for inspection in the main office and the division offices of each of the CSW operating subsidiaries.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Georgia Power Company, Oglethorpe Power Corporation v. Georgia Power Company

[Docket Nos. ER85-659-001 and ER85-660-001, Docket No. EL85-40-001 (Consolidated Dockets)]

Take notice that Georgia Power Company ("Georgia Power"), on February 4, 1986, tendered for filing proposed changes in its FERC Electric Tariff, Original Volumes No. 1 (full requirements service) and No. 2 (partial requirements service). The proposed changes would reduce revenues from partial requirements service by approximately $4,104,000 and reduce revenues from full requirements service by approximately $10,000, for the twelve-month period ending July 31, 1986. This reduction in revenues results from the Company's voluntary removal from rate base of CWIP attributable to its Rocky Mountain hydroelectric project.

The Company requests that it be permitted to substitute the tendered rates for its suspended PR-8 and FR-5 rates which will become effective, subject to refund, on March 1, 1986, pursuant to Commission order of September 30, 1986 in these consolidated dockets. Accordingly, the Company requests waiver of the Commission's notice requirements so that the reduced rates may become effective March 1, 1986.

Georgia Power states that copies of the filing were served upon all of its jurisdictional customers.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. El Paso Electric Company

[Docket No. ER86-72-000]

Take notice that on January 31, 1986 El Paso Electric Company ("EPE" or "the Company") requested the Commission to extend a previously granted waiver of the fuel adjustment clause regulations. The relief sought and the basis for that relief are as follows:

On October 28, 1985, EPE tendered for filing revisions to its fuel adjustment clause to defer the pass-through of fuel cost savings from generation of test power by treating such savings as a reduction in plant investment rather than as a reduction in current fuel costs, in accordance with Commission policy. The Company requested waiver of the fuel clause regulations to permit the deferral.

The Company also requested waiver of the 60 day notice requirement in order to permit the filing to become effective on June 10, 1985 when the Palo Verde No. 1 unit began test generation.

The Company's wholesale customers filed petitions to intervene and one customer, Imperial Irrigation District, opposed the Company's request for waiver of the 60 day notice requiremet. On December 27, 1985 the Commission accepted the filing, granted waiver of the fuel clause regulations but denied waiver of the notice requirement. As a result the filing was not allowed to become effective until December 29, 1985, two days after Palo Verde No. 1 had already entered commercial service. EPE has refunded with interest amounts collected under the filing for the period when that unit was generating test energy.

Proceedings have nonetheless commenced in Docket No. ER86-72-000 on the lawfulness of the Company's filing. A prehearing conference has been held before Presiding Administrative Law Judge Zimmet and the Staff and intervenors have served discovery requests on the Company. The Company is proceeding to answer these requests on the assumption that, while the filing will not be applied to Palo Verde No. 1, all issues concerning test power can be resolved in Docket No. ER86-72-000 as to Palo Verde Nos. 2 and 3, which are expected to begin generating test energy in April 1986 and in the third quarter of

1987, respectively. The intervenors have informally expressed support for a single resolution here of all Palo Verde test power issues. The parties are working under a schedule which requires them to settle any such issues or sumbit a proposed procedural schedule to Judge Zimmet by February 21, 1986.

The revisions to the fuel adjustment clause as accepted for filing on December 27, 1985 are cast in broad enough terms to permit deferral of fuel cost savings from any test generation regardless of source and thus apply their terms to Palo Verde Nos. 1 and 2. However, the request for waiver of the fuel clause regulations was related to test generation at the Palo Verde No. 1 unit and does not by its terms extend to the other two units.

The Company therefore needs to have the waiver extended in order to apply the rate schedule revisions now in effect during the periods of test generation at Palo Verde Nos. 2 and 3. The Company requests that the extension of the waiver requested here be made effective 60 days from today, on April 1, 1986. The Company understands that, pursuant to the Commission's order of December 27, 1985, the amounts collected under the rate schedule revisions accepted in that order will be subject to refund pending a final resolution of the case.

The Company has served copies of this letter on all of its wholesale customers who would be affected by the waiver, on counsel for all parties in Docket No. ER86-72-000 and on the Public Utility Commission of Texas and the New Mexico Public Service Commission.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this document.

6. Kansas City Power & Light Company

[Docket No. ER86-273-000]

Take notice that on January 31, 1986, Kansas City Power & Light Company (KCPL) tendered for filing with the Commission proposed changes in Service Schedules for Firm Power Service to supersede and replace Service Schedules for Firm Power Service in contracts and agreements with the following wholesale customers:

1. City of Marshall, Missouri (Marshall), FPC No. 83
2. Missouri Public Service Company (MPS), FPC No. 74
3. City of Gardner, Kansas (Gardner), FPC No. 79
4. City of Higginsville, Missouri (Higginsville), FERC No. 91
5. City of Pomona, Kansas (Pomona), FPC No. 82
6. City of Prescott, Kansas, (Prescott), FPC No. 76
7. City of Salisbury, Missouri (Salisbury), FERC No. 100
8. City of Slater, Missouri (Slater), FERC No. 97
9. City of Baldwin City, Kansas (Baldwin), FERC No. 85
10. City of Carrollton, Missouri (Carrollton), FERC No. 86
11. City of Garnett, Kansas (Garnett), FPC No. 78
12. City of Osawatomie, Kansas (Osawatomie), FPC No. 77
13. City of Ottawa, Kansas (Ottawa), FERC No. 90
14. Kansas Electric Power Cooperative, Inc.—Coffey County (KEPCo-Coffey), FPC No. 69
15. Kansas Electric Power Cooperative, Inc.—United (KEPCo-United), FPC No. 84

The proposed changes would increase revenues from jurisdictional sales and service by $971,331 based on the 12 month period ending September 30, 1985.

KCPL states that its proposed changes are necessary to reflect the costs of the Wolf Creek Generating Station in rates and to reflect continuing escalation of all its costs to provide service.

Copies of the filing were served upon KCPL's jurisdictional customers, as well as the Missouri Public Service Commission and the State Corporation Commission of the State of Kansas.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power & Light Company

[Docket No. ER86-251-000]

Take notice that on January 10, 1986, Minnesota Power & Light Company tendered for filing an Energy Sales Agreement between Minnesota Power & Light Company (Minnesota Power) and Wisconsin Public Power, Inc. SYSTEM (WPPI). Under this Agreement, Minnesota Power may sell electric energy to WPPI from time to time when Minnesota Power has energy available to sell to other utilities and when purchases of such energy are advantageous to WPPI. This Agreement provides for energy sales from January 1, 1986 to December 30, 1986, subject to annual renewals unless cancelled by either party.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Power & Light Company, an assumed business name of PacifiCorp.

[Docket No. ER86-279-000]

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on February 3, 1986, tendered for filing, in accordance with Section 35.12 of the Commission's Regulation's, Power Sales Contract dated December 31, 1985, between Pacific and Southern California Edison Company (SCE).

Pacific requests waiver of the Commission's Notice requirements to permit this rate schedlue to become effective January 1, 1986, which it claims is the date of commencement of service.

Copies of this filing were supplied to the Public Utilities Commission of the State of California and SCE.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this document.

9. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER86-284-000]

Take Notice that on February 3, 1986, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, an Agreement dated September 5, 1985, between Pacific and Public Utility District No. 1 of Snohomish County (Snohomish), providing for the storage of Snohomish-owned energy in Pacific's system.

Pacific requests this rate schedule to become effective September 5, 1985, which it claims is the date of commencement of service.

Copies of the filing were supplied to the Washington Utilities and Transportation Commission and to Snohomish.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Pennsylvania Power & Light Company

[Docket No. ER86-283-000]

Take notice that Pennsylvania Power & Light Company (PP&L) tendered for filing on February 5, 1986 on executed Transmission Service Agreement with Westwood Energy Properties Limited Partnership as presently on file with the Commission as Rate Schedule FERC No. 89. PP&L had previously submitted an unexecuted agreement which was accepted by the Commission by letter order dated November 20, 1985 in Docket No. ER86-86-000. The instant filing is intended solely to substitute an executed agreement for the unexecuted agreement on file with the Commission.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Portland General Electric Company

[Docket No. ER86-278-000]

Take notice that on February 3, 1986, Portland General Electric Company (PGE) tendered for filing a Summary of Sales made under the Company's first revised Electric Service Tariff, Volume No. 1, during December of 1985, along with a cost justification for the rates charged.

Copies of this filing were served upon parties having service agreements with PGE, parties to the Intercompany Pool Agreement (revised), intervenors in Docket No. ER77-131 and the Oregon Public Utility Commissioner.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

12. San Diego Gas & Electric Company

[Docket No. ER86-276-000]

Take notice that on January 31, 1986, San Diego Gas & Electric Company ("SDG&E") tendered for filing Amendment No. 1 of the San Diego-Edison Firm Transmission Service Agreement between San Diego Gas & Electric Company and Southern California Edison Company (Edison).

Under the terms of the Amendment, the amount of firm transmission will be increased from 28 MW to 56 MW for the first three months of the Agreement and a total of 70 MW seven months thereafter.

SDG&E has requested an effective date of on or before March 1, 1986.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER86-274-000]

Take notice that, on January 31, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rates for the Amendment of the Service Agreement between Arizona Public Service Company ("APS") and Edison to delete reference to the discontinued Castle Rock delivery point under the provisions of the following rate schedule:

	Rate Schedule FERC No.
Arizona Public Service Company	180.2

Edison requests, to the extent necessary, Waiver of Notice requirements.

Copies of tis filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

14. Utah Power & Light Company

[Docket No. ER86-282-000]

Take notice that Utah Power & Light Company on February 3, 1986, tendered for filing a Notice of Cancellation of the agreement with the City of Manti, Utah for the purchase of wholesale power and energy and also filed a change in its Rate Schedule RS-PR. The proposed change in Rate Schedule RS-PR makes changes necessary to provide for the continued service of wholesale power and energy to the City of Manti, Utah pursuant to that Rate Schedule. The rates of all partial requirements purchasers, including Manti, will not be affected by this change in the Rate Schedule.

Copies of the filing were served upon the City of Manti, Utah, legal counsel for the City of Manti, Utah, and the Utah Public Service Commission.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this document.

14. Pacific Gas and Electric Company

[Docket No. ER86-272-000]

Take notice that on January 31, 1986, Pacific Gas and Electric Company (PGandE) gave notice, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations under the Federal Power Act, of an increase in the level of rates and charges for certain electric transmission and distribution services rendered to the Western Area Power Administration (WAPA) pursuant to Schedule Nos. 79 and 63 on file with the Commission.

PGandE tendered for filing and acceptance, as part of its FPC Electric Tariff, the revised tariff sheets listed below.

1. PGandE's FPC Electric Tariff, Rate Schedule No. 79, proposed Supplement 19 superseding Supplement No. 18 (Original Volume No. 4 proposed fourth Revised Sheets Nos. *60* and *61* superseding third Revised Sheets Nos. *60* and *61*), for WAPA transmission and distribution wheeling service under Contract No. 14-06-200-2948A.

2. PGandE's FPC Electric Tariff, Rate Schedule No. 63, proposed Supplement No. 4 superseding Supplement No. 3 (Original Volume No. 4 proposed third Revised Sheet No. 206 superseding second Revised Sheet No. 206) for WAPA transmission service to Delta Pumping Plant under Contract No. DE-AC65-80WP5900.

The proposed effective date for the tariff sheets is April 1, 1986, 60 days from the date of this filing.

The proposed rates represent a $5.2 million or 36.5 percent increase in revenue on an annualized basis over the level provided by present rates.

The filing affects rates to WAPA for transmission and distribution wheeling service under Contract No. 14-06-200-2948A dated July 31, 1967 filed with this Commission as Original Volume No. 4 and Contract No. DE-AC65-80WP5900, filed with this Commission as Rate Schedule No. 63. Article 32 of Contract No. 14-06-200-2948A provides that charges for wheeling services provided by PGandE to WAPA may be jointly reviewed by the parties to the contract and adjusted, as appropriate, on April 1, 1971 and every five years thereafter. Article 32 further provides that if the parties are unable to agree on a change of any rate or charge, the matter shall be submitted to this Commission for final decision.

PGandE's principal reason for filing the proposed change in rate for which notice is given herein is to assure that adequate revenues and returns for the costs of providing transmission and distribution service to WAPA will be collected by PGandE.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3479 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2558-006, et al.]

Hydroelectric Applications (Vermont Marble Co. et al.)

Take notice that the hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

a. Type of Application: Amendment of License.

b. Project No.: 2558-006.

c. Date Filed: November 22, 1985.

d. Applicant: Vermont Marble Company.

e. Name of Project: Proctor Beldens Huntington.

f. Location: Otter Creek, Addison and Rutland Counties, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. David L. Ferris, Vermont Marble Company, 61 Main Street, Proctor, Vermont 05765.

i. Comment Date: March 16, 1986.

j. Description of Project: The Proctor Beldens Huntington Project No. 2558 as licensed consists of, in part, an existing dam, intake and powerhouse known as the Beldens Station and an existing dam, intake, and powerhouse known as the Huntington Falls Station. The proposed project would consist of; (1) A new 35-foot-long, 35-foot-wide concrete intake structure; (2) a new 95-foot-long, 6-foot-wide sluiceway; (3) a new 45-foot-long, 12-foot-diameter penstock; (4) a new 40-foot-wide, 75-foot-long concrete powerhouse enclosing a new 4.1-MW turbine/generator, and (5) a new tailrace channel excavation 35 feet wide and 120 feet long; all at the Beldens Station. The proposed project would also consist of (1) a new concrete intake structure 40 feet long and 26 feet wide; (2) a new 75-foot-long, 12-foot-diameter penstock; (3) a new concrete powerhouse 40 feet wide and 75 feet long, enclosing a new 4.1-MW turbine/generator; and (4) a new tailrace channel excavation 50 feet wide and 120 feet long; all at the Huntington Falls Station. The net hydraulic head at both sites is 42 feet. The estimated increase in annual generation is 23,140,000 kWh. The Applicant states that no changes in impoundment size or elevation will be made at either site. The existing dams and facilities are owned by Vermont Marble Company.

k. Purpose of Project; Project energy will be used by Vermont Marble Company or sold to Vermont Power Exchange, Inc.

l. This notice also consists of the following standard paragraphs: B, C, D1.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 9670-000.

c. Date Filed: December 3, 1985.

d. Applicant: Lake Placid Village, Inc.

e. Name of Project: North Elba.

f. Location: On the Chubb River in Essex County, NY.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Robert J. Peacock, Mayor, Lake Placid Village, Inc., 301 Main Street, Lake Placid, NY 12946, Phone (518) 523-2597.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 24 feet in height and 136 feet in length, with an existing intake structure on the north abutment; (2) an existing reservoir with surface area of nine acres at a normal maximum surface elevation of 1706 feet mean sea level; (3) an existing steel penstock 800 feet in length, 66 inches in diameter, and requiring repair; (4) an existing steel surge tank, 15 feet in diameter and 40 feet in height; (5) an existing concrete powerhouse 40 feet long, 30 feet wide and 12 feet high to house a proposed turbine/generator unit or units with total proposed capacity of 265-kW at a net hydraulic head of 33 feet; (6) an existing concrete tailrace 20 feet long, 12 feet wide and 2 feet deep; (7) a proposed transmission line, either 115 kV and 1 mile in length or 4.16 kV and 100 feet in length; (8) a proposed electrical switchyard; and (7) appurtenant facilities.

The estimated annual power production is 880,000 kWh. Project power will be sold to Niagara Mohawk Power Corporation or will be supplied to the Lake Placid Village municipal system. Lake Placid Village, Inc. is the owner of the dam.

k. Proposed scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit wold be $50,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 9502-000.

c. Date Filed: October 1, 1985.

d. Applicant: Shell Creek Developers.

e. Name of Project: Shell Creek.

f. Location: On Shell Creek in Big Horn County, Wyoming within the Bighorn National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Louis Rosenman, Attorney at Law, 1350 New York Avenue, #600, Washington, D.C. 20005, (202) 783-1200.

i. Comment Date: March 31, 1986.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high, 60-foot-long, concrete diversion structure at elevation 5,640 feet; (2) a 36-inch-diameter, 10,000-foot-long steel penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 12,000 kW, producing an estimated average annual energy output of 24.0 GWh; (4) a 10-foot-wide, 20-foot-long concrete tailrace; and (5) a 1,200-foot-long, 35-kV transmission line tying into an existing Montana-Dakota Utility line.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $145,000.

k. Purpose of Project: Project power would be sold to Montana-Dakota Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

4 a. Type of Application: Preliminary Permit.

4 b. Project No.: 9624-000.

c. Date Filed: November 18, 1985.

d. Applicant: Amador County Water Agency.

e. Name of Project: Middle Bar.

f. Location: On Mokelumne River, near Jackson, within U.S. lands administered by Bureau of Land Management, in Amador and Calaveras Counties, California (In Sections 1, 2, 10, 11, 12, 14, 15 and 16 of T5N, R11E, Sections 5 and 6 of T5N, R12E, and Section 32 of T6N, R12E, M.D.B.&M.)

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Thomas F. Bailey, President of the Board of Directors, Amador County Water Agency, P.O. Box 905, Jackson, CA 95642, (209) 223-3018.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed storage-type project would consist of: (1) A 190-foot-high, 360-foot-long concrete gravity dam located across Mokelumne River at elevation 660 feet msl; (2) a 560-acre reservoir with a storage capacity of 24,000 acre-feet; (3) a powerhouse,

located at the base of the dam, operating under a head of 101 feet and with a total installed capacity of 15 MW; and (4) a 230-kv, 3-mile-long transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line south of the powerhouse. The project's estimated average annual generation of 56 GWh would be sold to PG&E and/or other utilities.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be between $350,000 and $500,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9601–000.

c. Date Filed: November 1, 1985.

d. Applicant: Hydra-Tek, Inc.

e. Name of Project: Boulder Rapids Power Project.

f. Location: On the Snake River near the town of Buhl in Gooding and Twin Falls Counties, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, NW, Suite 600, Washington, DC 20005.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high diversion dam at elevation 2,976 feet; (2) a 1,100-foot-long concrete lined power canal; (3) a powerhouse containing two generating units with a total rated capacity of 6,600 kW; and (4) a 1-mile-long transmission line. Applicant estimates the average annual energy production to be 37 GWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $110,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power is to be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 9469–000.

c. Date Filed: September 19, 1985.

d. Applicant: Connecticut River Hydro Partners.

e. Name of Project: Chase Island.

f. Location: On the Connecticut River in Windsor County, VT and Sullivan County, NH.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, NW #600, Washington, DC 20005, Phone (202) 457–7500.

i. Comment Date: March 31, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing timber and concrete gravity dam 1500 feet in length and 24 feet in height; (2) an existing impoundment with surface area of 1,442 acres and a storage capacity of 14,420 acre-feet at a normal maximum surface elevation of 30 feet mean sea level; (3) a proposed steel penstock 15 feet in diameter and 60 feet in length; (4) a proposed cinderblock powerhouse 125 feet long and 125 feet wide, housing a proposed 18.3 MW capacity turbine/generator exhausting to a proposed concrete tailrace 180 feet in length, 25 feet in depth, and 50 feet in width; (5) a proposed 64.5 kV transmission line 500 feet in length; and (6) appurtenant facilities. The estimated annual power production is 109,000,000 kWh. Project power would be sold to the Public Service Company of New Hampshire. The net hydraulic head is 20 feet. The dam is owned by Chase Island, Inc., P.O. Box 1011, Portsmith, NH 03801.

k. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $145,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 9531–000.

c. Date Filed: October 9, 1985.

d. Applicant: Pennsylvania Environmental Resource Partners.

e. Name of Project: Plymouth Dam.

f. Location: On the Schuylkill River in Montgomery and Chester Counties, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§791(a)–825(r).

h. Contact Person: Louis Rosenman, 1350 New York Avenue, NW #600, Washington, DC 20005.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would consist of: (1) The existing 8.2-foot-high and 530-foot-long gravity and timber crib Plymouth Dam owned by the Pennsylvania Department of Environmental Resources; (2) a reservoir with a surface area of 500 acres; (3) a new intake structure at the west side of the dam; (4) a new 10-foot-diameter and 50-foot-long steel penstock; (5) a new powerhouse with 1 turbine-generator unit with an installed capacity of 1,600 kW; (6) a new 12-kV and 150-foot-long transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 7,000,000 kWh.

k. Purpose of Project: Project energy would be sold to Philadelphia Electric Power.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 9427–000.

c. Date Filed: September 4, 1985.

d. Applicant: Sunbury Hydro Partnership.

e. Name of Project: Sunbury Dam.

f. Location: Susquehanna River, Snyder County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Louis Rosenman, 1350 New York Avenue, NW., Suite 600, Washington, DC 20005.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would consist of:

(1) An existing 8-foot-high and 2,000-foot-long fabridam/masonry gravity dam;

(2) An existing reservoir 3,000 acres in area, with a storage capacity of 14,000 acre-feet at a normal maximum surface elevation of 428 feet mean sea level;

(3) A proposed cinderblock powerhouse 85 feet in width and 450 feet in length, housing one turbine/generator unit with a capacity of 14,200 kW;

(4) A proposed concrete tailrace 180 feet in length, 9 feet in depth, and 350 feet in width;

(5) A proposed 66 kV transmission line 400 feet in length; and

(6) Appurtenant facilities.

The estimated annual energy production of the project is 74,635,000 kWh. The net hydraulic head is 8 feet. Project power would be sold to Pennsylvania Power and Light Company.

The dam is owned by the City of Sunbury, Pennsylvania.

k. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $145,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

a. Type of Application: Preliminary Permit.

b. Project No.: 9676-000.

c. Date Filed: December 9, 1985.

d. Applicant: Mr. David Davison.

e. Name of Project: Galloway Ridge.

f. Location: On unnamed tributary (in Hungry Mouth Canyon) to North Yuba River, near Downieville, partly within the Tahoe National Forest, in Sierra County, California (In Section 35 of T2ON, R10E, M.D.B. & M.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. David K. Davison, P.O. Box 5357, Hopkins, MN 55343-2357.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A modification, to accomodate the pipeline intake, of the existing 9-foot-high, 22-foot-long wood-lined reinforced concrete diversion structure located across an unnamed tributary at elevation 3,270 feet msl; (2) a 14-inch diameter, 2,700-foot-long pipeline and 800-foot-long penstock; (3) a powerhouse containing one turbine-generator unit with a rated capacity of 100 kW, operating under a head of 350 feet; and (4) a 300-foot-long transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) 12-kV transmission line located across North Yuba River. The project's estimated average annual generation of 269,000 kWh would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $8,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

a. Type of Application: Major License.

b. Project No: 5264-002.

c. Date Filed: March 11, 1985.

d. Applicant: L. Maurice Baker.

e. Name of Project: Stone Creek/Shellrock Creek.

f. Location: On Stone Creek, Shellrock Creek, and the Oak Grove Fork of the Clackamas River, tributary to the Williamette river, in Clackamas County, Oregon, and affecting U.S. lands within the Mt. Hood National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Jay R. Bingham, 165 Wright Brothers Drive, Salt Lake City, UT 84116.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) The Stone Creek Development comprising: (a) A 300-foot-long, 12-foot-high diversion structure having spillway crest elevation 3,037.0 feet msl; (b) a screened, gated intake structure and a fish ladder; (c) a 350-foot-long, 8-foot-high earthen dike surmounted by an access road; (d) a 24,350-foot-long, buried steel penstock varying in size from 78-inch-diameter to 66-inch-diameter; (e) a powerhouse containing a generating unit rated at 12,000-kW operated at a net head of 602 feet and at a flow of 250 cfs; (f) a 300-foot-long powerhouse access road; (g) a tailrace; (h) a substation; and (i) a 1.7-mile-long, 115-kv transmission line; (2) the Shellrock Creek Development comprising: (a) an 80-foot-long, 6-foot-high diversion structure having spillway crest elevation 2,874.0 feet msl; (b) a screened, gated intake structure and a fish ladder; (c) an access road to the diversion; (d) an 18,100-foot-long buried steel penstock varying in size from 42-inch-diameter to 36-inch-diameter; (e) a powerhouse containing a generating unit rated at 2,750-kW operated at a net head of 622 feet and at a flow of 60 cfs; (f) a tailrace; (g) a substation; and (h) a 0.2 mile-long, 115-kV transmission line; and (3) a 2.7-mile-long, 115-kv transmission line and an upgraded 7-mile-long, 115-kV transmission line connecting to the Portland General Electric Three Lynx Substation. The average annual energy generation is estimated to be 83.56 million kWh. Applicant estimates that the total project construction cost in 1985 would be $16,239,700. Project energy would be sold to Portland General Electric. The application was filed during the term of Applicant's preliminary permits.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C.

11 a. Type of Application: Preliminary Permit.

b. Project No.: 9572-000.

c. Date Filed: November 1, 1985.

d. Applicant: Skookumchuck Creek Associates.

e. Name of Project: Skookumchuck Creek.

f. Location: On the North Fork Skookumchuck Creek near the town of Riggins, Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Jordan Walker, Great Western Power & Light, Inc., 484 East 300 North, Manti, UT 84642.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high diversion dam at elevation 3,260 feet; (2) an 18,000-foot-long penstock; (3) a powerhouse containing one generating unit with a rated capacity of 4,278 kW; and (4) a 3-mile-long transmission line. Applicant estimates the average annual energy production to be 7,402 MWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $12,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power produced is to be sold to the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

12 a. Type of Application: Preliminary Permit.

b. Project No.: 9675–000.

c. Date Filed: December 9, 1985.

d. Applicant: Idaho City Associates.

e. Name of Project: North Fork Boise River.

f. Location: On the North Fork Boise River in the Boise National Forest near Idaho City, in Boise and Elmore Counties, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, #600, Washington, D.C. 20005.

i. Comment Date: March 27, 1986.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high diversion dam at elevation 5,350 feet; (2) a 20,500-foot-long penstock; (3) a powerhouse containing one generating unit with a rated capacity of 10,000 kW; and (4) a 250-foot-long transmission line. Applicant estimates the average annual energy production to be 30 GWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $145,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The power produced is proposed to be sold to the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 9693–00.

c. Date Filed: December 19, 1985.

d. Applicant: Birch Power Company, Inc.

e. Name of Project: Challis Canal.

f. Location: On the Salmon River at the Challis Canal near Challis, Custer County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) – 825(r).

h. Contact Person: Mr. Ted S. Sorenson, 550 Linden Drive, Idaho Falls, ID 83401.

i. Comment Date: March 27, 1986.

j. Description of Project: The proposed project would consist of : (1) An existing 3-foot-high diversion dam at elevation 5,640 feet; (2) a 1,900-foot-long, 60-inch-diameter penstock; (3) a powerhouse containing one generating unit with a capacity of 1,600-kW; and (4) a 2-mile-long transmission line. Applicant estimates the average annual energy production to be 11.5 GWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $45,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power produced is to be sold to Utah Power & Light.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

14 a. Type of 'Application: Preliminary Permit.

b. Project No.: 9674–000.

c. Date Filed: December 9, 1985.

d. Applicant: Nettle Creek Hydropower Corporation.

e. Name of Project: Nettle Creek.

f. Location: On Nettle Creek, a tributary to the Crystal River, near Carbondale, in Pitkin County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) – 825(r).

h. Contact Person: Mr. Gerald E. Bergmann, Nettle Creek Hydropower Corporation, Suite 205, Village Plaza, Glenwood Springs, CO 81601, (303) 945–8676.

i. Comment Date: March 31, 1986.

j. Description of Project: The proposed project would utilize the Town of Carbondale's spring fed municipal water system and would consist of : (1) An existing 10-inch-diameter, 2,500-foot-long pipeline/penstock; (2) a 12-foot by 12-foot powerhouse located at elevation 6,870 feet msl, just above an existing water treatment plant backwash storage tank, containing a single Pelton turbine-generator unit with an installed capacity of 60 kW and producing an estimated average annual generation of 0.3 GWh; (3) a 10-inch-diameter tailrace pipeline conveying water to the backwash tank; (4) a 400-foot-long, 14.4-kV transmission line interconnecting the project to an existing Holy Cross Electric Association line. Project power would be sold to either the Colorado-Ute Electric Association or the Public Service Company of Colorado. The project would be partially located on White River National Forest lands.

A preliminary permit, if issued, does not authorize construction. Applicant seeks to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $10,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9541–000.

c. Date Filed: October 11, 1985.

d. Applicant: Geoffrey Shadroui.

e. Name of Project: Fair Haven.

f. Location: On the Castleton River in Rutland County, Vermont.

g. File Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Geoffrey Shadroui, 121 Maple Avenue, Barre, VT 05641, Phone (802) 476–7598.

i. Comment Date: May 26, 1986.

j. Description of Project: The proposed project would consist of: (1) Two existing masonry gravity dams, known as the Depot Street site and the Adams Street site; the former 75 feet in length and six feet in height, the latter 60 feet in length and nine feet in height; (2) two existing reservoirs: at Depot Street, one acre in surface area, having no storage capacity at a normal maximum surface elevation of 353 feet mean sea level; at Adams Street, ¾ acre in surface area, having no storage capacity at a normal maximum surface elevation of 310 feet mean sea level; (3) an existing stone and concrete intake structure at Adams Street, 16 feet in length, 10 feet in height, and 15 feet in width; (4) a proposed concrete intake structure at Depot Street, 10 feet in height, 8 feet in width, and 5 feet in depth; (5) two proposed concrete powerhouses; at Depot Street, 20 feet in height, 25 feet in width, and 15 feet in length, and housing two proposed turbine/generators of 150 kW and 70 kW capacity; at Adams Street, 20 feet in height, 12 feet in width, and 20 feet in length and housing one proposed turbine/generator of 110 kW capacity; (6) two proposed 5-foot-diameter steel penstocks; at Depot Street, 60 feet in length; at Adams Street, 100 feet in length; (7) two proposed excavated tailraces; at Depot Street, 15 feet in length and 10 feet in width; at Adams Street, 5 feet in length and 6 feet in width; (8) two proposed 480 volt, 100-foot-long transmission lines, one at each site; and (9) appurtenant facilities. The net hydraulic head is 22 feet at the Depot Street site and 10 feet at the Adams Street site. The estimated annual energy production is 1,115,000 kWh. Project power would be sold to the Vermont Power Exchange. The existing

dams are owned by the Town of Fair Haven, Vermont.

k. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9534–000.

c. Date Filed: October 9, 1985.

d. Applicant: Big Sky Hydro Limited Partnership.

e. Name of Project: Willow Creek.

f. Location: On the Willow Creek at the State of Montana owned Willow Creek Dam near Harrison, Madison County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Archie R. Ford, P.O. Box 1940, Orofino, ID 83544.

i. Comment Date: March 26, 1986.

j. Description of Project: The proposed project would involve constructing a 316-kW powerplant at the existing Willow Creek Dam. The proposed project would consist of: (1) An existing 105-foot high dam; (2) an 885-acre reservoir with a storage capacity of 18,000 acre-feet at normal water surface elevation 4,736 feet; (3) a 640-foot-long, 30-inch-diameter penstock; (4) a powerhouse containing two generating units with a total rated capacity of 316 kW; and (5) a 1.5-mile-long transmission line. Applicant estimates the average annual energy production to be 1,564,743 KWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $48,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power produced is to be sold to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 9561–000.

c. Date Filed: October 28, 1985.

d. Applicant: Old Station Power Company.

e. Name of Project: Old Station No. 1.

f. Location: On Hat Creek, near Old Station, within the Lassen National Forest, in Shasta County, California (In Section 8 of T33N, R5E, M.D.B. & M.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis J. Simpson, 2704 Hartnell Avenue, St. C, Redding, CA 96002, (916) 222–43110.

i. Comment Date: March 26, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 6-foot-high, 60-foot-long natural fill and concrete diversion structure located across Hat Creek at elevation 3,895 feet msl; (2) a 54-inch-diameter, 200-foot-long penstock; (3) a powerhouse containing one or more turbine-generator units with a combined rated capacity of 1500 kW operating under a head of 125 feet; and (4) a 12-kV, 100-foot-long transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line east of the powerhouse. The project's estimated average annual generation of 7.2 GWh would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $25,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

18 a. Type of Application: Preliminary Permit.

b. Project No.: 9537–000.

c. Date Filed: October 9, 1985.

d. Applicant: Big Sky Hydro Limited Partnership.

e. Name of Project: Ruby Dam.

f. Location: On the Ruby River at the State of Montana owned Ruby Dam near Alder, Madison County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Archie R. Ford, P.O. Box 1940, Orofino, ID 83544.

i. Comment Date: March 26, 1986.

j. Description of Project: The project involves constructing a powerplant at the existing Ruby Dam. The proposed project would consist of: (1) An existing 111-foot-high dam; (2) a 970-acre reservoir with a storage capacity of 38,850 acre-feet at normal water surface elevation 5,392 feet; (3) a 750-foot-long, 54-inch-diameter penstock; (4) a powerhouse containing two generating units with a total capacity of 896 kW; and (5) a 0.5-mile transmission line. Applicant estimates the average annual energy production to be 5,362 MWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $52,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power produced is to be sold to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

19 a. Type of Application: Preliminary Permit.

b. Project No.: 9219–000.

c. Date Filed: May 22, 1985.

d. Applicant: Tehama Power Authority.

e. Name of Project: Dippingvat.

f. Location: On South Fork Cottonwood Creek and Red Bank Creek, near Cottonwood, partially within lands administered by the Bureau of Land Management, in Tehama County, California (In Section 31 of T27N, R6W, and Sections 16 & 18 of T26N, R6W, M.D.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence A. Coleman, Engineer/Administrator, Tehama Power Authority, 9380 San Benito Avenue, Gerber, CA 96035 (916) 385–1462.

i. Comment Date: March 27, 1986.

j. Description of Project: The proposed project would consist of: (1) A 210-foot-high, 750-foot-long zoned earthfill dam (Dippingvat Dam) at elevation 1,183 feet msl; (2) a 280-foot-high, 800-foot-long zoned earthfill dam (Schoenfield Dam) at elevation 990 feet msl; (3) a concrete diversion structure at elevation 1,183 feet msl; (4) a reservoir (Dippingvat) with a storage capacity of 71,000 acre-feet and a surface area of 1,000 acres; (5) a reservoir (Schoenfield) with a storage capacity of 170,000 acre-feet and a surface area of 2,400 acres; (6) a 6-foot-diameter, 580-foot-long penstock

(Dippingvat); (7) an 8.5-foot-diameter, 600-foot-long penstock (Schoenfield); (8) a 10-foot-diameter, 9,000-foot-long diversion conduit connecting the two dams; (9) a powerhouse (Dippingvat) containing a single turbine-generator unit with a rated capacity of 5,000 kW and operating under a head of 250 feet; (10) a powerhouse (Schoenfield) containing a single turbine-generator unit with a rated capacity of 15,000 kW and operating under a head of 300 feet; (11) a powerhouse (diversion) containing a single turbine-generator unit with a rated capacity of 4,000 kW and operating under a head of 70 feet; and (12) 21.75 miles of 69-kV transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line. The project's estimated average annual generation of 53 GWh would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $200,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9218–000.

c. Date Filed: May 22, 1985.

d. Applicant: Tehama Power Authority.

e. Name of Project: Fiddlers.

f. Location: On Middle Fork Cottonwood Creek, near Cottonwood, in Shasta and Tehama Counties, California (In Section 28 of T29N, R7W, M.D.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence A. Coleman, Engineer/Administrator, Tehama Power Authority, 9380 San Benito Avenue, Gerber, CA 96035 (916) 385–1462.

i. Comment Date: March 27, 1986.

j. Description of Project: The proposed project would consist of: (1) A 350-foot-high, 3,500-foot-long zoned earthfill dam at elevation 1,100 feet msl; (2) a reservoir with a storage capacity of 545,000 acre-feet and a surface area of 5,500 acres; (3) an 8-foot-diameter, 2,250-foot-long penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity of 20,000 kW and operating under a head of 350 feet; and (5) a 69-kV, 15.5-mile-long transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line. The project's estimated average annual generation of 70 GWh would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $200,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

21 a. Type of Application: Preliminary Permit.

b. Project No.: 9532–000.

c. Date Filed: October 9, 1985.

d. Applicant: Marseilles Revitalization LTD.

e. Name of Project: Marseilles Lock and Dam.

f. Location: On the Illinois River near Marseilles, La Salle County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, NW., #600, Washington, DC 20005.

i. Comment Date: March 27, 1986.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Marseilles Lock and Dam and would consist of: (1) A proposed steel penstock approximately 10 feet in diameter by 50 feet long; (2) a new concrete powerhouse housing a 10,000–kW generator; (3) a proposed concrete tailrace approximately 15 feet deep, 190 feet wide, and 900 feet long; (4) a new 64–kV transmission line approximately 3,450 fet long; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 60.0 GWh. All project energy generated would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be 145,000.

22 a. Type of Application: Major License (Over 5 MW).

b. Project No.: 7633–002.

c. Date Filed: December 20, 1984.

d. Applicant: Kenai Hydro Inc.

e. Name of Project: Grant Lake.

f. Location: On Grant Lake in the Borough of Kenai, Alaska near the town of Moose Pass and within the Chugach National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Jonathan M. Hanson, P.O. Box 1776, Lummi Island, WA 98262.

Mr. Richard L. Poole, 1937 Seacrest Drive, Lummi Island, WA 98262.

i. Comment Date: March 28,1986.

j. Description of Project: The proposed project would consist of: (1) Grant Lake with a usable storage capacity of 48,000 acre-feet between the minimum pool at elevation 660 and the maximum pool at elevation 691 feet, and a surface area of 1,650 acres; (2) a submerged lake tap intake structure that consists of a 10-foot-diameter inclined tunnel with an invert at elevation 643 feet, located on the west shore of Lower Grant Lake 900 feet north of the Grant Lakes outlet; (3) a 12-foot-diameter gate shaft and gate house at elevation 715 feet, having a 9-foot by 12-foot slide gate, located 200 feet downstream of the intake; (4) a 9-foot-diameter, 3,200-foot-long horseshoe-shaped tunnel terminating at; (5) the powerhouse adjacent to the east shore of Upper Trail Lake, containing a single vertical Francis turbine-generator unit with an installed capacity of 7,000 kW operating at a net head of 206 feet, producing an estimated average annual energy output of 25.40 GWh; (6) a 640-foot-long tailrace discharging project flows into Upper Trail Lake; (7) a 1.2 mile-long, 115–kV transmission line tying into the proposed 115–kV transmission line from the City of Seward; (8) a 1.2-mile-long access road from Seward-Anchorage Highway to the powerhouse and 1.2 miles of access road from the gate shaft to the recreation area at Grant Lake; (9) a 140-foot-long concrete bridge at the n arrows between Upper and Lower Trail Lakes; (10) a 60-foot-long, timber bridge across Grant creek to the recreation area; (11) a switchyard south of the powerhouse and (12) appurtenant facilities.

The recreation facilities located on the southern end of Grant Lake would

consist of a picnic area, fireplace, a vault toilet, a boat launch, and a parking lot.

The Applicant proposes to provide the following mitigation facilities, a salmon spawning channel, an egg incubation house and a 10-inch-diameter fish bypass tunnel located in the power tunnel invert.

The estimated cost of the project is $25,578,000, in 1983 dollars.

k. Purpose of Project: Project would be sold to the City of Seward, Alaska.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

23 a. Type of Application: Preliminary Permit.

b. Project No.: 9608–000.

c. Date Filed: November 4, 1985.

d. Applicant: McCallum Hydro Enterprises.

e. Name of Project: Samuel P. Senior Reservoir Dam.

f. Location: On the Saugatuck River in Fairfield County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Donald Szarmach, 805 Housatonic Ave., Bridgeport, Connecticut 06604.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 100-foot-high and 990-foot-long concrete gravity dam with an existing spillway at elevation 286 feet msl; (2) an existing 868-acre surface area reservoir with a storage capacity of 42,000 acre-feet with a maximum surface elevation of 280 feet msl; (3) six existing 48-inch influent sluice gates which diverts the flow into; (4) an existing 48-inch blow off and 28-inch drain which transports water to; (5) an existing powerhouse to contain one turbine/generator unit with an installed capacity of 100 kW which discharges flows back into the river; (6) a proposed 13.8-kV transmission line; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 414,720 kWh operating under a net hydraulic head of 89 feet. The owner of the dam is Bridgeport Hydraulic Company.

k. Purpose of Project: Project Power will be sold to the Connecticut Light and Power Company.

l. This notice also consists of the following standard pargraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A Preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $5,600.

24 a. Type of Application: Preliminary Permit.

b. Project No.: 9646–000.

c. Date Filed: November 25, 1985.

d. Applicant: Hunter Creek Hydro Company.

e. Name of Project: Hunter Creek Project.

f. Location: On Hunter Creek in Washoe County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Bill Bertelson, President, Hunter Creek Hydro Company, 335 West First, Reno, NV 89503.

i. Comment Date: March 26, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 50-foot-long diversion dam at elevation 5,050 feet; (2) a 48-inch-diameter, 3,300-foot-long diversion conduit; (3) a 36-inch-diameter, 350-foot-long penstock; (4) a powerhouse with a total installed capacity of 270 kW; and (5) a 1-mile-long, 12.5-kV transmission line connecting with an existing Sierra Pacific Power Company (SPPC) transmission line. The estimated 855,000 kWh generated by the project would be sold to SPPC.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $125,000.

k. This notice also consists of the following standard pargraphs: A5, A7, A9, B, C, and D2.

25 a. Type of Application: License (5MW or Less).

b. Project No.: 8361–001.

c. Date Filed: May 6, 1985.

d. Applicant: Olsen Power Project, Inc.

e. Name of Project: Olsen Hydroelectric Project.

f. Location: On Old Cow Creek in Shasta County, California, within U.S. Bureau of Land Management (BLM) land.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred Castagna, Executive Officer, Olsen Power Project, Inc., 2576 Hartnell Avenue, Redding, CA 96002.

i. Comment Date: March 26, 1986.

j. Description of Project: The proposed project would consist of: (1) A 7.5-foot-high diversion dam at elevation 2,381 feet; (2) a 54-inch-diameter, 16,750-foot-long low pressure conduit; (3) a 48-inch-diameter, 2,350-foot-long penstock; (4) a powerhouse containing a single 5,000-kW generating unit operating under a head of 660 feet; and (5) a 2-mile-long, 60-kV transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line. The estimated 14 million kWh generated by the project would be sold to PG&E. The estimated cost of constructing the project is $6,250,000. No recreational facilities are proposed. The application was filed pursuant to a 24-month preliminary permit issued to the Applicant on January 17, 1985, 30 FERC ¶62,044 (1985).

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

26. a. Type of Application: Preliminary Permit.

b. Project No.: 9536–000.

c. Date Filed: October 9, 1985.

d. Applicant: Tongue River Limited Partnership.

e. Name of Project: Tongue River Hydroelectric Project.

f. Location: On the Tongue River at the State of Montana owned Tongue River Dam near Decker, Big Horn County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Archie R. Ford, P.O. Box 1940, Orofino, ID 83544.

i. Comment Date: March 28, 1986.

j. Description of Project: The proposed project would involve constructing a powerplant at the existing Tongue River Dam. The project would consist of: (1) An existing 91-foot-high dam; (2) a 3,500-acre reservoir with a storage capacity of 69,400 acre-feet at normal water surface elevation 3,424 feet; (3) a 700-foot-long, 78-inch-diameter penstock; (4) a powerhouse containing two generating units with a total capacity of 1335 kW; and (5) a 4.6-mile-long transmission line. Applicant estimates the average annual energy production to be 7,954,237 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $52,000. No new roads would be constructed or

drilling conducted during the feasibility study.

k. Purpose of Project; The proposed power produced is to be sold to the Montana Power Company.

l. This notice also consists of the following standard paragraphs; A5, A7, A9, B, C, and D2.

27 a. Type of Application: Preliminary Permit.

b. Project No.: 9629–000.

c. Date Filed: November 19, 1985.

d. Applicant: Wilsonville Hydro-Electric, Inc.

e. Name of Project: Wilsonville.

f. Location: On the French River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Brooke J. Pennypacker, Hydro-Tech, Inc., P.O. Box 277, South Barre, MA 01074.

i. Comment Date: March 31, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 10-foot-high and 159-foot-long stone masonry dam with a spillway crest elevation of 383 feet msl; (2) an existing 19-acre reservoir with a storage capacity of 50 acre-feet at 383 feet msl; (3) an existing power canal to be rehabilitated; (4) an existing powerhouse to be rehabilitated to contain one turbine generator for an installed capacity of 150 kW; (5) an existing trailrace channel 37 feet wide and 25 foot long: (6) an existing 13.8–kV transmission line approximately 125 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 500,000 kWh under a hydraulic head of 14 feet. The dam is owned by the Belmont Real Estate & Power, Inc.

k. Purpose of Project: Project power will be sold to the Connecticut Light and Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed peliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of work to be performed under the preliminary permit would be $5,200.

28 a. Type of Application: Minor License.

b. Project No.: 8578–001.

c. Date Filed: September 16, 1985.

d. Applicant: Timothy R. Fallon.

e. Name of Project: Lock 27.

f. Location: Erie Canal, Wayne County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Timothy R. Fallon, 3 Maplewood Point, Ithaca, NY 14850, Telephone: (607) 273–2012.

i. Comment Date: March 26, 1986.

j. Description of Project: The project would consist of: (1) An existing concrete gravity dam 23 feet in height and 169 feet in length, equipped with a 33-foot-long uncontrolled spillway and two 20-foot-wide taintor gates, and forming part of the Erie Canal Lock 27 structure; (2) an existing masonry powerhouse foundation, 38 feet in length and 36 feet in width, with integral headgates, open flumes, and tailrace; (3) an existing impoundment with surface area of 82 acres and a capacity of 1250 acre-feet at a normal maximum surface elevation of 399 feet mean sea level; (4) a proposed wood and steel powerhouse, 20 feet in width and 38 feet in length and housing two submersible turbine/generators of 130 kW capacity each, operating at a net hydraulic head of 11 feet; (5) a proposed 4.8–kV transmission line 400 feet in length; and (6) appurtenant facilities. The owner of the existing facilities is the New York State Department of Transportation. The estimated annual power generation is 1.2 million kWh.

k. Purpose of Project: Project power would be sold to the New York State Electric & Gas Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

29 a. Type of Application: License (5MW or Less).

b. Project No.: 7964–001.

c. Dated Filed: May 28, 1985.

d. Applicant: JDJ Energy Company.

e. Name of Project: Dam 3 Spring River.

f. Location: On the Spring River in Fulton County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Doyle W. Jones, P.O. Box 225, Jones Mill, AK 72105.

i. Comment Date: March 26, 1986.

j. Description of Project: The Applicant would utilize an existing dam and lands leased to the Kroger Company by the Arkansas Power and Light Company. The proposed project would consist of: (1) An existing 30-foot-high, 504-foot-long concrete dam, the dam is surmounted with spillway gates, approximately 3.9 feet high; (2) an existing reservoir with a surface area 51 acres and a storage capacity of 380 acre feet at powerpool elevation of 476 feet m.s.l.; (3) an existing powerhouse which would contain one generating unit rated at 350-kW; (4) an existing tailrace; (5) two proposed 13,800 volt transmission lines 3300 feet long and 1,200 feet long respectively; and (6) appurtenant facilities. The estimated average annual energy output is 2,500,000 kWh. Power produced at the project would be sold to the Arkansas Power and Light Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

30 a. Type of Application: Preliminary Permit.

b. Project No.: 9651–000.

c. Date Filed: November 27, 1985.

d. Applicant: Burlington Energy Development Associates.

e. Name of Project: James V. Turner Reservoir.

f. Location: Ten Mile River in Providence County, Rhode Island and Bristol County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, MA 01803.

i. Comment Date: March 26, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 18-foot-high, 800-foot-long earth dam; (2) and existing 15-foot-high, 200-foot-long concrete spillway; (3) a reservoir with a surface area of 86 acres, a storage capacity of 400 acre-feet, and a normal water surface elevation of 49 feet m.s.l.; (4) an existing intake gate; (5) an existing masonry and concrete powerhouse containing one generating unit with a capacity of 170 kW; (6A) a new transmission line, 250 feet long; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 750,000 kWh. The existing dam is owned by the City of East Providence, Rhode Island.

k. Purpose of Project: Project power would be sold to the Narragansett Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project

construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $12,500.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms

and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 12, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3480 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-519-000 et al.]

City of Cleburne et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. City of Cleburne

[Docket No. QF86-519-000]

February 7, 1986.

On February 3, 1986, City of Cleburne (Applicant), of P.O. Box 657, Cleburne, Texas 76031 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located approximately 2.5 miles North Northwest of downtown Cleburne, Johnson County, Texas. The facility will use biomass in the form of municipal solid waste (MSW) to generate a maximum of 860 kW of electric power. A minimal amount of natural gas will be used for control purposes.

2. Nelson Industrial Steam Company

[Docket No. QF86-512-000]

February 7, 1986.

On January 3, 1986, Nelson Industrial Company (Applicant), a Texas joint venture, of 350 Pine Street, Beaumont, Texas 77706 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a topping-cycle cogeneraton facility located on the south bank of the Houston River in Westlake, Calcasieu Parish, Louisiana, approximately five miles northwest of Lake Charles, Louisiana. The facility, through a two-phased process of development, will have a power production capacity of 237.257 MW. Phase I occurs during the construction of new coke/coal-fired fluidized bed combustors (FBCs). During Phase I the facility will be operated temporarily as a topping-cycle cogeneration facility using existing gas- and oil-fired boilers. Once the FBCs are constructed Phase II will commence and natural gas will be used only as a back-up fuel. The primary energy source of the topping-cycle facility to be used during Phase II is petroleum coke or coal. Process steam from the facility will be sold to nearby industrial facilities.

3. American Electric & Power, I, Ltd.

[Docket No. QF86-452-000]

February 12, 1986.

On January 27, 1986, American Electric Power, I, Ltd. (Applicant), of 2285 Schoenersville Road, Suite 207, Bethlehem, Pennsylvania 18017 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility consists of six vessels moored in the Susquehanna River, utilizing river current to push paddle wheels extended from each side of the vessels. The paddle wheels are connected to a central shaft on each vessel. As the paddle wheels turn, mechanical energy is produced which is converted into electrical energy via an alternator (or generator). The maximum electric power production capacity of the facility will be 720 kilowatts.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

4. Pinetree Power-Tamworth, Inc.

[Docket No. QF86-511-000]

February 10, 1986.

On January 30, 1986, Pinetree Power-Tamworth, Inc. (Applicant), of c/o Pinetree Power Development Corporation, 31 Industrial Park, Concord, New Hampshire 03301 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Tamworth, New Hampshire. The primary energy source will be biomass in the form of wood chips, bark and fines. The net electric power production capacity will be 20 megawatts. There is no planned usage of natural gas, oil or coal by this facility.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211

and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3474 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP79-224-008 et al.]

El Paso Natural Gas Co. et al. Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

[Docket No. CP79-224-008]

February 10, 1986.

Take notice that on January 29, 1986, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-224-008 pursuant to section 7(c) of the Natural Gas Act a petition to amend the order issued in Docket No. CP79-224-005 on February 19, 1985, so as to authorize a one-year extension of time from February 19, 1986, through February 19, 1987, within which El Paso may complete the construction and operations of those minor facilities necessary for the expansion of the deliverability from 250,000 Mcf of natural gas per day to 500,000 Mcf of natural gas per day of the Washington Ranch storage project, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

El Paso states that by order issued February 19, 1985, in Docket No. CP79-224-005, the Commission approved El Paso's November 2, 1984, proposed settlement which, *inter alia*, permitted El Paso to obtain permanent authority to construct and operate facilities necessary to increase the deliverability of its Washington Branch storage project from 250,000 Mcf of natural gas per day to 500,000 Mcf per day. Ordering paragraph (B) of the order February 19, 1985, provided that the construction and operation of the minor new facilities necessary to implement the proposed increase in deliverability be completed within one year from the date of the order. El Paso states that in view of the ongoing changes being experienced in the industry due to the issuance of Order No. 436, *et seq.*, it has not committed the funds necessary for the expanded level of deliverability for its Washington Ranch storage project. El Paso further states that in consideration of these changes presently being experienced by industry and itself, it has not yet installed the facilities necessary to effectuate the proposed increase in deliverability. El Paso adds, however, that it is still of the belief that the additional deliverability of its Washington Ranch storage project is necessary and would be required by El Paso in its future operations. Therefore, El Paso requests a one-year extension of time in which to construct and operate the new facilities at its Washington Ranch storage project to increase the deliverability from 250,000 Mcf to 500,000 Mcf of gas per day.

Comment date: February 28, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Gas Transport, Inc.

[Docket No. CP86-291-000]

February 10, 1986.

Take notice that on January 24, 1986, Gas Transport, Inc. (Applicant), Post Office Box 1323, Parkersburg, West Virginia 26101, filed in Docket No. CP86-291-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it intends to transport natural gas on behalf of all shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985, in Docket No. RM85-1-000. Applicant states that it accepts and would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations. Applicant notes that its currently effective rate for transportation (Rate Schedule T-1) is a one-part rate on file with the Commission for transportation under Part 284 which conforms, it is said, with the requirements of interim rates prescribed by § 284.7(b)(1) of the Commission's Regulations. Applicant further states that it intends to file new transportation rates to be effective no later than July 1, 1986, in compliance with the provisions of § 284.7(b)(2) of the Commission's Regulations.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Midwestern Gas Transmission Company

[Docket No. CP No. CP86-267-000]

February 10, 1986.

Take notice that on January 14, 1986, Midwestern Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-267-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange service with ANR Pipeline Company (ANR) and Wisconsin Gas Company (Wisconsin Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Wisconsin Gas had initially established a gas sale and exchange agreement with Northern States Power Company—Wisconsin (NSP-Wisconsin). To effectuate this arrangement, reports Applicant, Wisconsin Gas concluded a separate gas exchange agreement with Applicant and ANR on August 30, 1973, as amended on June 1, 1978, and on March 31, 1983.

Applicant states that Wisconsin Gas and NSP-Wisconsin have subsequently concluded a new contract that does not require the intermediary gas exchange services of Applicant and ANR. In accordance with this new arrangement, Applicant says, Wisconsin Gas has arranged with Applicant and ANR to terminate their separate gas exchange agreement as of December 2, 1985.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. MIGC, Inc.

[Docket No. CP86-282-000]

February 10, 1986.

Take notice that on January 22, 1986, MIGC, Inc. (MIGC), 10701 Melody Drive, Northglenn, Colorado 80234, filed in Docket No. CP86-282-000 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 Ecological Engineering Systems, Inc. (EES), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MIGC proposes to transport up to 10,000 Mcf of natural gas per day on an interruptuible basis for EES. It is stated

that such service would be necessary to effectuate the sale of natural gas by EES to RMT Properties, Inc., a wholly owned subsidiary of Flying J, Inc. (Flying J), pursuant to a five-year gas purchase and sales contract entered into between those parties on September 1, 1985. It is further stated that Flying J is the owner and operator of an oil refinery in Cheyenne, Wyoming.

MIGC states that some of the natural gas would be delivered to it at two existing points of interconnection with MGTC, Inc., its intrastate affiliate, in Campbell County, Wyoming. It is further stated that the remainder of the natural gas would be received by MIGC at a receipt point with Williston Basin Interstate Pipeline Company, also in Campbell County, Wyoming. MIGC indicates that it would redeliver thermally equivalent volumes of natural gas, less fuel used and lost and unaccounted-for volumes for EES' account to an existing point of interconnection with the facilities of Colorado Interstate Gas Company (CIG) in Converse County, Wyoming. It is further indicated that CIG would transport and redeliver the natural gas to Cheyenne Light, Fuel and Power Company (Cheyenne) in Weld County, Colorado. It is stated that Cheyenne would make the ultimate delivery of the natural gas to Flying J's plant.

MIGC states that it proposes to charge EES its systemwide transportation rate of 25.0 cents per Mcf for the transportation of the volumes after deducting the applicable fuel gas and unaccounted-for volumes. However, MIGC further states that its currently effective transportation rate is 63.42 cents per Mcf, but, according to a settlement agreement pending Commisison approval in Docket No. RM84-15-000, the systemwide rate would become 25.0 cents, with refunds by MIGC to EES to the extent that the requested service commences before the Commisison approves the settlement, thus effectuating the 25.0 cent rate.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Northwest Central Pipeline Corporation

[Docket No. CP86-273-000]

February 10, 1986.

Take notice that on January 16, 1986, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-273-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas related to sales of gas currently being rendered to two direct sale customers in Neosho County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest Central's request for abandonment authorization involves the transfer of two direct sale industrial customers, Custom Covers & Campers, Inc., and Atchison, Topeka & Santa Fe Railway, to the City of Chanute, Kansas. Northwest Central states that, pursuant to Commission authorization granted in Docket No. CP85-485-000, it has sold pipeline, metering and regulating facilities to the City of Chanute, including the facilities serving these customers, and now desires to transfer the customers to the City of Chanute.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

6. Northwest Pipeline Corporation

[Docket No. CP86-280-000]

February 10, 1986.

Take notice that on January 21, 1986, Northwest Pipeline Corporation (Applicant), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP86-280-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on an interruptible basis, of up to 100,000 Mcf of natural gas per day for the account of Pacific Gas and Electric Company (PG&E), the gathering of up to 100,000 Mcf of gas per day for PG&E's account, and the addition and deletion of related unspecified transportation receipt points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is explained that PG&E has acquired, and hereafter may acquire, supplies of natural gas in the states of Utah, Wyoming, Colorado, and Idaho which PG&E has arranged, or would arrange, to be delivered to Applicant for gathering and/or transportation.

Applicant proposes to gather up to 100,000 Mcf of natural gas per day for PG&E's account from numerous wells located near Applicant's facilities in Utah, Wyoming, Colorado, and Idaho under a gathering agreement, dated November 2, 1979, as amended. Applicant proposes to charge cost-of-service rates for gathering PG&E's gas. The term of the gathering agreement is for ten years, it is stated.

It is further explained that Applicant would receive the gathered PG&E gas, plus other gas delivered to it for PG&E's account by third party transporters, at existing transportation receipt points on its system. Applicant proposes to transport the gas so received, up to 100,000 Mcf per day, for PG&E's account through its system and redeliver, on an interruptible basis, thermally equivalent volumes, less fuel, to PG&E at existing points of interconnection near Spokane, Washington, and Stanfield, Oregon, or to El Paso Natural Gas Company (El Paso), for PG&E's account, near Ignacio, Colorado.

It is explained that Applicant would transport such gas for PG&E under a twenty-year transportation agreement, dated November 2, 1972, as amended. Applicant proposes to charge PG&E its interruptible off-system transportation rate for all PG&E volumes transported under the agreement.

Applicant requests authorization to add and delete unspecified transportation receipt points related to the proposed interruptible transportation service. Applicant states that it would make appropriate tariff filings to update such receipt points annually.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

7. Southern Natural Gas Company

[Docket No. CP86-277-000]

February 10, 1986.

Take notice that on January 17, 1986, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-277-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Alabama Gas Corporation (Alagasco) and for permission and approval to abandon the transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 189 billion Btu of natural gas per day for Alagasco, on an interruptible basis, for a two-year term. It is indicated that Alagasco would purchase the gas from SNG Trading, Inc. Applicant states that it would receive the gas for the account of Alagasco at 25 existing points in Texas, Missouri, Louisiana, and offshore Louisiana. Applicant proposes to redeliver equivalent volumes of gas, less 3.25 percent for fuel and company-use gas, at existing delivery points to Alagasco in the Selma, Montgomery, and Birmingham areas of Alabama.

Applicant proposes to charge Alagasco a transportation rate of 39.9 cents per million Btu where the aggregate of the voumes transported by Applicant for Alagasco, when added to the volumes of gas delivered under Rate Schedule OCD of Applicant's FERC Gas Tariff do not exceed Alagasco's daily contract demand; for those volumes that exceed the daily contract demand, the transportation rate would be 64.9 cents per million Btu. In addition Applicant proposes to collect the GRI surcharge of 1.35 cents per Mcf.

Comment date: February 28, 1986, in accordance with Standard Paragragh F at the end of this notice.

8. Texas Gas Transmission Corporation

[Docket No. CP86–269–000]

February 10, 1986.

Take notice that on January 15, 1986, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP86–269–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis of up to 150 million Btu of gas per day for Texaco Inc. (Texaco), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it would transport such gas from a point in Lafayette Parish, Louisiana, where Texaco is purchasing such gas, to a point in Cameron Parish, Louisiana, where such gas would be delivered to Texaco. Texaco would pay Applicant the legally effective rate as specified in Applicant's Rate Schedule T–SL/Z–SL, plus the legally effective GRI funding unit, it is stated. Such rate, it is stated, is currently 12.31 cents per million Btu.

Applicant states that no new facilities are necessary to render the requested transportation service. The term of the proposed service, it is stated, would be for an initial term of two years and from year to year thereafter unless cancelled by either party upon sixty days prior written notice.

Texaco has requested such transportation service, Applicant states, in order to effectuate delivery of gas it has purchased for use in its gas-lift operations in the Grand Lake field, Cameron Parish, Louisiana.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP86–268–000]

February 10, 1986.

Take notice that on January 14, 1986, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP86–268–000 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 UER Marketing Company, as agent for Entex, Inc. (UER), under a gas transportation agreement dated December 9, 1985, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that the agreement provides for UER to cause the delivery of up to the maximum daily quantity of 60,000 Mcf of natural gas to Applicant at various existing delivery points in Louisiana, Texas, Alabama and Mississippi and Applicant would redeliver equivalent quantities to UER at various existing redelivery points in Texas, Louisiana and Mississippi.

Applicant states that the rate for such service would be equal to the Type V Rate in Applicant's Transportation Rate Schedule IT, which includes the Gas Research Institute surcharge and the cost of company-use gas, as set forth on Sheet No. 4–E of Applicant's FERC Gas Tariff First Revised Volume No. 1. The currently effective Type V Rate contained in Applicant's IT Rate Schedule is 43.15 cents per Mcf, it is stated.

The proposed transportation service, it is stated, would be for a primary term beginning on the date of first deliveries and ending on January 1, 1987, and from year to year thereafter.

Comment date: February 28, 1986, in accordance with Standard Paragraph F at the end of this notice.

10. United Gas Pipe Line Company.

[Docket No. CP86–274–000]

February 7, 1986.

Take notice that on January 16, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP86–274–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install a sales tap on United's 16-inch Baxterville line in Forrest County, Mississippi, under the certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to install the tap to serve Willmut Gas & Oil Co. (Willmut), and to deliver up to 40 Mcf of natural gas per day, which Willmut, a local distribution company, would resell to residential customers in the Hattiesburg, Mississippi, service area. It is stated that deliveries through the proposed tap would not represent an increase in Willmut's maximum daily quantity of gas from United.

Comment date: March 24, 1986, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 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. 86-3482 Filed 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ID-1751-001 et al.]

C. Robert Everman et al.; Interlocking Directorate Applications

February 10, 1986.

Take notice that the following filings have been made with the Commission:

1. C. Robert Everman

[Docket No. ID-1751-001]

Take notice that on January 28, 1986 C. Robert Everman, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application to hold the following positions:

Vice-President and treasurer.	The Cincinnati Gas and Electric Co.	Public utility.
Vice-President and treasurer.	The Union Light, Heat and Power Co.	Public utility.
Vice-President and treasurer.	Miami Power Corp.....	Public utility.

Comment date: February 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Eastern Utilities Associates

[Docket No. ID-1884-001]

Take notice that on January 27, 1986 Eastern Utilities Associates (EUA) submitted for filing notice of changes in positions held by Donald G. Pardus. EUA said Mr. Pardus resigned from the position of Vice President and was elected to the position of Vice Chairman of the Board of Directors of Eastern Edison Company and of Blackstone Valley Electric Company. EUA further stated that Mr. Pardus resigned from the position of Vice President and was elected to the position of President of Montaup Electric Company. These changes in position have not caused changes in the duties of Mr. Pardus.

Comment date: February 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Jackson H. Randolph

[Docket No. ID-1864-003]

Take notice that on January 28, 1986, Jackson H. Randolph, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application to hold the following positions:

Director, Executive Vice-President.	The Cincinnati Gas and Electric Co.	Public utility.
Director, Executive Vice-President.	The Union Light, Heat and Power Co.	Public utility.
Director, Executive Vice-President.	Miami Power Corp.....	Public utility.

Comment date: February 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. R. Drake Keith

[Docket No. ID-2151-001]

Take notice that on February 5, 1986, R. Drake Keith filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Chief Financial Officer, and Treasurer.	Middle South Energy, Inc.
Assistant Treasurer and Assistant Secretary.	Arkansas Power & Light Co.
Assistant Treasurer and Assistant Secretary.	Louisiana Power & Light Co.
Assistant Treasurer and Assistant Secretary.	Mississippi Power & Light Co.
Assistant Treasurer and Assistant Secretary.	New Orleans Public Service, Inc.

Comment date: February 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. James J. Mayer

[Docket No. ID-1962-001]

Take notice that on January 28, 1986, James J. Mayer, pursuant to Section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

General counsel....	The Cincinnati Gas & Electric Co.	Public utility.
General counsel....	The Union Light, Heat and Power Co.	Public utility.
General counsel....	Miami Power Corp.....	Public utility.

Comment date: February 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3481 File 2-14-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-18765-000 et al.]

Tenneco Oil Co. et al.; Applications for Certificates, Abandonments of Service and Petition To Amend Certificates[1]

February 12, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 26, 1986, file with the Federal Energy Regulatory Commission, Washington, DC. 20426 petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. G-18765-000, et al. - 2 -

Filing Code:

A - Initial Service
B - Abandonment
C - Amendment to add acreage
D - Amendment to delete acreage
E - Total Succession
F - Partial Succession

Docket No. and Date Filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure Base
G-18765-000 D 2/3/86	Tenneco Oil Company P. O. Box 2511 Houston, Texas 77001	Valero Interstate Transmission Company North Monte Christo Field, Hidalgo County, Texas	1/	
CI62-1253-003 D 2/3/86	"	Arkansas Louisiana Gas Company Centrahoma Field, Coal County, Oklahoma	2/	
CI64-1011-000 D 2/3/86	"	Valero Interstate Transmission Company North Monte Christo Field, Hidalgo County, Texas	1/	
CI68-1211-000 D 2/3/86	Shell Offshore Inc. P. O. Box 4480 Houston, Texas 77210	Trunkline Gas Company South Timbalier Block 175 Field, Offshore Louisiana	4/	
CI86-187-000 (CI71-323) B 1/10/86	Chandler & Associates, Inc.	Mountain Fuel Supply Company Sugar Loaf Field, Moffat County, Colorado	5/	
CI86-188-000 B 1/31/86	Texaco Inc. P. O. Box 52332 Houston, Texas 77052	Phillips Petroleum Company Eunice Plant and Skaggs Drinkard Field, Lea County, New Mexico	6/	
CI86-189-000 D 2/3/86	Sun Exploration & Production Co. P. O. Box 2880 Dallas, Texas 75221-2880	Arkansas Louisiana Gas Company Anthon Field, Custer County, Oklahoma	7/	
CI86-190-000 (G-19182) B 2/3/86	Tenneco Oil Company	Valero Interstate Transmission Company North Monte Christo Field, Hidalgo County, Texas	8/	
CI86-191-000 F 2/4/86	Exxon Corporation (Succ. in Interest to Amax Petroleum Corporation) P. O. Box 2180 Houston, Texas 77252-2180	Southern Natural Gas Company Big Escambia Creek Field, Escambia County, Alabama	9/	
CI86-192-000 F 2/4/86	Exxon Corporation (Succ. in Interest to Grace Petroleum Corporation)	Florida Gas Transmission Company Big Escambia Creek Field, Escambia County, Alabama	10/	
CI86-193-000 F 2/4/86	"	Southern Natural Gas Company Big Escambia Creek Field, Escambia County, Alabama	10/	
CI86-194-000 F 2/4/86	"	"	10/	
CI86-195-000 F 2/6/86	Tenneco Oil Company (Succ. in Interest to Texas Gas Exploration Corporation)	Natural Gas Pipeline Company of America West Cameron Block 229, West Cameron Area, Offshore Louisiana	11/	

FPC Form 973
Rev (6-70)

FOOTNOTES

1/ Surrender of certain dedicated leases.

2/ Depletion of reserves.

3/ Not used.

4/ By Agreement dated 12-10-84, Shell Offshore Inc. has farmed-out certain acreage to Seagull Energy E&P Inc.

5/ Well no longer producing in commercial quantities. No additional workover potential exists.

6/ The terms of Texaco's contract with Phillips expired 1-1-84 and 11-5-85, with a day-to-day sales thereafter. Texaco intends to enter into a percentage-of-proceeds type Casinghead Gas Contract with Texaco Producing Inc. (TPI) covering gas from the leases previously contracted and delivered to Phillips. After processing, 60% of the residue gas would continue to be sold to El Paso by TPI at its Eunice New Mexico Plant but under TPI's G.R.S. No. 390, Certificate No. CI72-771 and 40% of the residue gas would be sold to Northern Natural Gas Company by TPI at its Eunice New Mexico Plant but under TPI's G.R.S. No. 389, Certificate No. CI72-762.

7/ Assignment and Bill of Sale covering the only producing property under contract.

8/ Surrender of all dedicated leases. Tenneco no longer has an interest in the acreage dedicated ot its contract dated 8-1-58.

9/ By assignment dated 8-29-85, Exxon acquired certain acreage covered by Amax Petroleum Corporation's Small Producer Certificate Docket No. CS72-419.

10/ By assignment dated 3-29-85, Exxon acquired certain acreage covered by Grace Petroleum Corporation's (successor in interest to Mallard Exploration, Inc.) Small Producer Docket No. CS71-825.

11/ Tenneco Oil Company succeeded by Assignment dated 7-24-85.

Office of Hearings and Appeals

Cases Filed the Week of January 17 Through January 24, 1986

During the Week of January 17 through January 24, 1986, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purpose of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 10, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 17 through Jan. 24, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 7, 1985	Economic Regulatory Administration, Washington, DC	KRZ-0017	Interlocutory. If granted: The Nov. 7, 1985, Response to Request of Economic Regulatory Administration to Present Testimony filed by Consolidated Materials, Inc. (Case Nos. HRO-0107 and HRH-0023) would be stricken from the record.
Jan. 17, 1986	Economic Regulatory Administration, Washington, DC	KRR-0005	Request for modification/rescission. If granted: The Dec. 10, 1985, Remedial Order (Case No. HRO-0161) issued to Oil-Tex Petroleum, Inc. would be modified regarding the firm's sales to American Petrofina, Inc.
Jan. 21, 1986	Economic Regulatory Administration, Washington, DC	KRZ-0018	Interlocutory. If granted: The remedial provisions in the Proposed Remedial Order issued to Lantern Petroleum Corporation (Case No. HRO-0251) would be modified.
Do	Plumbers and Steamfitters Local 106, Metairie, LA	KFA-0011	Appeal of an information request denial. If granted: The Dec. 20, 1985, Freedom of Information Request Denial issued by the Strategic Petroleum Reserve Project Management Office would be rescinded and the Plumbers and Steamfitters Local 106 would receive access to the certified payroll records filed by PDQ Contractors, Inc.
Jan. 22, 1986	Dennis M. O'Brian, Wheeling, IL	KFA-0012	Appeal of an information request denial. If granted: Dennis M. O'Brian would receive access to certain DOE information.
Do	Donald W. Dalziel, San Francisco, CA	KRH-0004	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with the statement of objections submitted by Donald W. Dalziel in response to a Proposed Remedial Order (Case No. HRO-0155) issued to John Holland, et al.
Jan. 23, 1986	Committee to Bridge the Gap, Los Angeles, CA	KFA-0013	Appeal of an information request denial. If granted: The Jan. 3, 1986, Freedom of Information Request Denial issued by the Office of Nuclear Energy would be rescinded and the Committee to Bridge the Gap would receive access to a copy of the "Safety Assessment for Space Reactors" by B.W. Bartram and D.W. Pyatt.
Jan. 24, 1986	Ivan Von Zuckerstein, Darien, IL	KFA-0014	Appeal of an information request denial. If granted: The Jan. 16, 1986, Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded and Ivan Von Zuckerstein would receive access to a memo from A.S. Kennedy to M. Meshenberg.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 17 to Jan. 24, 1986]

Dates	Name of refund proceeding/name of refund applicant	Case No.
1/21/86	Harris/Reese Oil Co	RF193-18
1/21/86	Mobil/Floyd Piles, Jr	RF225-9
1/21/86	Mobil/Upton Fuel & Construction Co	RF225-10
1/21/86	Quaker State/Bill Gunter Dist. Co	RF213-46
1/21/86	Gulf/Gresham Petroleum Co	RF40-3091
1/21/86	Gulf/Rebel Gas, Inc	RF40-3092
1/21/86	Midway/Credit Island Zephyr	RF207-4
1/21/86	Conoco/Russell Stewart Oil Co	RF220-5
1/21/86	Gulf/Graeber Bros., Inc. of Grenada	RF40-3093
1/22/86	Harris/McCall Oil & Chemical	RF193-19
1/22/86	Ayers/American Cyanamid Co	RF177-5
1/22/86	Aminoil/Machine Rite Products	RF139-145
1/21/86	Gulf/Graeber Brothers	RF40-3095
1/22/86	Mobil/Bolin Oil Co	RF225-11
1/23/86	Gulf/Tallahatchie Farmers Supply	RF40-3096
1/22/86	Gulf/AAA Cooper Transportation	RF40-3094
1/22/86	National Helium/Washington	RQ3-265
1/23/86	Indian/Jim Martin, Inc	RF226-2
1/23/86	Belcher/Grimaldi, Inc	RF227-2
1/21/86	Belcher/Robbins Trailer	RF227-1
1/23/86	Gulf/C.P. House Gas Co., Inc	RF20-3097
1/23/86	Mobil/Dave's Service, Inc	RF225-12
1/23/86	Mobil/Corey Oil, Ltd	RF225-13
1/23/86	Mobil/R.E. Smith Fuel Co., Inc	RF225-17
1/23/86	Mobil/Verona Service Center	RF225-16
1/23/86	Mobil/Bob Gerenyi Mobil Service	RF225-15
1/23/86	Mobil/Aaron's Mobile Service	RF225-14
1/23/86	Quaker State/Automotive Service	RF213-50
1/23/86	Quaker State/Laurel Oil & Supply	RF213-49
1/23/86	Quaker State/Arthur F. Hazen & Son	RF213-48
1/23/86	Eastern/Resch Electric, Inc	RF215-8
1/24/86	Harris/Sisters Union Station	RF192-20
1/23/86	Sid Richardson/Steven's Petro	RF26-23
1/24/86	Mobil/Old Towne Service Station	RF225-19
1/24/86	Mobil/Kimber Petroleum Corp	RF225-18

REFUND APPLICATIONS RECEIVED—Continued

[Week of Jan. 17 to Jan. 24, 1986]

Dates	Name of refund proceeding/name of refund applicant	Case No.
1/24/86	Harris/Gray's Crane International	RF193-21
1/23/86	Gulf/Fourth Avenue Gulf	RF40-3098
1/23/86	Gulf/Hopper Gulf Service	RF40-3099
1/23/86	Gulf/Sexton's Gulf	RF40-3100
1/24/86	Pennzoil/Louisiana	RQ10-266
1/24/86	Sid Richardson/Manito Oil & Propane Co	RF26-24
1/24/86	Quaker State/Witco Corp	RF213-52
1/24/86	Gulf/Greber Bros., Inc. of Clarksdale	RF40-3104
1/24/86	Gulf/G.A. Norris Butance Co., Inc	RF40-3103
1/24/86	Mobil/David R. Surface	RF225-24
1/24/86	General Equities/Maurice's Service Station	RF224-2
1/24/86	Quaker State/Capital Buick-GMC, Inc	RF213-47
1/24/86	Quaker State/Quality Poultry Company	RF213-57
1/23/86	Gulf/Flatley Oil Company	RF40-3101
1/24/86	Gulf/Cunningham Bu-ane Gas Co., Inc	RF40-3102
1/24/86	Mobil/Louis & Richard Wening	RF225-23
1/24/86	Mobil/Nor-Bel Service Center	RF225-20
1/24/86	Mobil/James Jezwinski	RF225-21
1/24/86	Mobil/Jim's Service	RF225-22
1/23/86	Resources/Mobil Oil Corporation	RF228-1
1/24/86	Post/Eastman Building Products	RF229-1
1/21/86	Amoco/Quality Oil Co. et al	RF21-12404 thru RF21-12563

[FR Doc. 86-3458 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed the Week of January 24 Through January 31, 1986

During the Week of January 24 through 31, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 10, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 24 through Jan. 31, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 23, 1985	Keystone Fuel Oil Company, Washington, DC	KCX-009	Supplemental order. If granted: The July 13, 1984 Decision and Order (Case No. BRO-1166) issued to Keystone Fuel Oil Company by the Office of Hearings and Appeals would be modified as specified in the December 12, 1985 order affirming remedial order in part, reversing remedial order in part and remanding proceeding, issued by Federal Energy Regulatory Commission.
Jan. 28, 1986	Chuck Hansen, Sunnyvale, CA	KFA-0015	Appeal of an information request denial. If granted: Chuck Hansen would receive access to the Final Report of Mark IV MOD O FM Bomb. Report SL-82.
Jan. 30, 1986	Ford Products Corporation, Valley Cottage, NY	KEE-0019 and KEL-0019	Exception from the Energy Conservation Program for Consumer Products. If granted: Ford Products Corporation would receive an exception allowing the firm to test its model CF and FG water heaters using procedures other than those set forth in a Nov. 22, 1985 waiver.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 24 to Jan. 31, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
1/27/86	Amoco/United Power Association	RF21-12564
1/27/86	Conoco/Enterprise Products Co	RF220-6
1/27/86	Quaker State/Dowling Pool Co., Inc	RF213-53
1/27/86	Belcher/Krupa Oil Company	RF227-3
1/27/86	South Hampton/City Public Service	RF230-1
1/27/86	Mobil/John P. Cullinan	RF225-25 RF225-26 RF225-27
1/27/86	Quaker State/Ray Johnson's Imports	RF213-54
1/27/86	Mobil/A&M Service Station	RF225-28
1/27/86	Quaker State/The Leonard Co., Inc	RF213-55
1/27/86	CONOCO/Delmarva Power	RF220-7
1/27/86	Quaker State/Redfield's Sales & Service	RF213-56
1/28/86	Quaker State/Jack's Auto Supply Co	RF213-57
1/28/86	Mobil/S&K Servicenter	RF225-29
1/28/86	Sid Richardson/Schupback & Streitmatter Gas Company	RF26-25
1/28/86	Resources/Gas Producers Liquids, Ind	RF228-2

REFUND APPLICATIONS RECEIVED—Continued

[Week of Jan. 24 to Jan. 31, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
1/28/86	Point Landing/Riverway Barge Co	RF122-10
1/29/86	Mobil/Petroleum Marketers, Inc	RF225-30
1/29/86	Quaker State/Sterling Service Store	RF213-58
1/27/86	Malco/O'Brien Cut Stone Company	RF231-2
1/27/86	Malco/Morgan Services, Inc	RF231-1
1/30/86	Mobil James J. Zorn	RF225-31
1/30/86	Mobil/Billy J. Newman	RF225-32
1/30/86	Aminoil/McKaig L.P. Gas, Inc	RF139-143
1/31/86	Quaker State/J.W. McGuire	RF213-61
1/31/86	LAPCO/Baxley Oil Company	RF112-187
1/31/86	Quaker State/Tate & Sons	RF213-59
1/31/86	Mobil/B.F. Smith	RF225-33
1/31/86	Quaker State/Double Play Enterprise	RF213-60
1/31/86	Amoco/Arch Minerals Corporation	RF21-12567
1/31/86	Amoco/Arch Minerals Corporation	RF21-12565
1/31/86	Amoco/Arch Minerals Corporation	RF21-12566
1/31/86	Mobil/Irving Lash	RF225-34
1/31/86	Mobil/Bob's Mobil Service Center	RF225-35
1/31/86	Belcher/New England Smelting Works	RF227-4
1/31/86	F.O. Fletcher/McCall Oil & Chemical	RF172-26

[FR Doc. 86-3459 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Order Filed With the Office of Hearings and Appeals; January 6 Through January 31, 1986

During the period of January 6 through January 31, 1986, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 10, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Magna Energy Corporation, Houston, Texas, KRO-0230

On January 31, 1986, Magna Energy Corporation, 11511 Katy Freeway, Suite 365, Houston, Texas 77079 filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston District Office of Enforcement issued to the firm on December 5, 1985. In the PRO the Houston District found that from December 1978 through December 1980, Magna resold crude oil at prices in excess of its actual purchase prices in violation of 10 CFR 212.186, 210.62(c) and 205.202.

According to the PRO the violation resulted in $15,034,984.76 of overcharges. In addition, Houston District found that, during 1979, Magna charged prices for crude oil resales in excess of its permissible average markup in the amount of $1,738,637.00 in violation of 10 CFR 212.183.

[FR Doc. 86-3457 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

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 totalling over $4,000,000 obtained from Beacon Oil Company in settlement of all issues regarding the firm's application of the federal petroleum price and allocation regulations during the period August 19, 1973 through March 31, 1975.

DATE AND ADDRESS: Applications for refund must be filed by May 19, 1986, should conspicuously display a reference to case number HEF-0203, and should be addressed to: Beacon Oil Company Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Geoffrey D. Stein, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

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 forth below. The Decision and Order establishes procedures for distributing funds obtained as a result of a consent order between the DOE and Beacon Oil Company. The consent order settled all disputes between the DOE and Beacon concerning possible violations of DOE price and allocation regulations with respect to the firm's sales of refined petroleum products to its customers during the period August 19, 1973 to March 31, 1975

Any members of the public who believe that they are entitled to refunds in this proceeding may file Applications for Refund. Specific information to be included in Applications for Refund is set forth in Section III of the Decision and Order. All Applications should be postmarked by May 19, 1986, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made availabe for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: February 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

February 7, 1986.

Name of Case: Beacon Oil Company.
Date of Filing: October 13, 1983.
Case Number: HEF-0203.

The procedural regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration (ERA) to request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for distributing funds received as a result of enforcement proceedings involving alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order which it entered into with Beacon Oil Company (Beacon). Under the terms of the consent order, Beacon agreed to refund a total of $6,800,000, including payments to the DOE, in settlement of all civil and adminstrative claims by the DOE relating to Beacon's compliance with the federal petroleum price regulations applicable to refiners of petroleum products during the period from August 19, 1973 through March 31, 1975 (the consent order period).

I. Background

Beacon was a "refiner" of petroleum products as that term was defined in 10 CFR 212.31. During the consent order period, Beacon was engaged in the production, refining, and marketing of products covered by the federal petroleum price regulations set forth in 6 CFR Part 150 and 10 CFR Part 212. The ERA audited Beacon to determine the firm's compliance with these regulations. In the course of the audit process, Beacon entered into a consent order with the DOE, whereby the firm agreed to refund a total of $6.8 million to various parties to resolve all issues regarding Beacon's application of the regulations during the consent order period. Notice of this proposed consent order was published for public comment at 44 FR 58950 (1979). Claims and comments were filed by approximately 100 interested parties. The proposed consent order was adopted without modification as a final order of the DOE on December 17, 1979. 44 FR 73139 (1979).

The consent order set forth different methods for refunding the settlement funds to various categories of Beacon customers. Beacon paid refunds to ultimate consumers either directly by check or by issuing credit memoranda to be applied against future purchases from Beacon. The firm also instituted a price rollback through its company-operated service stations to effect refunds to end-users. To customers other than ultimate consumers, Beacon paid refunds either by issuing credit against future purchases or by making payments to the DOE for appropriate distribution. In the latter category, Beacon paid a total of $2,297,505 into an escrow account administered by the DOE. In addition, the consent order stipulated that if petroleum products were decontrolled, Beacon would pay any remaining unpaid credit or price rollback amounts into the DOE escrow account. After deregulation occurred on January 28, 1981, *see* Executive Order 12287, 46 FR 9909 (January 30, 1981), Beacon paid a total of $106,550 to the DOE to cover the portion of credit payments and price rollbacks to certain customers which were planned but never instituted. Therefore, this ERA Petition to OHA pertains to Beacon's total payment to escrow of $2,404,055, plus accumulated interest (hereinafter referred to as the consent order fund).[1]

On August 21, 1985, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Beacon consent order fund. 50 FR 34897 (August 28, 1985). In the PD&O, we described a two-stage process for disbursing refunds. In the first stage, refunds would be made to identifiable purchasers of Beacon covered products that may have been injured by the firm's pricing practices during the consent order period. This decision describes the information that purchasers of Beacon products should submit in order to demonstrate eligibility for a portion of the consent order fund. After these meritorious claims are paid, a second stage may become necessary if funds remain.

Comments were solicited regarding the proposed refund procedures outlined in the PD&O. Beacon Oil Company and Mr. Willard T. Clark filed comments in response to the proposal of the first stage of refund distribution. These comments are discussed in the following presentation of the procedures we are adopting. In addition, eight states commented on the distribution of residual funds in a second-stage proceeding.[2] The formulation of procedures for the final disposition of any funds remaining after meritorious claims have been paid will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Accordingly, it would be premature for us to address at this time the issues raised by the states' comments concerning disposition of second-stage funds.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing plans to distribute funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily the persons who may be eligible to receive refunds as a result of enforcement proceedings or to ascertain readily the amounts that such persons should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

Beacon filed comments in response to the PD&O requesting that the consent order funds be used primarily to implement previous DOE orders granting the firm approximately $3.4 million in exception relief from the DOE Entitlements Program for the years 1979 and 1980. Beacon contends that the refund plan outlined in the PD&O should be effected only after the firm has received full payment for the relief to which it states that it is entitled, but which it has never received.

There is no legitimate basis for Beacon's request. First allowing Beacon to recover in this proceeding any exception relief to which it is allegedly entitled would place the firm in a vastly superior position to all other similarly situated firms. The DOE has determined to pay all firms which, like Beacon, have unsatisfied entitlements receive orders, and funds have been put aside in separate, interest-bearing accounts for this purpose. *Amber Refining, Inc.*, 13 DOE ¶ 85,217 at 88,571 (1985). Beacon's receive order is taken into account in the *Amber* decision and we know of no reason why Beacon should now be treated differently than provided for in that decision. Of equal importance is the fact that there is no direct or even necessary relationship between the Beacon entitlements relief and the

[1] The Beacon escrow account contained $4,322,983.43 as of January 31, 1986.

[2] The States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia submitted comments as a group. The State of California filed separate comments.

monies paid by Beacon to settle the various regulatory violations alleged by the ERA. After all, these settlement monies involved here relate to Beacon's sale of petroleum products, while the exception relief involved the financial impact of Beacon of its disproportionate access to price-controlled crude oil. *See Beacon Oil Company*, 8 DOE ¶ 82,604 (1981). Moreover, granting Beacon's request would substantially reduce the size of the consent order fund and the extent to which restitution to injured purchasers can be made. It would be ludicrous to evaluate the interests of Beacon, the firm which paid to settle its alleged violations, over the interests of the purchasers allegedly injured by Beacon's actions, who are the true focus of this Subpart V proceeding. *See* 10 CFR 205.280 *et seq.* Accordingly, this request will not be granted.

A. Refunds to Identifiable Purchasers

During the first stage in the refund process, the consent order funds will be distributed to claimants who satisfactorily demonstrate that they were adversely affected by Beacon's alleged overcharges in sales of covered products. We will accept applications from all parties who can demonstrate that they either directly or indirectly purchased products which originated with Beacon.

In order to be eligible to receive a refund, claimants must file an application and, with three exceptions discussed below, show the extent to which they were injured by the alleged overcharges. Firms or individuals will be eligible for a share of the consent order fund to this extent. While there are a variety of ways in which a showing of injury may be made, a reseller or retailer will generally be required to demonstrate that competitive market conditions would not permit it to pass through the increased costs associated with the alleged overcharges. In addition, this type of claimant must show that during the consent order period, it maintained a "bank" of unrecovered increased product costs at least equal to the refund amount claimed, indicating that the claimant did not actually pass on alleged overcharges to its own customers. If actual, contemporaneously calculated cost banks are not available for specific reasons, we will accept other information, *e.g.*, monthly profit margin data, which conclusively proves that the alleged overcharges were not passed along. *See Husky Oil Company*, 13 DOE ¶ 85,045 (1985); *see also Tenneco Oil Company/Northern Petroleum, Inc.*, 13 DOE ¶ 85,207 (1985).

In this case we will adopt three rebuttable presumptions regarding the demonstration of injury. These presumptions have been used in many previous refund proceedings. First, we will presume that purchasers of Beacon products who are claiming small refunds ($5,000 or less, not including interest) were injured by the alleged overcharges. Claimants in this category need not provide us with a showing of injury, as described above.[3] Second, we will not require a detailed showing of injury from regulated utilities or agricultural cooperatives that passed on the alleged overcharges to their end-user members. Third, we will adopt a presumption that spot purchasers were not injured and are generally not eligible to apply for refunds.[4] Prior OHA decisions provide detailed explanations of the basis for these presumptions. *E.G., VGS Corporation, et al.*, 13 DOE ¶ 85,165 at 88,451–53 (1985). We also explained the rationale for these presumptions in the PD&O. 50 FR 34897 at 34899–900 (August 28, 1985). These presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Finally, we will adopt a finding made in the PD&O that end-users or ultimate consumers of Beacon products whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges, and therefore need not demonstrate injury. *Id.* [5]

[3] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund up to the $5,000 level, without being required to submit further evidence of injury. Likewise, firms potentially eligible for greater refunds may choose to limit their claims to $5,000 in order to avoid having to submit detailed documentation of their injury. *See* Office of Enforcement, 8 DOE ¶ 82,597 at 85,396 (1981).

[4] If a spot purchaser believes it was injured, it must submit additional documentation of this injury to overcome the presumption that this category of Beacon customers suffered no harm.

[5] The consent order stipulated that all ultimate consumers or end-users who purchased products directly from Beacon during the consent order period would receive refunds either by direct payment or by credit issued against future purchases. Based on information in the Beacon audit file, we believe that all refunds to these end-users have been paid fully, in accordance with the consent order. However, we will accept claims from other end-users of Beacon products who demonstrate conclusively that they were customers during the consent order period but did not receive refunds pursuant to the consent order. This category of purchaser may include ultimate consumers who bought Beacon products from resellers.

B. Calculation of Refund Amounts

In the PD&O, we proposed using a volumetric method to divide the consent order funds among eligible applicants, whereby a refund amount generally would be computed by multiplying the number of gallons of Beacon products which a claimant purchased during the consent order period by a per-gallon fraction. Mr. Willard T. Clark filed comments objecting to the use of this method. Mr. Clark is a reseller of Beacon products who received refund payments in the form of credit memoranda from Beacon pursuant to the consent order, until those payments were suspended when petroleum products were deregulated on January 28, 1981. Mr. Clark contends that he is entitled to receive the amount of credit which remained unpaid to him when the previous refund program was suspended, a sum of $5,642 plus accrued interest.

After considering Mr. Clark's comments and the circumstances of the credit program established by the Beacon consent order, we have decided to adjust the proposed method of calculating refunds with respect to reseller and retailer customers who, like Mr. Clark, did not receive the full credit amount prior to decontrol on January 28, 1981. Records in the Beacon audit files indicate that a total of $95,215 in credit remained unpaid to 22 Beacon motor gasoline resellers and retailers upon decontrol, and that Beacon later deposited this sum into the DOE escrow account. Our information also includes the individual amount which remained unpaid to each of the 22 Beacon customers, in addition to the amounts each actually received prior to decontrol. The total credit amounts constituted the measure of restitution which the consent order originally deemed appropriate for each customer. Therefore, we have determined that it is proper to allow each of the 22 firms with an unpaid credit balance the opportunity to apply for a refund equal to that balance, instead of an amount based on the firm's level of purchases during the consent order period.

However, in order to assure the equitable nature of this refund proceeding, we will subject the 22 "credit amount" applicants to a requirement that they show injury. This requirement is similar to that imposed upon other reseller and retailer applicants, none of whom has yet received any refunds pursuant to the Beacon consent order. Under this requirement, applicants seeking refunds greater than $5,000 must demonstrate

that they were injured in their purchases of Beacon products during the consent order period. *See* text at 4–5, *supra; see also* 50 FR 34897 at 34899–900 (August 28, 1985). In determining the size of the injury "threshold" appropriate for the "credit amount" applicants, we must consider that the credit program involving resellers and retailers of Beacon motor gasoline was conducted during 1980 and January 1981, a period when prices for this product were still regulated by the DOE. Under that regulatory scheme, a refund from Beacon in the form of credit memoranda constituted a cost reduction for a recipient firm and, under the regulations in effect at that time, could either be kept by the firm or passed on to its customers through price reductions, depending in part on whether the firm was selling motor gasoline at its maximum lawful selling price (MLSP). *See* 10 CFR 212.93(a)(2)(i). To this extent, the consent order envisioned that credit refunds would be shared among purchasers of Beacon products and their customers. For example, if a firm which received credit demonstrates that it reduced its selling prices by the entire amount of the credit, we would conclude that it passed through the refund fully to its own customers and was not compensated itself. By contrast, if evidence indicates that a firm did not change its selling price after receiving credit, we would conclude that its profit margins increased and therefore the firm was compensated by that amount.

In analyzing the refund claims of the 22 Beacon customers with outstanding credit balances, we will use the method described above to detrermine the amount of compensation the firm has already received. We will count that amount toward the $5,000 threshold for that firm. If a firm's total refund (previous credit payments *not* passed through to its own customers plus the unpaid credit amount) exceeds $5,000, that firm must either demonstrate injury based on the standards outlined in Section II(A) above, or limit its total claim to $5,000.

Since we have received no other objections, we will adopt the proposed volumetric method of calculating refund amounts outlined in the PD&O for all other applicants. The volumetric method presumes that the alleged overcharges were spread equally over all the gallons of products which Beacon sold during the consent order period. We have calculated the volumetric amount to be used in this proceeding by dividing the total amount of consent order funds—$2,404,055 exclusive of interest—by the estimated total volume of regulated petroleum products sales by Beacon during the consent order period, which we have determined to be 446,571,042 gallons. This calculation results in a volumetric refund amount of $.005383 per gallon. A successful claimant will receive a refund equal to its eligible volume of petroleum product purchases from Beacon during the period from August 19, 1973 through March 31, 1975, multiplied by the volumetric amount, plus a pro rata share of accrued interest.[6]

III. Applications for Refund

We have determined that the refund procedures described above are the best means of distributing the Beacon consent order fund. Accordingly, we will now accept applications for refunds.

Applications must be in writing, signed by the applicant, and make reference to Case Number HEF–0203. Applications must include the following information:

(i) the business address of the firm during the consent order period, August 19, 1973 through March 31, 1975;

(ii) monthly schedules indicating the volume of products purchased from Beacon during the consent order period, or, if no documentation is available, a detailed estimate of purchases;[7]

(iii) a showing of injury, as explained above, or a statement that the applicant need not show injury because it was an end-user of the product, an agricultural cooperative or regulated utility, or is claiming a refund of $5,000 or less;

(iv) an indication of the firm's level in Beacon's chain of distribution, *e.g.*, ultimate consumer, reseller, etc.;

(v) a statement of whether there has been a change in the ownership of the firm during the consent order period. If there has been a change of ownership, the applicant must provide the names and addresses of any other owners and either a statement of the reasons why the refund should be paid to the applicant rather than to the other owners, or a signed statement from the other owners indicating that they do not claim a refund;

(vi) a statement of whether the firm has previously received refunds from Beacon pursuant to the consent order;

(vii) the name, title, and telephone number of a person who the OHA may contact for additional information concerning the application; and

(viii) 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, if the applicant was a reseller or retailer and received credit refunds from Beacon in 1980 and 1981, it must submit information showing the total amount of credit received from Beacon pursuant to the consent order and material which indicates the extent to which the credit was passed through to the applicant's customers by way of price reductions.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant who 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 information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. All applications should be sent to:

Beacon Oil Company Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It is therefore ordered that:

(1) Applications for Refunds from the funds remitted to the Department of Energy by Beacon Oil Company pursuant to the Consent Order executed on December 17, 1979, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: February 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86–3449 Filed 2–14–86; 8:45 am]

BILLING CODE 6450–01–M

[6] Any applicant that believes it suffered a disproportionate share of Beacon's alleged violations may apply for a refund greater than the amount computed by the volumetric method. Such applicants will be required to document conclusively the disproportionate impact. In addition, we intend to set a minimum refund amount for potential claimants. In prior refund cases, we have not granted refunds for less than $15.00 because the cost of issuing such refunds exceeds the restitutionary benefits which may be achieved. *See* Office of Special Counsel, 10 DOE ¶ 85,048 at 88,214 (1982). We will utilize the same minimum refund in the present case.

[7] Applicants claiming refunds based on unpaid credit memoranda need not supply this information. *See* Section II(B), *supra.*

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 is republishing a Proposed Decision and Order in order to solicit comments concerning the appropriate procedures to be followed in refunding to adversely affected parties approximately $42,000,000 obtained as a result of a consent order which the DOE entered into with Getty Oil Company. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF–0209.

FOR FURTHER INFORMATION CONTACT: Geoffrey Stein, Staff Analyst, M. Terry Johnson, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–6602.

SUPPLEMENTARY INFORMATION: On December 20, 1985, in accordance with Section 205.282(b) of the procedural regulations of the Department of Energy, 10 C.F.R. § 205.282(b), the DOE published notice in the **Federal Register** of the issuance of the Proposed Decision and Order set out below. Certain confidential, proprietary information was deleted from the text of that determination as published. *See* 50 Fed. Reg. 51934 (December 20, 1985). At that time, the Office of Hearings and Appeals indicated that the Getty Proposed Decision would be republished with the deleted information restored in the event it obtained a waiver of the rights to confidential treatment.

Getty Oil Company and its parent company, Texaco Inc. (Texaco) have now approved publication of the Proposed Decision without deletions and thereby waived any right they may have to confidential treatment of the deleted information. We appreciate the cooperation of Getty and Texaco in agreeing to publication of the Proposed Decision in full. This will facilitate greater public understanding and fuller participation in the refund process.

Getty and Texaco still consider as confidential the data underlying the Proposed Decision, which consists of monthly volume and price information for motor gasoline, middle distillates and propane, for the period July 1975 through December 1978. This information was obtained by the Office of Hearings and Appeals from the DOE's Energy Information Administration subject to a disclosure agreement that requires the firms' approval for disclosure of the data. Consequently, disclosure of this data will only be made to parties entering into an appropriate protective order which will protect the data's confidentiality and limit its use.

We have decided that the period for public comments on the Getty Proposed Decision, which otherwise expires on February 18, 1986, should be extended until 30 days after this republication of the determination in the **Federal Register.** Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW, Washington, DC 20585.

Dated: February 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of The Department of Energy

Implementation of Special Refund Procedures

December 13, 1985.

Name of Firm: Getty Oil Company.
Date of Filing: October 13, 1983.
Case Number: HEF–0209.

On October 13, 1983, the Economic Regulatory Administration (ERA) filed with the Office of Hearings and Appeal (OHA) a Petition for the Implementation of Special Refund Procedures to distribute the proceeds of a December 3, 1979 consent order which ERA entered into with Getty Oil Company (Getty). In its Petition, ERA requests that OHA formulate and implement special procedures to make refunds in order to remedy the effects of the alleged regulatory violations that were settled in the Getty consent order.

I. Background

Getty Oil Company was an integrated refiner of crude oil and petroleum products during the period of federal price controls and was therefore subject to the Mandatory Petroleum Price and Allocation Regulations set forth at 6 CFR Part 150, and 10 CFR Parts 210, 211, and 212. The ERA conducted an extensive audit of Getty's operations and, as a result of that audit, contended in the course of a number of judicial and administrative procedings that Getty, and its wholly-owned affiliate, Skelly Oil Company (generally referred to collectively as Getty) had violated applicable DOE price and allocation regulations in its sales of crude oil and petroleum products during the audit period.[1] On December 3, 1979, the ERA executed a consent order with Getty that, with the exception of three enumerated issues, settled all compliance issues involving the firm's regulated operations during the period August 19, 1973, through December 31, 1978 (hereinafter referred to as the consent order or settlement period).[2] In that consent order, Getty agreed to deposit $25 million into an escrow account for subsequent distribution under DOE's supervision and to reduce its banks of unrecovered product and non-product costs, *see generally* 10 CFR 212.83(e), by $50 million. Consent Order, ¶ 5. In exchange for Getty's performance under the consent order, the ERA agreed not to challenge Getty's compliance with the specified DOE regulations, except for the three specific issues which were listed in the consent order. The Getty consent order specifically provided that "[E]xecution of this Consent Order constitutes neither an admission by Getty nor a finding by Special Counsel

[1] During the consent order period, Getty exercised indirect control over Skelly. It owned a 3.56 percent interest in Skelly and a 87.93 percent interest in Mission Corporation (Mission), which in turn held a 72.53 percent interest in Skelly. Skelly also marketed motor gasoline under the "Surfco" brand name. Getty and Skelly were generally considered by the agency to be a single "firm" pursuant to 10 CFR 212.83(b), but received exception relief that permitted them to report their crude oil receipts and their increased costs separately and to calculate separate allocation fractions for the period May 19, 1972 through January 25, 1977. *See* Getty Oil Co., 2 FEA ¶ 83,041 (1975); Getty Oil Co., 2 FEA ¶ 80,646 (1975). On January 25, 1977, the DOE rescinded the exception relief at Getty's request because Getty, Skelly and Mission were merging their operations effective January 31, 1977. Getty Oil Co., 5 FEA ¶ 87,009 (1977). The important fact for present purposes is that the consent order covered all of both firms' regulated activities during the settlement period.

[2] The three issues exempted from the consent order relate to: (i) a June 27, 1978 Notice fo Probable Violation (NOPV) involving crude oil production at Getty's Kern River field; (ii) the decision and order in Getty Oil Co., 1 DOE ¶ 80,102 (1977) and Getty Oil Co., Civ. No. 77–434 (D. Del.) (subsequently *aff'd* as Getty Oil Co. v. DOE, 749 F.2d 734 (Temp. Emer. Ct. App. 1984), *cert. denied,* 105 S. Ct. 1176 (1985)), concerning certain crude oil exchanges with Standard Oil Company of Ohio; and (iii) issues relating to the propriety of the costs reported by Getty or its predecessors for interaffiliate purchases of natural gas liquids or natural gas liquid products or shrinkage costs under 10 CFR Part 212, Subpart K.

or DOE that Getty has violated any statutes or applicable regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, or the Department of Energy." Consent Order, ¶ 11. The amount of escrowed funds currently held in an interest-bearing account with the United States Treasury had grown to $42,738,567.73 as of November 30, 1985.

On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures concerning the Getty settlement fund. The purpose of this determination is to set forth tentative procedures for the distribution of the Getty refund monies to persons who were likely to have been injured by Getty's alleged regulatory infractions. As in other similar proceedings, distribution of the Getty refunds should take place in two stages. The first stage will provide for refunds to identifiable purchasers of refined petroleum products who may have been injured by Getty's pricing and allocation practices during the period August 19, 1973 through December 31, 1978. If any funds remain after meritorious claims are paid in the first stage, a second stage may be necessary. We will not, however, propose second-stage procedures at this time. *See Office of Enforcement,* 9 DOE ¶ 82,508 (1981) (*Coline*).

II. Jurisdiction and Authority To Fashion Refund Procedures

The DOE procedural regulations at 10 CFR Part 205, Subpart V, provide that the OHA may, upon petition by ERA, formulate and implement special procedures by which refunds may be made to injured persons. For the following reasons, we conclude that we should assume jurisdiction over the Getty settlement fund.

During the consent order period, Getty was a producer of crude oil, a refiner and marketer of a full slate of petroleum products, and a natural gas plant operator. Getty was the twentieth or twenty-first largest domestic seller of refined petroleum products during each of the six years encompassed by the consent order. "Major Oil Companies—Refined Products Sales," *International Petroleum Encyclopedia,* 1982, XV, 424. The ERA audits which led to the Getty consent order alleged a substantial number of refiner pricing formula violations, the effects of which would generally have been spread across all of Getty's petroleum products customers. Although a few firms have identified themselves as potential refund recipients, most are not identified, and the number of potentially eligible reseller applicants alone approaches 8,000 persons in 43 states.[3] Accordingly, we have concluded that a Subpart V proceeding is appropriate to distribute the Getty settlement fund.

III. Proposed Refund Procedures

The Subpart V refund process is used by the DOE to identify and compensate persons for injuries incurred as a result of actual or alleged violations of the DOE regulatory program. *See* 44 FR 8562 (1979) ("The new subpart provides a general framework pursuant to which the DOE Office of Hearings and Appeals may order refunds to be made to *injured* persons from funds ⅓remitted by regulated firms . . .") (emphasis added). The analysis of refund claims focuses on the question of whether firms were economically injured as a result of allegedly unlawful regulatory practices, rather than on whether they were "overcharged" in a technical sense. *See Denny Klepper Oil Co. v. Dept. of Energy,* 598 F. Supp. 527 (D.C.D.C. 1984). Restitution is, however, an inexact process. Relevant case law, the Subpart V regulations and the DOE decisions in this area recognize the difficulties inherent in deciding what would have happened had overcharges not occurred.

In the case of crude oil miscertifications that were spread through the entitlements program to the entire refining industry and then to all consumers, we have previously found that it is impossible to trace the increased costs resulting from such miscertifications through an individual refiner's refining, distribution and marketing operations. *Report to the United States District Court for the District of Kansas, In re Department of Energy Stripper Well Exemption Litigation,* June 1985 at 25. Based upon that Report, the Department concluded that in the case of such crude oil miscertifications, where the harm was spread through the entire petroleum distribution system and then through the whole economy, attempts to make payments to individual firms based upon the econometric modeling techniques analyzed in our Stripper Well Report were not appropriate. Department of Energy Statement of Restitutionary Policy, 50 FR 27,400 (July 2, 1985). But in the case before us here, involving the far simpler task of analyzing the effects of alleged overcharges on the petroleum products sold by a single refiner, and where the alleged overcharges did not directly affect the costs of all competitors of those who dealt in Getty's products, it is feasible to use approximations of injury to facilitate the distribution of refunds.

Since the inception of the special refund program, the OHA has used a variety of approaches to achieve proper restitution of petroleum product overcharge funds, depending upon the particular circumstances of each case. The most important variables from case to case include the amount of information available about the alleged violations underlying a settlement, the amount of money available for distribution, and the type of business in which the consent order firm was involved. Thus, for example, in cases involving petroleum products resellers where the audit record is well-developed and includes a list of alleged overcharge victims and the overcharge amounts each party allegedly incurred, we have relied heavily upon the audit information to make preliminary determinations of alleged overcharges. *See, e.g., Bob's Oil Co.,* 12 DOE ¶ 85,024 (1984); *J.A.L. Oil Co., Inc.,* 12 DOE ¶ 85,138 (1984). In contrast, where little information concerning the alleged violations underlying a consent order was available, we have adopted more flexible procedures. *See, e.g., Thornton Oil Co.,* 12 DOE ¶ 85,112 (1984).

This proceeding is unusual. The underlying consent order involved all aspects of the operations of an integrated refiner. Getty marketed motor gasoline and middle distillates through a long distribution network. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*); *Mobil Oil Corp.,* 6 Fed. Energy Guidelines ¶ 90,058 (proposed decision) (hereinafter cited as *Mobil*). In addition, the consent order fund of $45 million is large and potential claimants number several thousand. Consequently, we began our analysis of possible Getty refund procedures by utilizing all relevant marketing information available, including publicly available information, information in the Getty audit files, and proprietary data collected by the Energy Information Administration (EIA). With this data we hoped to fashion product-specific presumptions that could be used to streamline the refund application process.[4]

[3] According to information in the record, Getty and Skelly sold motor gasoline to about 6900 wholesalers and dealers and propane through 1000 dealers.

[4] Most of the information in the Getty audit files consists of (i) arguably confidential, proprietary data, (ii) interagency memoranda containing recommendations and preliminary findings concerning the Getty audit, and (iii) investigatory material gathered during the course of ERA's enforcement investigation. These documents are likely to be exempt from disclosure under

Continued

We first examined the record to determine whether any conclusions could be drawn about potential crude oil refund claims. The audit records revealed that the auditors did not identify many significant issues concerning Getty's compliance with the DOE regulations applicable to sales of crude oil. The only significant dispute, which concerned Getty's crude oil production in a Kern County, California oil field, was excluded by agreement from the ambit of the consent order. *See* Consent Order, ¶ 3(a).[5] Moreover, an agency attorney who was involved in the negotiation of the consent order confirmed that the audit underlying the consent order included few crude oil issues. *See* December 16, 1983, Letter from Leslie Adams, Deputy Solicitor, ERA, to Terry Johnson, OHA. As a result, we anticipate that the refund applications in this case will be filed by firms that purchased Getty refined products.[6]

Potential claimants will therefore claim injury in the sale of Getty refined products. These claimants are likely to be numerous. For example, evidence in the record indicates that in 1974 alone Getty was marketing motor gasoline through 6,881 retail outlets. It would be extremely difficult, if not impossible, to trace the effects of Getty's alleged violations to these particular customers because of many factors, including the large number of purchasers, the much larger number of individual transactions which are relevant to that analysis, and the complex interplay between various aspects of the DOE pricing regulations over an extended period of time. For example, the fact that a refiner's accounting for particular transactions, *e.g.*, motor gasoline sales, may not have been in conformity with the DOE regulations does not necessarily mean that overcharges to particular customers occurred, since the firm may have had adequate banks of unrecovered costs increases to cover any cost violations. Nevertheless, our experience with petroleum products marketing, combined with an analysis of Getty pricing data at various levels, yield useful information about the most likely incidence of injury. We will use this information about the incidence of injury to adopt certain general presumptions that we have used successfully in other proceedings and will also formulate specific presumptions based upon the particular circumstances presented in this case.

A. General Presumptions

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. These presumptions will be founded upon our experience in prior Subpart V proceedings involving refined products. In addition, we will adopt some product-specific presumptions for motor gasoline based upon specific information concerning Getty's regulated operations for that product during the settlement period.

We will first adopt the presumption that the maximum refund available to a particular applicant shall be that proportion of the total consent order fund equal to the volume of Getty purchases made by that applicant divided by all sales of refined products by Getty during the relevant period. Under this "volumetric presumption," the effects of Getty's alleged violations are presumed to have been spread evenly over all of the controlled petroleum products marketed by the firm during the consent order period. We have used this presumption successfully in a number of prior cases. *See, e.g., Amoco* at 88,198. In the absence of better information, this assumption is sound because the DOE price regulations generally required refiners to account for their increased costs on a firm-wide basis in determining their prices. *See generally* 10 CFR Part 212, Subpart E. However, we also recognize that the impact of a particular refiner's pricing practices on an individual purchaser could have been greater, and we will allow purchasers to file refund applications based on a claim that the applicant suffered disproportionate injury from Getty's alleged overcharges. *See, e.g., Standard Oil Co. (Indiana)/ Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). Consequently, this presumption will be rebuttable, as will all of the presumptions which we will adopt. *See Amoco* at 88,199.

We estimate that Getty's sales of refined products that were subject to price and allocation controls during the settlement period totalled 16,667,285,701 gallons.[7] When divided into the current Getty escrow account balance of $42,738,567.73 this yields a per gallon refund of $0.002564 ($0.001426 in principal plus $0.001038 in interest accrued through September 30, 1985).[8] As in previous cases, we will establish a minimum refund amount of $15.00 for claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982).

In addition to the volumetric presumption of injury, we will adopt a presumption that any reseller or retailer who made only spot purchases from Getty probably did not suffer an injury and thus will be ineligible for a refund for those purchases. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers at 85,396–97. We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit additional

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Exemptions 4, 5 and 7 of the Freedom of Information Act, 5 U.S.C. 552, and the exempt material will be protected from disclosure. In addition, the Getty-specific data obtained from the EIA is covered by a disclosure agreement that limits third-party access to the information to firms that enter into a protective order. *See* July 12, 1984 Disclosure Agreement between EIA and OHA. This information will also be kept confidential.

[5] Due to this exclusion, we will not accept refund applications from purchasers of the crude oil specified in the referenced Notice of Probable Violation. No proposed Remedial Order was ever issued in that case. *See* Memorandum of December 11, 1984, Telephone Conversation Between Leslie Adams, Deputy Solicitor, ERA, and Terry Johnson, OHA.

[6] This is consistent with the fact that refined produce pricing violations were the focus of the Getty Consent Order. *See e.g.*, March 31, 1978, Notice of Probable Violation (alleging overstatement of costs due to excessive shipping costs); June 24, 1975, Notice of Proposed Disallowance (alleging overstatement of costs for imported crude for the months of October 1973 through April 1974).

[7] This total was calculated based upon Getty's and Skelly's refined product sales figures in the company's annual reports for 1973 through 1978.

[8] This figure is provided in order to enable claimants to estimate potential refund amounts. The appropriate *pro rata* share of interest will be added to each refund at the time of payment.

evidence to establish that it was unable to recover the increased prices it paid for Getty motor gasoline. *See Amoco* at 88,200.

An additional class of Getty customers that will be presumed not to have been injured by the firm's regulatory practices is consignee agents. Those firms established their prices at a set, per-gallon commission fee that was added to Getty's wholesale price. That type of arrangement made it likely that a consignee did not absorb any alleged overcharges. We therefore propose to adopt a rebuttable presumption that claims based on alleged overcharges which are submitted by consignees should not be approved. *See Amoco* at 88,200; *Gulf Oil Corp./C.R. Hill Oil Co.*, Case No. RF40–1004 (proposed Decision issued September 11, 1985). *Cf. Tenneco Oil Co./Kellermyer Inc.* 10 DOE ¶ 85,092 (1983) (consignee's allocation-based claim granted while its price violation claim denied).

The volumetric presumption of injury will not be applied to claims based on alleged violations of the allocation regulations. Refunds based upon allocation claims—alleging a failure by Getty to furnish product which it was obliged to supply to the claimant under the DOE allocation regulations, 10 C.F.R. Part 211—have in past cases been approved on the basis of monetary damages (if any) caused by the failure to deliver product. *See, e.g., Tenneco Oil Co./Research Fuels, Inc.*, 10 DOE ¶ 85,012 (1982). An allocation claimant should have been aware of the alleged violation at the time it occurred, and should have taken some contemporaneous action to mitigate the injury. Consequently, an allocation claimant must include with its refund application an explanation of the contemporaneous actions it took to mitigate its injury. In addition, an allocation claimant will be required to submit sufficient information to demonstrate that its claim is credible, including the best available evidence of the injury which was sustained by the claimant. The burden of establishing eligibility for a refund based on an allocation-type claim will rest on the claimant, and cases will be adjudicated on a case by case basis.

Our experience with Subpart V proceedings indicates that the likely claimants in this category in this proceeding, when more fully identified, will fall into two categories: (1) Resellers (including refiners and retailers) of Getty refined products and (2) firms, individuals, or organizations that were consumers (end-users) of Getty refined products. The products purchased by these claimants were probably purchased either directly from Getty or from other firms in a chain of distribution leading back to Getty.

As in previous cases, we will adopt a presumption of injury for small claims filed by resellers of Getty refined products other than motor gasoline. *See, e.g., J.A.L. Oil Co.*, 12 DOE ¶ 85,138 (1984). The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Getty consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, considerable expense can be entailed in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which occurred many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to OHA of analyzing it, can easily exceed the amount of the possible refund. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and to employ its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Getty and were in the chain of distribution where the alleged overcharges occurred. Therefore, they felt at least the initial impact of the alleged overcharges. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happended downstream of that initial impact.

Under the small claims presumption that we intend to adopt a reseller or retailer claimant (for products other than motor gasoline) will not be required to submit any additional evidence of injury beyond Getty purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. As in other cases, we believe that the establishment of a threshold of $5,000, exclusive of interest, is appropriate. *See Texas Oil & Gas Corp.; Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984), and cases cited therein.

Finally, as in past refined product cases we will adopt a presumption that regulated industries and agricultural cooperatives need not prove that they absorbed alleged overcharges in order to qualify for a refund on purchases they used or sold to members. Consequently, we will permit these entities to receive a full volumetric refund, provided that they include in their refund application a full explanation of the manner in which refunds will be passed through to their customers. *See Tenneco* at 85,203.

We will also treat end-users or ultimate consumers who purchased products other than middle distillates and motor gasoline, and whose business is unrelated to the petroleum industry, as having been injured by the alleged petroleum product overcharges settled in the consent order. These entities were not subject to DOE regulations during the relevant period, and thus are outside our inquiry about passthrough of overcharges. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have therefore concluded that end-users of Getty petroleum products other than motor gasoline need only document their purchase volumes from Getty to show that they were injured by the alleged overcharges.

B. Product-Specific Presumptions

The petroleum industry is highly integrated, and some petroleum products such as motor gasoline are frequently sold or transferred more than once before reaching the ultimate consumer. Accordingly, the impact of any Getty overcharges on these products was felt at each level of the distribution system for those products. The presumptions and criteria discussed below are intended to provide a mechanism for assessing what portion of the presumed per gallon injury on each gallon of Getty products was experienced at the different levels of distribution for that product.

1. Motor Gasoline

Motor gasoline sales accounted for over one-half of the volumes covered by the Getty consent order. Only a small portion of these sales were made through Getty-operated retail outlets; most of the motor gasoline sold by Getty passed through at least one intermediate distributor before it was sold to its ultimate consumer. These distributors and consumers number in the thousands. *See* note 3, *supra.* Consequently, it would be useful if we could use the data available to the agency to discern the injury absorbed by each level of the distribution chain. This would obviate the need for individual claimants to submit detailed historical data concerning their pricing practices during the consent order period, *see, e.g., Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶85,009 (1982), as well as the need for OHA to conduct a case-by-case analysis of each firm's injury. *See id.*

In previous cases involving major refiner consent order funds, *see, e.g., Amoco*, we have examined the approximate average prices charged by those refiners at each level of distribution and made findings as to the probable share of injury that was absorbed at each level in the distribution system, as reflected by the effect the refiner's price changes had on each level's profit margins. This analysis for mid-level distributors is proper because motor gasoline retailing and reselling is essentially a single-item business. Motor gasoline sales dominate for that type of firm, and its other sales of goods and sevices, such as tires, batteries and accessories, are tied to the traffic generated by motor gasoline customers. Moreover, the cost of motor gasoline represents the bulk of the firm's selling price and is the key factor in its pricing decisions.

Our profit margin analyses in two previous refiner cases used national average refiner prices, based upon our finding that the prices of each refiner involved substantially mirrored national average refiner prices. *See Amoco* at 88,206; *Mobil* at 90,117. However, those firms had large market shares during the period of price controls and their prices corresponded closely with the national average. In contrast, Getty was only the twentieth or twenty-first ranked largest seller of petroleum products during the consent order period and its reported prices for motor gasoline varied significantly from reported national averages at all distribution levels. As a result, we have concluded that Getty-specific data should be used to analyze injury for motor gasoline claimants.

Our information concerning Getty's motor gasoline prices was obtained from data which Getty filed with the EIA during the period July 1975 through December 1978.[9] In the absence of data for the other periods, we will assume that market conditions during these 42 months are representative of the market conditions which prevailed throughout the entire consent order period.

This information shows generally that Getty's wholesale motor gasoline prices were usually below the national average, while its dealer tankwagon (DTW) price, the price Getty charged independent retailers, was often close to or slightly above the national average. These near-average DTW prices did not conform to our expectation that Getty motor gasoline, as a "minor" brand product, was marketed at lower than average prices. On the other hand, Getty's *retail* motor gasoline prices were, as expected, always much lower than the national average. In other words, consumers and end-users of Getty motor gasoline paid less than purchasers of other motor gasoline nationwide during the consent order period. In addition, the data showed that including Skelly in Getty's reports beginning in February 1977 caused a significant shift in the reported sales patterns and prices. *See* note 10 below. Based upon these general observations, it appeared that the great majority of the injury experienced by Getty motor gasoline customers as a result of overcharge allegations settled in the consent order was likely absorbed by independent retailers of Getty motor gasoline. We subsequently analyzed the available data in greater detail and our analysis of each individual distribution level follows.

a. Jobbers' Sales at Dealer Tankwagon (DTW) Prices: Conclusions about the effect of Getty's prices on its jobbers can be drawn by comparing Getty's wholesale prices (sales to jobbers) and its dealer tankwagon (DTW) prices (sales to retailers) during the 42-month period from July 1975 through December 1978. That information shows that while the Getty jobbers' profit margins for sales at DTW varied between the pre-Skelly and post-Skelly periods, they were generally better than the national average.[10] During the pre-Skelly period, Getty jobbers' margins on sales at DTW average $.0340 per gallon, compared to $.0315 for their competitors. The post-Skelly period found the jobbers' profit margins increased to an average of $.045, with only the last three months of 1978 slipping below $.040, compared to a national average of $.0295. In other words, during the entire period, Getty jobbers' profit margins were, in all but six months, either higher or virtually the same as their competitors. In fact, from February 1977 onward, when Skelly was included in Getty's reports, the Getty jobbers' profit margins on sales at DTW were consistently higher by $.01 or more than competing jobbers supplied by other major refiners. The six months when Getty jobbers' profit margins were lower than national average jobber profit margins were November 1975, and January, February, May, June, and October 1976.

Getty's jobbers thus enjoyed a relative advantage over their jobber competitors throughout the period because Getty's wholesale prices were usually lower than average, while Getty's DTW prices remained generally at or above the average. The data indicate therefore that Getty jobbers did not pass on their price advantage to their DTW customers and, because of this advantageous competitive position, rarely were in a position where they would have had to absorb any of the alleged Getty overcharges. As stated above, the Getty jobbers' margins on sales at DTW were depressed in only six of the forty-two months for which we have data. Nor do the jobbers' sales volumes reflect any decline in market share during the relevant period. As noted above, we are assuming here and in the discussions below that these 42 months are representative of the entire consent order period and are concluding by extrapolation that the same level of injury occurred during the 23 months for which we lack price data.

Based on the foregoing analysis of this critically important data, we have concluded that it is appropriate to adopt a presumption that jobbers were injured in their sales at DTW only during the six months that their profit margins declined to a point below the national

[9] This information was collected on Forms FEA-P302-M-1 and EIA-460, "Monthly Petroleum Product Price Report." The EIA did not have information for either Getty or Skelly for the period prior to July 1975. In addition, Skelly was not included in these EIA reports until February 1, 1977. *See* note 1, *supra.*

[10] This corresponded to the shift in sales patterns that also was reflected in the combined reports. The Getty distribution system had relied more heavily than the national average on DTW sales to retailers. After Getty and Skelly combined, the system changed and funnelled half of the combined entity's motor gasoline sales volumes through jobbers. This may be attributable to Skelly's Midwest location, where jobbers are particularly important. Motor gasoline in that region must frequently be transported by jobbers from remote pipeline terminals, in contrast to the situation in the more populous Northeastern region of the United States, where Getty Eastern marketed its motor gasoline.

average, *i.e.*, November 1975 and January, February, May, June and October 1976. However, since we find below that firms selling Getty motor gasoline at retail—including jobbers—were also injured during those six months, the jobbers will split the volumetric refund with retailers on motor gasoline sales in those months, and the percentage of the full pro rata refund per gallon to be applied against gasoline volumes sold by a Getty jobber at DTW prices will be 7 percent (6 months of injury divided by 2 (to represent the sharing of injury), divided by 42 months in the period, or (6÷2)/42, and rounded to the nearest whole figure).

b. Retailers: As we have previously indicated, the retail price (*i.e.*, price charged to consumers) for Getty motor gasoline at Getty-owned and operated outlets for the period for which we have data was significantly below the national average. In fact, in all but one of the 42 months studied, Getty's retail prices were lower than its competitors by at least $ .020. This conformed to our expectations because at all levels of distribution non-major branded motor gasoline is usually sold at lower than average prices in order to overcome the traditional buyer preference for major-branded gasoline. However, as noted above, Getty's DTW prices were at or above national averages. While this price disparity certainly created no hardship for consumers, assuming that independent dealers had to meet the Getty price, Getty's pricing adversely affected the independent retailers and the jobber-operated retailers marketing Getty motor gasoline. Throughout the consent order period, margins for Getty independent retailers were always substantially lower than those of their competitors, except for the last three months of 1978. Similarly, Getty's jobber-owned retail outlets' margins, *i.e.*, the difference between wholesale and retail prices, were $ .04 to $ .05 below the national average prior to the addition of Skelly to the data base, and afterwards recovered only to a consistent $ .02 below national average, except in the last two months of 1978.

We therefore conclude that all retailers of Getty motor gasoline were not able to pass through the Getty alleged overcharges and were therefore injured by the alleged Getty overcharges during the period for which we have data, except for the last two months of 1978, and we shall adopt a presumption that reflects this finding. For ease of applicants and for processing purposes, the presumption will be set at 93 percent, rather than varying according to the source (*i.e.*, Getty, jobber or owner-jobber) of the motor gasoline for which the retailer is filing a claim. We believe that that percent approximates the average injury suffered by this group.[11]

c. Consumers: Prior to its consolidation with Skelly, Getty's direct sales to consumers at Getty-owned and -operated retail outlets comprised a meager 1.7 percent of its total motor gasoline sales volumes, compared with a national average of 11.6 percent. During that period, almost three-quarters of Getty's sales were at DTW. After February 1977, the proportion of Getty motor gasoline sold at retail increased to 7 percent for the period February 1977 through December 1978, which was still much less than the national average of 13 percent. The addition of Skelly shifted Getty's motor gasoline marketing composition to about one-half sales at wholesale, reflecting Skelly's operations in the Midwest, where sales by refiners to jobbers are usually more prevalent. Overall, Getty's motor gasoline sales at retail accounted for only 5.69 percent of Getty's total sales of motor gasoline for the period for which we have data.

During the period which we examined, Getty's retail prices were always substantially below national average prices. As noted above, we find that this significant price disparity apparently forced Getty's jobbers and retailers to absorb the vast majority of the alleged overcharges on motor gasoline for all but the last three months of 1978, when Getty's retail prices began to rise faster than the national average. Consequently, we have concluded that persons filing claims based upon purchases of Getty motor gasoline at retail will be presumed to have absorbed injury only for 7 percent of volumes purchased during the consent order period (100 percent minus 93 percent). Consumers that purchased motor gasoline directly from Getty did not share the impact of the alleged overcharges with any intermediate party and, accordingly, those claimants will receive 100 percent of the volumetric refund

d. Motor Gasoline Refund Procedures: Where a refund applicant states that it is willing to be subject to the applicable presumption for its motor gasoline purchase volumes, we propose to pay a refund to each claimant, depending upon that claimant's position in the distribution chain, for the appropriate percentage of the refund per gallon on the volumes which it purchased, without any further showing of injury. These presumptions are as follows:

Type of claimant	Applicable percentage
Jobber (sales at DTW)	7
Jobber (sales at retail)	93
Retailer (product purchased directly from Getty)	93
Retailer (product purchased from reseller)	93
Consumer (purchases at retail)	7
Consumer (product purchased directly from Getty)	100

These presumptions are rebuttable, like all of the presumptions we use in Subpart V proceedings, so that claimants may offer additional evidence of injury which could form the basis for the approval of larger refunds. Firms that did not purchase Getty-Skelly-, or Surfco-branded product should explain the basis for their belief that the product which they purchased was Getty motor gasoline. A claimant filing a non-presumption type of refund application will be obliged to provide, in addition to a schedule of its purchase volumes, information to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, each reseller or retailer will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recoup the alleged overcharges by increasing its prices. *See Vickers.* In addition, a non-presumption claimant must demonstrate that, at the time it purchased motor gasoline from Getty, market conditions would not permit it to increase its prices to pass through the additional costs associated

[11] In the case of independent retailers supplied by jobbers, the applicable percentage is calculated by adjusting to account for the six months during which both retailers and jobbers experienced an impact as a result of the alleged overcharges. This figure is 85.71 percent (42 months minus 3 months of non-injury, less ½ of the six months in which jobbers shared injury, divided by the 42 months of the period, or 36/42). Similarly, for jobbers who sold motor gasoline through their own retail outlets, the presumption of injury would include all but the last two months of 1978, when their profit margins exceeded the national average, and is precisely calculated to be 95.24 percent of their purchases for the period (42 months minus 2 months, divided by 42 months). Finally, retailers who purchased product directly from Getty at DTW prices, and thus did not share the burden of the alleged overcharges with any intervening reseller, absorbed 92.86 percent of the volumetric amount for the volumes which they purchased (42 months minus 3 months, divided by 42 months). This last group represents about one-half of the total motor gasoline volumes, and jobber-owned outlets represent the majority of the rest of the Getty retail market. We therefore chose 93 percent, rather than 91.27 percent, the arithmetic mean of these three figures. The use of an average will further administrative efficiency by permitting more rapid agency processing. In addition, each retailer will only be obliged to provide the volume and source of the Getty motor gasoline it purchased, not the regulatory status of its supplier. Retailers themselves are often uncertain as to the exact status of their supplier.

with the alleged overcharges. *See Amoco* at 88, 223.[12]

2. Middle Distillates and Propane

Unlike motor gasoline, middle distillates and propane are customarily sold at only two levels of distribution, wholesale and retail. Reliable information about the marketing of these products sufficient for us to propose level-of-distribution presumptions is not currently available to the DOE. Consequently, we propose to adopt for applicants filing a claim for these products the generally applicable presumptions set forth in Section III.A above. However, we will state the information that is currently available, and we invite commenters to supplement that data or to propose analyses of the data which we have obtained that might lead to formulation of reliable level-of-distribution presumptions of injury for these products.

Middle distillates, which include heating oil and diesel fuel, were subject to price controls for only a portion of the Getty settlement period—from August 19, 1973 through June 30, 1976. Since the EIA did not begin its systematic collection of price data until July 1975, it was only able to provide us with Getty and national average wholesale and retail middle distillate price information from one year of the Getty consent order, the period July 1975 through June 1976, or 12 months out of the 35 relevant months. Moreover, since Skelly was not included in Getty's reports until February 1977, the EIA data only encompass Getty's operations in the eastern United States. Consequently, we have serious reservations as to whether this data could form a sufficient basis for the adoption of level-of-distribution presumptions for this product.

Upon closer examination, we found other difficulties involving the middle distillate data. During the year for which we have EIA data, Getty's reported wholesale middle distillate prices fluctuated dramatically in comparison to the national average, which rose gradually over the period. The same effect was observed for retail middle distillate prices. Without an explanation for this erratic behavior, we cannot confidently use this data to propose level-of-distribution presumptions for middle distillate resellers and consumers.

Propane was subject to federal price and allocation controls throughout the entire Getty consent order period. Again, EIA did not make a systematic collection of propane prices until July 1975, and Skelly, which could be expected to make greater than average sales of propane due to its midwestern location was not included in Getty's reports to EIA until February 1977. EIA reports that, although Form FEA P302–M–1 sought information concerning propane sales volumes and prices in the categories of residential, commercial, industrial, and agricultural sales, Getty did not report any sales in the residential class. The EIA considers all sales to other than residential customers to be wholesale; consequently, it was only able to furnish us price information for one level of distribution. We are therefore unable to conduct an analysis of propane profit margins in order to discern injury at the different levels of distribution.

Nevertheless, these products form a substantial portion of Getty's sales of refined products during the consent order period. Middle distillates comprise 12 percent, and propane almost 17 percent, of the refined products covered by the Getty consent order. Without the aid of presumptions concerning the amount of injury that was absorbed at each level of distribution, those middle distillate and propane claimants who were resellers will be obliged either to submit detailed information concerning their pricing practices during the consent order period, in order to demonstrate that they were unable to pass on the injury to their customers, or to limit their claims to the $5,000 threshold amount. *See, e.g., Tenneco.* Similarly, OHA will be obliged to conduct a case-by-case analysis of the level of injury sustained by each claimant.

In order to remedy this information gap, we would be willing to accept from responsible industry representatives any compilations or studies of Getty middle distillate and propane prices that are documented sufficiently to provide a reliable basis for analyses of the impacts on wholesalers and consumers of Getty's price changes for these products during the consent order period. This information need not cover the entire consent order period, but it should cover enough time to enable us to extrapolate confidently over the rest of the consent order period. Commenters may also wish to propose analyses of the data which we have obtained that would support level-of-distribution presumptions of injury for these products. If we are unable to obtain further information or to formulate appropriate level-of-distribution presumptions, we propose to distribute refunds to middle distillate and propane refund applicants based upon the general principles and presumptions discussed above.

3. Other Refined Products

The remaining refined products other than motor gasoline, middle distillates and propane made up about 4.67 percent of Getty's product sales during the consent order period. We were unable to locate enough reliable information about Getty's and other refiners' marketing practices for these refined products to allow us to formulate appropriate level of distribution presumptions for them. Firms filing refund applications based upon their purchases of these products will therefore be required to demonstrate the amount of injury which they absorbed. However, we will employ the presumptions of injury which we discussed above, including the presumption for small claimants.

IV. Summary of Refund Procedures

In order to receive a refund each claimant will be required to submit a schedule of monthly purchases of covered products from Getty for the period August 19, 1973 through December 31, 1978. A suggested application format will be provided in the final Decision. If the products were not purchased directly from Getty, the claimant will be required to include a statement setting forth reasons for believing the product originated with the firm. *See, e.g., Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶85, 007 (1093) In addition, a reseller or retailer of refined petroleum products (other than a claimant relying on the presumptions for motor gasoline) that files a claim generally will be required to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, each reseller or retailer will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 (1982) at 88,125. In addition, it will have to demonstrate that, at the time it purchased covered products from Getty, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In the alternative, purchasers of Getty

[12] For example, a refund applicant could provide a complete schedule showing its purchase and selling prices for motor gasoline during the settlement period, so that we could identify and approve refunds for each month in which the firm's profit margin fell significantly. *See, e.g.* Standard Oil Co. (Indiana)/Lou's All Service, Inc., 12 DOE¶ 85,061 (1984); Standard Oil Co. (Indiana/East Side Truck Stop, 11 DOE ¶ 85,141 (1983)

products which limit their claims to $5,000 will only be required to provide sufficient evidence of Getty product purchases to qualify for a refund.

We solicit comments on all aspects of the foregoing Proposed Decision from interested individuals and organizations. All comments must be filed within 60 days of publication of this Proposed Decision in the Federal Register.

It is therefore ordered that:

The refund amount remitted by Getty Oil Company pursuant to the consent order executed on December 3, 1979, will be distributed in accordance with the foregoing Decision.

[FR Doc. 86-3450 Filed 2-14-86; 8:45 am]
BILLING CODE 6450-01-M

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 solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $35,971 obtained as a result of consent orders which the DOE entered into with the following parties:

Leathers Oil Co. of Portland, Oregon;
Marlen L. Knutson Distributors, Inc., of Stanwood, Wisconsin.

The funds are being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, with reference to the appropriate proceeding:

Leathers Consent Order Proceeding (Case No. HEF-0113);
Knutson Consent Order Proceeding (Case No. HEF-0110).

All comments should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Nancy Kestenbaum, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to consent orders which settled possible pricing violations with respect to two firms' sales of motor gasoline during the consent order periods listed below. Under the terms of the consent orders, each firm remitted a specified sum of money to the DOE. Each fund is being held in an individual interest-bearing escrow account pending determination of its proper distribution.

Consent order firm	Consent order period	Consent order amount
Leathers Oil Co., Portland, OR.	Mar. 1, 1979-Dec. 31, 1979.	$10,000
Marlen L. Knutson, Distributors, Inc., Stanwood, WI.	Mar. 1, 1979-Dec. 31, 1979.	$25,971

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to three first purchasers of motor gasoline from Knutson who may have been overcharged. In order to obtain a refund each claimant will be required either to submit either a schedule of the volumes of motor gasoline purchased during the consent order period relevant to the firm from which it purchased the product, or to submit a statement verifying that it purchased motor gasoline from Knutson and is willing to rely on the data in the audit files. Certain firms will also be required to make specific demonstrations of injury. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit These purchasers will be required to provide specific documentation concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds any remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in these proceedings will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: February 7, 1986.

George B. Breznay,
Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

February 7, 1986.

Name of Firms: Leathers Oil Co., Marlen L. Knutson Distributors, Inc.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0113, HEF-0110.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with consent orders entered into with Leathers Oil Co. (Leathers), and Marlen L. Knutson Distributors, Inc. (Knutson) (hereinafter both of the companies referenced above will be collectively referred to as the consent order firms).

I. Background

Leathers and Knutson are both "reseller-retailers" of motor gasoline as that term was defined in 10 CFR 212.31. Leathers is located in Portland, Oregon, and Knutson is located in Stanwood, Wisconsin. A DOE audit of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. Subsequently, each firm entered into a separate consent order with the DOE. The consent orders refer to EPA's allegations of overcharges, but note that there were no findings that violations occurred. Additionally, the consent orders state that the consent order firms do not admit that they committed violations. A brief discussion of the pertinent matters covered by each consent order follows.

The Leathers consent order covers the period March 1, 1979 through December 31, 1979. In order to settle all claims and

disputes between Leathers and the DOE regarding Leathers' compliance with the DOE's price regulations in its sales of motor gasoline during the period covered by the audit, the firm entered into a consent order with the DOE on October 15, 1981. The consent order amount represented 38 percent of the potential liability, including interest. In accordance with the consent order, Leathers agreed to remit $10,000 to the DOE for deposit into an interest-bearing escrow account pending distribution by the DOE. Leathers paid the $10,000 in full on October 20, 1980.[1]

The Knutson consent order covers the firm's sales of motor gasoline made during the same period, March 1, 1979 through December 31, 1979. The consent order, which was made effective on September 24, 1981, resolved a Notice of Probable Violation (NOPV) issued on October 6, 1980. The consent order required that Knutson deposit $25,971 into an interest-bearing escrow account for ultimate distribution by the DOE. Knutson fulfilled this requirement on October 19, 1981.[2]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines which may be used by OHA in formulating and implementing a plan of distribution for funds received as a result of enforcement proceedings. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who might have been injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

As in other Subpart V cases, we believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of refined petroleum products who may have been injured by the consent order firms' pricing practices during their particular consent order periods. Any funds that remain after all meritorious first-stage claims have been paid may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identified and Unidentified Purchasers

A special refund proceeding is designed to provide restitution to parties that were injured as a result of alleged or actual regulatory violations. We have consistently maintained that the information contained in ERA's audit files may reasonably be used to determine the identities of purchasers allegedly overcharged in the first instance and the amounts of the overcharges. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984). In the Knutson proceeding three first purchasers were identified in the material developed by the DOE during its audit of Knutson. The total amount of refunds assigned to these purchasers equals $753, plus accrued interest. The first purchasers identified by the audit and the share of the settlement earmarked for each are listed in the Appendix.

In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the purchasers identified in the audit, and other as yet unidentified customers that may have been injured by purchases from the consent order firm. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Richards Oil Co.*, 12 DOE ¶ 85,150 (1984). Therefore, in the Knutson proceeding we will allot the remaining $25,218 plus accrued interest to those unidentified purchasers. No first purchasers were identified in the DOE's audit of Leathers. Therefore, all of the funds in the escrow account will be allotted to customers who are as yet unidentified.

As we have done in many prior refund cases, we propose to adopt certain presumptions which will be used to help determine the level of a purchaser's injury. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. 10 CFR 205.282(e). The presumptions we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

As an initial matter, we will adopt a presumption that the alleged overcharges committed by the consent order firms were dispersed evenly among all sales of motor gasoline made by the firms during their relevant consent order periods. In the past, OHA has used a volumetric refund amount as an equitable means of distributing funds based on this presumption. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

We recognize that the impact on an individual purchaser could have been greater than that estimated by using the volumetric factor, and any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./ Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984), and cases therein at 88,164.

Using a volumetric approach, a successful claimant's refund is determined by multiplying a factor, known as the volumetric refund amount, by the number of gallons of motor gasoline purchased by the claimant. For claimants which purchased motor gasoline from Leathers the volumetric factor is $0.000658 per gallon.[3] For successful applicants applying for a share of the Knutson escrow account, the volumetric factor is $0.002045 per gallon.[4] In addition, successful claimants will receive a proportionate share of the accrued interest.

Second, we plan to presume that purchasers of the consent order firms' products seeking small refunds were injured by the consent order firms' pricing practices. There are a number of bases for the presumption that claimants seeking small refunds were injured. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). The firms that will be eligible for refunds are purchasers that were in the chain of distribution of the products to which the alleged overcharges are attached. These purchasers therefore experienced some impact of the alleged overcharges. Without some presumptions as to injury, in order to support a specific claim of injury a claimant would have to compile and submit very detailed factual information regarding the impact of alleged overcharges which occurred many years ago. This procedure is generally time-consuming and expensive. In the case of relatively small claims, the cost to the claimant of gathering the necessary information and the cost to OHA of analyzing it could certainly exceed the

[1] As of January 31, 1986, the Leathers escrow account contained $15,162, representing $10,000 in principal, and $5,162 in accrued interest.

[2] As of January 31, 1986, the Knutson escrow account contained $39,597 representing $25,971 in principal, and $13,626 in accrued interest.

[3] This figure was derived by dividing the $10,000 principal amount by the estimated 15,189,084.73 gallons of motor gasoline sold by Leathers during the consent order period.

[4] This figure was derived by dividing the $25,218 principal amount by the 12,331,179 gallons of motor gasoline which the company stated it sold during the consent order period.

expected refund and whatever benefits are derived from any additional precision. Consequently, without simplified procedures, some potential claimants would be effectively denied an opportunity to seek a refund since it would be uneconomic to do so. As a result, we intend to adopt a small claims presumption which will eliminate the need for a claimant to submit and OHA to analyze extensive, detailed proof of the result of the initial impact of the alleged overcharges.

Under the small-claims presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Several factors determine the value of this threshold. Principal among these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

Unlike threshold claimants, an applicant which claims a refund in excess of $5,000 will be required to document its injury. A reseller will be required to demonstrate that it maintained a "bank" of unrecovered product costs in order to show that it did not pass along the alleged overcharges to its own customers. [5] In addition, a reseller claimant must show that market conditions would not permit it to pass through those increased costs. *See, e.g., Triton Oil and Gas Corporation/Cities Service Company*, 12 DOE ¶ 85,107 (1984); *Tenneco Oil Company/Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982).

We propose that retailer claimants be subject to a different requirement for demonstrating injury than that outlined above for reseller applicants. We believe a modification of the injury requirement for retailers is justified because during most of the firms' consent order periods, specifically, from July 16, 1979 to December 31, 1979, retailers of motor gasoline were not required to compute MLSPs with reference to May 15, 1973 selling prices and increased costs. *See* 10 CFR 212.93; 45 FR 29546 (1980). Instead, effective July 16, 1979, a retailer was required to calculate its MLSP under a fixed-margin approach set forth in the new rule. Unrecouped increased product costs could no longer be banked for later recovery. *Id.*

We note that retailer applicants in other refund proceedings are generally unable to claim refunds above the threshold amount if they lack a showing of banks of unrecouped product costs, since banks help to prove that a firm absorbed rather than passed through its increased product costs. However, for the purposes of this proceeding, we propose that retailers which lack banks subsequent to July 16, 1979 may still file a claim for a refund for that period which exceeds the small claim threshold.[6] Retailers should, however, submit bank calculations from March 1, 1979 through July 16, 1979. In addition, like resellers, they must show that market conditions prevented them from recovering those increased costs. Indicators of a competitive disadvantage include a detailed description of lowered profit margins, decreased market shares, or depressed sales volumes.[7]

As noted, we are proposing a finding that end user—or ultimate consumer—purchasers whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. Therefore, to prove injury, ultimate consumers must document only their purchase volumes.

As in previous cases, only claims for at least $15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

B. Applications for Refund

Any purchaser claiming a portion of the consent order funds should file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule, broken down by product, of its monthly purchases from the consent order firm. Applicants should also provide all relevant information necessary to support their claim in accordance with the presumptions stated above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying these proceedings. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as party in DOE enforcement or private, § 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address

[5] This injury requirement reflects the nature of the petroleum price regulations in effect beginning on August 19, 1973, and ending on July 16, 1979 for retailers, and on May 1, 1980 for resellers. Under the original rules, a reseller or retailer of motor gasoline was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 15, 1973 with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that those costs could be recouped in a later month, if possible. *See* 10 CFR 212.93; 45 FR 29546 (1980).

[6] The cost bank requirement has been relaxed in other instances regarding the change in the pricing regulations for motor gasoline. *See* Tenneco Oil Company/United Fuels Corporation, 10 DOE ¶ 85,005 at 88,017 n.1 (1982) (Tenneco).

[7] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982) (Ada).

alternative methods of distributing any remaining funds.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Leathers Oil Co. and Marlen L. Knutson Distributors, Inc. pursuant to the consent orders executed on October 15, 1981 and September 24, 1981, respectively, will be distributed in accordance with the foregoing decision.

APPENDIX

MARLEN L. KNUTSON DISTRIBUTORS, INC.

First purchasers	Share of settlement
Elger Bay, 1992S Elger Bay Road, Camano Island, Washington 98292	$52
Gary Drivstuen, Red Barn Snow King, 202 Ferry Street, Monroe, Washington 98272	632
Whitehorse Mercantile, 38710 SR530, Arlington, Washington 98223	78

[FR Doc. 86-3451 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

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 solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $6,500 obtained as a result of a consent order which the DOE entered into with Lakes Gas Co.,Inc., a retailer of propane located in Forest Lake Minnesota. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0112.

FOR FURTHER INFORMATION CONTACT: Nancy L. Kestenbaum, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $6,500 plus accrued interest obtained by the DOE under the terms of a consent order entered into with Lakes Gas Co., Inc. The funds were provided to the DOE by Lakes to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of propane during the consent order period November 1, 1973 through February 29, 1980.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentively determined that a portion of the consent order funds should distributed to one first purchaser who may have been overcharged. In order to obtain a refund, each claimant will be required either to submit a schedule of its monthly purchases from Lakes or to submit a statement verifying that it purchased aviation fuel from Lakes and is willing to rely on the data in the audit files. Certain firms will also be required to make specific demonstrations of injury. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit. These purchasers will be required to provide specific documentation concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: February 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

February 7, 1986.

Name of Petitioner: Lakes Gas Company, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0112.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administrating (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connecting with a consent order entered into with Lakes Gas Company, Inc. (Lakes).

I. Background

Lakes is a "retailer" of propane as that term was defined in 10 CFR 212.31 and is located in Forest Lake, Minnesota. Based on an audit of Lakes' records, ERA issued a Remedial Order on July 11, 1979, alleging that Lakes committed certain pricing violations with respect to its sales of propane.

In order to settle all claims and disputes between Lakes and the DOE regarding the firm's sales of propane during the period covered by the Remedial Order, Lakes and the DOE entered into a consent order on April 17, 1980. The consent order funds represented 48.28 percent of the amount of the overcharges originally stated in the Remedial Order. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, the consent order states that Lakes does not admit that it violated the regulations.

The consent order required Lakes to refund $50,000 plus accrued interest to its customers. Through a series of price rollbacks, Lakes reduced this amount to $9,925. At that point, Lakes and the DOE negotiated a settlement in which Lakes agreed to deposit $6,500 into an interest-bearing escrow account for ultimate distribution by the DOE. Lakes remitted this sum on June 11, 1981. This decision

concerns the distribution of funds in the Lakes escrow account.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement,* 8 DOE ¶ 8,2597 (1981) (*Vickers*).

As in other Subpart V cases, we believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of propane that were injured by Lakes' alleged pricing practices between November 1, 1973 and February 29, 1980 (the consent order period). Any funds that remain after all meritorious first-stage claims have been paid may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identified and Unidentified Purchasers

A special refund proceeding is designed to provide restitution to parties that were injured as a result of alleged or actual regulatory violations. In this proceeding one first purchaser was identified in the material developed by the DOE during its audit of Lakes.[2] We have consistently maintained that the information contained in ERA's audit files may reasonably be used to determine the identities of purchasers allegedly overcharged in the first instance and the amounts of the overcharges. *See, e.g., Marion Corp.,* 12 DOE ¶ 85,014 (1984).

In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the purchasers identified in the audit, and other as yet unidentified customers that may have been injured by purchases from the consent order firm. *See, e.g., Bob's Oil Co.,* 12 DOE ¶ 85,024 (1984); *Richards Oil Co.,* 12 DOE ¶ 85,150 (1984). Therefore, we will allot the remaining $6,373 plus accrued interest to those unidentified purchasers. As we have done in many prior refund cases, we propose to adopt certain presumptions, which will be used to help determine the level of a purchaser's injury.

The use of presumptions in refund cases is specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a presumption that the alleged overcharges were dispersed evenly among all sales of products made during the consent order period. In the past, we have referred to a refund process that uses this presumption as a volumetric system. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. As a separate matter, we are making a proposed finding that end users experienced injury.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Carbon and Gasoline Co. and Richardson Product Co. Siouxland Propane Co.,* 12 DOE ¶ 85,054 (1984), and cases cited therein at 88,164.

Under the volumetric system we propose to adopt, a claimant will be eligible to receive a refund equal to the number of gallons purchased from Lakes times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.000179.[3] In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we plan to use is that claimants seeking small refunds were injured by Lakes' pricing practices. There are a number of bases for such a presumption. *See, e.g., Uban Oil Co.,* 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore experienced some impact of the alleged overcharges. Under the small-claims presumption, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain threshold level.[4]

As noted, we are proposing a finding that end user—or ultimate consumer—purchasers whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to prive controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement,* 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.,* 12 DOE 88,209, and cases cited therein. Therefore, to prove injury, ultimate

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[1] As of January 31, 1986, the Lakes escrow account contained a total of $10,471, representing $6,500 in principal and $3,971 in accrued interest.

[2] The identified purchaser is Thurnbeck of Forest Lake, Minnesota. He is entitled to 1.955 percent of the settlement, which equals $127 plus accrued interest.

[3] This figure is derived by dividing the $6,373 remaining principal amount by the estimated 35,500,000 gallons of product sold by Lakes during the consent order period.

[4] Due to the relatively small size of the escrow account, we will not include a detailed discussion of the threshold amount here. The usual standards for claims in excess of this $5,000 threshold are applicable here, however. For a more detailed discussion of these standards, see Texas Oil & Gas Corp., 12 DOE ¶ 85,069 (1984) Office of Special Counsel, 11 DOE ¶ 85,226 (1984) (Conoco), and cases cited therein.

consumers must document only their purchase volumes.

As in previous cases, only claims for at least $15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE At 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

B. Applications for Refund

Any purchaser claiming a portion of the consent order funds should file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule, broken down by product, of its monthly purchases from Lakes. Applicants should also provide all relevant information necessary to support their claims in accordance with the presumptions stated above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying these proceedings. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as party in DOE enforcement or private, section 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Lakes Gas Company, Inc., pursuant to the consent order executed on April 17, 1980, will be distributed in accordance with the foregoing decision.

[FR Doc. 86-3453 Filed 2-14-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ORD-FRL-2971-1]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Determination

Notice is hereby given that on December 31, 1985, the Environmental Protection Agency received an application from Dasibi Environmental Corporation to determine if its Model 4108 U.V. Fluorescence SO_2 Analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the Federal Register.

For Further Information Contact: Mr. Frederick Smith at (919) 541-4173.

Donald J. Ehreth,

Acting Assistant Administrator for Research and Development.

[FR Doc. 86-3405 Filed 2-14-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

Coronado Federal Savings and Loan Association, Kansas City, KS; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed Max M. Polk as sole conservator for Coronado Federal Savings and Loan Association, Kansas City, Kansas on February 7, 1986.

Dated: February 11, 1986.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86-3378 Filed 2-14-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 86-7]

The Secretary of the Army on Behalf of the Department of Defense v. the Port of Seattle; Filing of Complaint and Assignment

Notice is given that a complaint filed by the Secretary of the Army on behalf of the Department of Defense against the Port of Seattle was served February 12, 1986. The complaint pertains to Army-Air Force Exchange Service shipments of palletized bags of flour by rail boxcar from Pendleton, Oregon through the Port of Seattle, Washington (Port) to the Far East. Complainant alleges that respondent has violated sections 10(b)(12) and 10(d) of the Shipping Act of 1984 with regard to services provided in cross-loading pallets from rail cars to outbound marine containers at the Port.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by February 12, 1987, and the final decision of the Commission shall be issued by June 12, 1987.

John Robert Ewers,

Secretary.

[FR Doc. 86-3431 Filed 2-14-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barnett Banks of Florida, Inc.; Correction

This notice corrects a previous Federal Register document (FR Doc. No. 86-924), published at page 2433 of the issue for Thursday, January 16, 1986.

Barnett Banks of Florida, Inc., Jacksonville, Florida; to engage *de novo* through its subsidiary, Statewide Administrative Services, Inc., Jacksonville, Florida, in data processing activities pursuant to § 225.25(b)(7) of

Regulation Y by monitoring the loan portfolios of affiliated banks in order to identify loans with uninsured collateral, by force-placing vendor's single interest insurance with respect to such collateral, and by performing recordkeeping and administrative functions on behalf of the insurer, including the collection of premiums. These services would be conducted in the State of Florida. Comments on this application must be received not later than March 1, 1986.

Board of Governors of the Federal Reserve System, February 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-3373 Filed 2-14-86; 8:45 am]

BILLING CODE 6210-01-M

First Commercial Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Cos.

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 March 6, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Commercial Bancshares, Inc.*, Metairie, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial Bank and Trust Company, Metairie, Louisiana, thereby indirectly acquiring First National Bank of St. Bernard Parish, Arabi Louisiana.

Board of Governors of the Federal Reserve System, February 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-3374 Filed 2-14-86; 8:45 am]

BILLING CODE 6210-01-M

Independence Bancorp, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 1986.

A. **Federal Reserve Bank of PHiladelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Independence Bancorp, Inc.*, Perkasie, Pennsylvania; to engage *de novo* through its subsidiary, Independence Abstract, Inc., Perkasie, Pennsylvania, in title insurance business activities and also to act as an authorized agent for a title insurance underwriter, pursuant to section 225.25(b)(?) of Regulation Y.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to engage *de novo* through its subsidiary, Texas Commerce Mortgage Company, Houston, Texas, in the origination of mortgage loans; sale of mortgage loans to mortgage servicing companies and other parties, including member banks of Texas Commerce; servicing of mortgage loans and sale of servicing rights to mortgage loans, pursuant to § 225.25(b)(1) of Regulation Y.

2. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to engage *de novo* through its subsidiary, Texas Commerce Capital Markets, Inc., Houston, Texas, in the origination, sale and servicing of commercial loans, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-3375 Filed 2-14-86; 8:45 am]

BILLING CODE 6210-01-M

Southgate Banking Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Co.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Southgate Banking Corporation,* Prairie Village, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The Southgate Bank, Prairie Village, Kansas.

Applicant has also applied to acquire through its newly formed Company, The Southgate Trust Company, Prairie Village, Kansas, certain assets and fiduciary obligations of the trust department of The Southgate Bank, Prairie Village, Kansas, and thereby engage in performing trust company functions, pursuant to, and in keeping with, the restrictions of § 225.25(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, February 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-3376 Filed 2-14-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health: Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently in pertinent part at 49 FR 30598, July 31, 1984) is amended to reflect the following changes in the Office of Research Services (HNAA): (1) Delete the Division of Administrative Services (HNAA3); and (20 establish the Division of Space Management (HNAA5), the Division of Procurement (HNAA6), the Division of Logistics (HNAA7), and the Division of Technical Services (HNAA8). These changes will enable the Office of Research Services to better fulfill its mission which is to provide appropriate leadership for research and facilities services.

Section HN-B, Organization and Functions is amended as follows: (1) Under the heading *Office of Research Services (HNAA),* delete the statement for the Division of Administrative Services (HNAA3) in its entirety.

(2) After the statement for the *Division of Engineering Services, (HNAA4),* insert the following:

Division of Space Management (HNAA5). (1) Responsible for all aspects of real property management, owned and leased quarters; (2) administers the assignment of space made by the Director, NIH, on and off campus; and (3) manages non-Federal support and concession activities, e.g., the cafeterias and the Credit Union.

Division of Procurement (HNAA6). (1) Provides the central service and is responsible for all aspects of station support and intramural procurement, (accounting for several hundreds of million dollars annually); (2) manages the program using small purchases, formal advertisement and negotiated contracting procedures; (3) provides technical assistance in specification preparation and in Small and Disadvantaged Business opportunities; (4) provides for follow-up on orders and for continuing contract administration; (5) formulates and disseminates policies and procedures to implement Federal and Departmental regulations (meeting needs for guidance in the procurement function); and (6) provides oversight and technical assistance (manuals and training guides) to decentralized station support procurement operations.

Division of Logistics (HNAA7). (1) Plans and operates a centralized NIH-wide supply system providing a variety of needed chemical and other scientific and medical requirements; (2) provides transport services both in connection with the central supply system and the self service stores as well as support of all campus activities, and (3) manages a personal property program (which accounts for and effectively utilizes government property used at the NIH).

Division of Technical Services (HNAA8). (1) Plans and conducts a centralized program of specialized services in support of the scentific and research community; (2) manages the NIH telecommunications programs which serve the campus, rental buildings and field activities; (3) provides printing and other comprehensive written communications service; (4) manages a program of travel consultation, policy dissemination and services; (5) conducts a program of comprehensive laboratory and general cleaning services; (6) plans and provides a variety of conference services; and (7) provides other administrative services as required.

Dated: February 4, 1986.

Donald Ian Macdonald,

Acting Assistant Secretary for Health.

[FR Doc. 86-3419 Filed 2-14-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-85-1573; FR-2133]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management, and Property Disposition Program, Moderate Rehabilitation Program and Housing Voucher Program; Correction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed notice; correction.

SUMMARY: This document corrects a notice published on January 2, 1986 in the **Federal Register** proposing Fair Market Rent Schedules for the Section 8 Existing Housing Certificate Program and Moderate Rehabilitation Program (Part 882), including space rentals by owners of manufactured homes under the Section 8 Existing Housing Certificate Program (Part 882, Subpart F) and for existing housing assisted under Part 886, Subparts A and C. The FMRs also are used to determine the Initial Payment Standard and subsequent Payment Standard schedules in the Housing Voucher Program. The proposed notice contained errors for several counties, which are corrected in this Notice.

DATES: *Comment Due Date:* Comments on the Fair Market Rents proposed in today's document must be submitted on or before April 21, 1986. Please note that this comment period applies only to *today's* proposed rents.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410–0500. Each comment should include the commenter's name and address and must refer to the docket number indicated in the heading of this Notice. Each commenter should simultaneously submit a copy of its comments to the Economic and Market Analysis Division in the appropriate HUD Field Office. A copy of each comment submitted to the Rules Docket Clerk will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Ellis V. St. Clair, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 755–5590. For other program information, contact Cecelia D. Livingston, Existing Housing Division, Office of Elderly and Assisted Housing, telephone (202) 755–6477. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Department published proposed Fair Market Rents on January 2, 1986 (see 51 FR 75). This document contained proposals for approximately 2,400 nonmetropolitan counties and 330 metropolitan areas. The proposed FMRs for approximately 150 nonmetropolitan counties in Census County Groups that include both metropolitan and nonmetropolitan counties are not calculated correctly, because the data for the metropolitan counties were not deleted from the county group base data. The inadvertent inclusion of the metropolitan county data resulted in proposed FMRs that are higher than they should be for these 150 nonmetropolitan counties. The proposed FMRs for these counties are being corrected in this document.

Because of the potential impact on these 150 nonmetropolitan counties, the Department is providing for a full 60-day comment period for the counties listed at the end of this document. Comments should include the same kind of data requested in the January 2, 1986, **Federal Register** notice, which are repeated below for the use of the commenter. Areas affected by the correction document *need not* submit a notice of intent to comment, as was required for earlier commenters. However, comments should meet the following guidelines:

Comments on FMR levels should include sufficient information (including a full description of local data and methodology used) to justify any proposed changes. Changes may be proposed in all or any of the unit sizes on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire market area (nonmetropolitan county).

Local housing market studies, rental market surveys or other comprehensive rental market data may be submitted to show the 45th percentile rent levels for standard quality rental housing units. To be representative, the local data must exclude units built within the last two years of the PHA's survey, should not be drawn solely from vacant units, and should approximate the same proportion of units by structure type (for example, highrise or single family detached) and date of construction as exists in the total local inventory. A weighted sample may be used to obtain appropriate coverage. Since the Department's data base includes only recent movers, where possible commenters may wish to submit surveys based only on recent movers.

Local rental market surveys may be conducted to cover all bedroom sizes, or only selected bedroom sizes. Surveys that cover only two-bedroom units are acceptable if rent proposals for other size units are consistent with established HUD differentials by bedroom size, or if other pertinent data is supplied to support the proposals for other size untis. When three- and four-bedroom units are surveyed, the following procedure must be used to determine appropriate FMR proposals: (1) Determine the 45th percentile rents for the three- and four-bedroom units surveyed, (2) multiply the 45th percentile three-bedroom rent by 1.087 to determine the three-bedroom FMR, and (3) multiply the four-bedroom rent by 1.077 to determine the four-bedroom FMR. The use of these factors will produce the same upward adjustments in the rent differentials by bedroom size as those applied to the standard rent differentials for three- and four-bedroom units in the HUD methodology.

For areas where gross rents have increased significantly as a result of taxes or the cost of fuel and utilities applicable to a major portion of the FMR area, data relating to these increased costs may be submitted to justify revision of the FMRs. Data must be adequately described to facilitate evaluation and comparison with tax, fuel and utility costs data used in the Department's FMR calculations, and must be representative of the rental inventory.

Accordingly, FR-Doc. 85–30962, appearing in the January 2, 1986, issue of the **Federal Register** (51 FR 75–127) is corrected by revising the proposed rents for the areas listed below:

Dated: February 11, 1986.

Silvio J. DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

BILLING CODE 4210-27-M

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 012986

STATE: ALABAMA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARBOUR	185	224	264	330	370	COFFEE	185	224	264	330	370
COUINGTON	185	224	264	330	370	ESCAMBIA	170	207	243	304	340
FRANKLIN	179	217	255	319	357	GENEVA	185	224	264	330	370
HENRY	185	224	264	330	370	MARION	179	217	255	319	357
WINSTON	179	217	255	319	357						

STATE: ARKANSAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CLEVELAND	191	232	273	341	382	FRANKLIN	172	208	245	306	343
GRANT	191	232	273	341	382	LOGAN	172	208	245	306	343
MONROE	167	202	238	298	333	POLK	172	208	245	306	343
PRAIRIE	167	202	238	298	333	SCOTT	172	208	245	306	343

STATE: CALIFORNIA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
IMPERIAL	314	381	448	560	627	NEVADA	371	451	530	663	742
SIERRA	371	451	530	663	742						

STATE: CONNECTICUT

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MIDDLESEX	COUNTY TOWNS OF CHESTER, DEEP RIVER, ESSEX, OLD SAYBROOK WESTBROOK	376	456	537	671	752

STATE: FLORIDA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKER	187	227	267	334	374	WALTON	146	177	208	260	291

STATE: GEORGIA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CRAWFORD	169	205	241	301	337	ELBERT	192	233	274	343	384
GREENE	190	230	271	339	379	LAMAR	186	226	266	333	372
MONROE	169	205	241	301	337	MORGAN	190	230	271	339	379
OGLETHORPE	190	230	271	339	379	PIKE	186	226	266	333	372
TWIGGS	169	205	241	301	337	UPSON	186	226	266	333	372

STATE: INDIANA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SCOTT	237	288	339	424	475						

STATE: IOWA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BENTON	228	277	326	408	456	IOWA	228	277	326	408	456
JONES	228	277	326	408	456	WASHINGTON	228	277	326	408	456

STATE: KANSAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FRANKLIN	202	245	288	360	403	JEFFERSON	202	246	289	361	405
OSAGE	202	246	289	361	405						

STATE: KENTUCKY

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CARROLL	212	258	303	379	424	ELLIOTT	190	231	272	340	381
GALLATIN	212	258	303	379	424	GRANT	212	258	303	379	424
HANCOCK	214	260	306	383	428	HARRISON	187	227	267	334	374
HENRY	189	230	270	338	378	LAWRENCE	190	231	272	340	381
LIVINGSTON	191	232	273	341	382	LYON	191	232	273	341	382
MCLEAN	214	260	306	383	428	NICHOLAS	187	227	267	334	374

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 012986

STATE: KENTUCKY

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OHIO	214	260	306	383	428	OWEN	212	258	303	379	424
PENDLETON	212	258	303	379	424	POWELL	187	227	267	334	374
SPENCER	189	230	270	338	378	TODD	191	232	273	341	382
TRIGG	191	232	273	341	382	TRIMBLE	189	230	270	338	378
UNION	214	260	306	383	428	WEBSTER	214	260	306	383	428

STATE: LOUISIANA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEN	162	197	232	290	325	ASSUMPTION	175	213	250	313	350
BEAUREGARD	162	197	232	290	325	CAMERON	162	197	232	290	325
JEFFERSON DA	162	197	232	290	325	PLAQUEMINES	293	355	418	523	585
ST JAMES	175	213	250	313	350	WEBSTER	181	220	259	324	363

STATE: MINNESOTA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DODGE	221	268	315	394	441	GOODHUE	221	268	315	394	441
WABASHA	221	268	315	394	441						

STATE: MISSISSIPPI

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COPIAH	181	220	259	324	363	SIMPSON	181	220	259	324	363

STATE: NEW HAMPSHIRE

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES

		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ROCKINGHAM	COUNTY TOWNS OF CHESTER, DEERFIELD, EPPING, FREMONT HAMPTON FALL, KENSINGTON, NORTHWOOD, NOTTINGHAM, RAYMOND, SOUTH HAMPTO	303	368	433	541	606

STATE: NEW MEXICO

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RIO ARRIBA	205	249	293	366	410	SANDOVAL	260	315	371	464	519
TAOS	205	249	293	366	410						

STATE: NEW YORK

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
YATES	242	294	346	433	484						

STATE: NORTH CAROLINA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHATHAM	218	264	311	389	435						

STATE: NORTH DAKOTA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
EMMONS	209	253	298	373	417	GRANT	209	253	298	373	417
KIDDER	209	253	298	373	417	MCLEAN	209	253	298	373	417
MERCER	209	253	298	373	417	OLIVER	209	253	298	373	417
RANSOM	215	261	307	384	430	RICHLAND	215	261	307	384	430
SARGENT	215	261	307	384	430	SHERIDAN	209	253	298	373	417
SIOUX	209	253	298	373	417	STEELE	215	261	307	384	430
TRAILL	215	261	307	384	430						

STATE: TENNESSEE

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HOUSTON	184	224	263	329	368	HUMPHREYS	184	224	263	329	368
JOHNSON	193	235	276	345	386	STEWART	184	224	263	329	368

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 012986

STATE: TEXAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BORDEN	203	247	290	363	406	BURLESON	190	230	271	339	379
CALHOUN	232	282	332	415	465	CHAMBERS	283	319	375	469	525
COKE	193	235	276	345	386	CONCHO	193	235	276	345	386
CROCKETT	193	235	276	345	386	DAWSON	203	247	290	363	406
DE WITT	232	282	332	415	465	GLASSCOCK	203	247	290	363	406
GOLIAD	232	282	332	415	465	GONZALES	232	282	332	415	465
GRIMES	190	230	271	339	379	HOWARD	203	247	290	363	406
IRION	193	235	276	345	386	JACKSON	232	282	332	415	465
JIM HOGG	197	239	281	351	393	KARNES	182	221	260	325	364
KIMBLE	193	235	276	345	386	LAVACA	232	282	332	415	465
LEON	190	230	271	339	379	MCCULLOCH	193	235	276	345	386
MADISON	190	230	271	339	379	MARTIN	203	247	290	363	406
MASON	193	235	276	345	386	MENARD	193	235	276	345	386
REAGAN	193	235	276	345	386	ROBERTSON	190	230	271	339	379
SCHLEICHER	193	235	276	345	386	STARR	197	239	281	351	393
STERLING	193	235	276	345	386	SUTTON	193	235	276	345	386
UPTON	203	247	290	363	406	WASHINGTON	190	230	271	339	379
WILSON	182	221	260	325	364	ZAPATA	197	239	281	351	393

STATE: VIRGINIA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CRAIG	197	239	281	351	393						

STATE: WEST VIRGINIA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOONE	232	281	331	414	463	CALHOUN	197	239	281	351	393
CLAY	232	281	331	414	463	JACKSON	197	239	281	351	393
PLEASANTS	197	239	281	351	393	RITCHIE	197	239	281	351	393
ROANE	197	239	281	351	393	TYLER	197	239	281	351	393
WETZEL	236	286	337	421	472	WIRT	197	239	281	351	393

STATE: WISCONSIN

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CRAWFORD	216	263	309	386	433	VERNON	216	263	309	386	433

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

[FR Doc. 86-3423 Filed 2-14-86; 8:45 am]

BILLING CODE 4210-27-C

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Thursday, March 6, 1986, starting at 9:00 am, in the Supreme Court Chamber in the Indiana State Capitol located at Capitol and Market Streets, Indianapolis, IN 46208.

This is a change of location from the Auditorium of the Indiana State Museum, 202 North Alabama, Indianapolis, Indiana 46204 as listed in the **Federal Register** dated February 11, 1986 on page 5108.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111 20th Street, NW, Washington, DC 20036–8547, (202) 634–7310.

Dated: December 12, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86–3415 Filed 2–14–86; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

[U-36863]

Grand County, Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act, (Pub. L. 97–451), a petition for reinstatement of oil and gas lease U–36863 for lands in Grand County, Utah, was timely filed and required rentals and royalties accruing from September 1, 1985, the date of termination, have been paid.

The lessees have agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessees have reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U–36863 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective September 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–3379 Filed 2–14–86; 8:45 am]

BILLING CODE 4310-DQ-M

Nevada; Order Providing for Opening of Public Lands

Correction

In FR Doc. 86–2196, beginning on page 4041, in the issue of Friday, January 31, 1986, make the following correction:

On page 4042, first column, the fourth line, should read:

T35N., R19E.,

BILLING CODE 1505-01-M

[U-56231

Carbon County, Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act, (Pub. L. 97–451), a petition for reinstatement of oil and gas lease U–56231 for lands in Carbon County, Utah, was timely filed and required rentals and royalties accruing from August 1, 1985, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U–56231 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective August 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–3380 Filed 2–14–86; 8:45 am]

BILLING CODE 4310-DQ-M

National Wildlife Federation v. Burford; Publication of Court Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Publication of Court Order.

SUMMARY: On February 10, 1986, the United States District Court for the District of Columbia rendered a memorandum opinion and order in the case of *National Wildlife Federation* v. *Burford*, Civil Action No. 85–2238. The court ordered the defendant to publish the order in the **Federal Register**. In compliance therewith, the order is hereby published:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

National Wildlife Federation, Plaintiff, v. *Robert F. Burford, et al*, Defendants.

Civil Action No. 85–2238

Order

Upon consideration of plaintiff's motion for a preliminary injunction, defendants' opposition and plaintiff's reply, and

Finding that a preliminary injunction is necessary to preserve the relative positions of the parties until the case can be decided on the merits, and further

Finding that the plaintiff has shown a substantial likelihood of success on the merits, and further

Finding that plaintiff will suffer irreparable harm if the requested injunction is not issued, and further

Finding that issuance of the requested injunction would serve the public interest, it is by the court this 10th day of February, 1986,

Ordered that plaintiff's motion for a preliminary injunction is granted, and it is

Ordered that—

(1) Defendants, their officers, agents, servants, employees, and attorneys and those persons in active concert or participation with them are hereby enjoined from:

(a) modifying, terminating or revoking, in full or in part, under the Federal Land Policy and Management Act (FLPMA), any withdrawal or classification that was in effect on January 1, 1981; or

(b) taking any action inconsistent with the specific restrictions of a withdrawal or classification in effect on January 1, 1981, including, but not limited to, the issuance of leases, the sale, exchange or disposal of land or interests in land, the granting of rights-of-

way, or the approval of any plan of operations;

(2) Terminations or modifications under the FLPMA of classifications and revocations or modifications under the FLPMA of withdrawals occurring since January 1, 1981, are hereby suspended until further action by this court;

(3) Nothing in this order shall be construed to prohibit or affect:

(a) The acceptance by the Department of the Interior of filings required to be made by Federal law;

(b) State election and conveyance rights afforded to the State of Alaska by § 906 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371 or

(c) Native conveyance rights afforded to Alaskan natives by the Alaska Native Claims Settlement Act, 85 Stat. 688, and the Alaska National Interest Lands Conservation Act, 94 Stat. 2371;

(d) The construction of the All American Pipeline project pursuant to a right-of-way grant issued by the Bureau of Land Management on May 17, 1985;

(e) Any transactions or other activity of the Frisco Administrative Site No. 2 S1/2SE1/4, Section 26, Township 5 South, Range 78 West of the Sixth Principal Meridian in Summit County, Colorado.

(4) Defendants shall forthwith cause a copy of this order to be published in the **Federal Register** and posted and made available to the public in defendants' offices in any State where the order might affect any person.

(5) Pursuant to Rule 65(c) of the Federal Rules of Civil Procedure, plaintiff shall post security for this injunction in the amount of one hundred dollars ($100.00).

(6) Nothing in this order shall be construed to affect any party's right to appeal this order.

(7) This preliminary injunction shall take effect upon publication in the **Federal Register** or on the fifth day after this order is filed, whichever day occurs sooner, and it is

Further Ordered that the parties shall appear for a status call on February 19, 1986 at 9:30 a.m., Courtroom No. 12, United States Courthouse.

John H. Pratt,

United States District Judge.

Dated: February 11, 1986.

Guy E. Baier,

Acting Deputy Director.

[FR Doc. 86-3408 Filed 2-14-86; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-DES 86-3]

Stagecoach Reservoir Project, Routt County, CO; availability and Public Hearings—Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement on a proposed development that would provide water for agriculture, municipal and industrial uses, hydroelectric power generation, fish and wildlife, and recreation. The draft statement was made available to the public on February 12, 1986.

The draft statement presents a recommended plan and four alternatives. The recommended Stagecoach Reservoir Project would consist of Stagecoach Dam, Reservoir, and Powerplant and related facilities located on the Yampa River about 17 miles south of Steamboat Springs. The alternatives include a smaller and a larger reservoir at the Stagecoach Damsite, a similar reservoir at a different site on the Yampa River, and a no action alternative.

The Upper Yampa Water Conservancy District has applied for a loan and grant under provisions of the Small Reclamation Projects Act of 1956 (Pub. L. 84-984), as amended, to finance about 50 percent of the project costs. The remaining costs would be financed through a loan from the Colorado Water Conservation Board and through District funding. Because the Bureau of Reclamation is processing the Federal loan and grant applications, it has prepared the environmental statement.

Copies of the statement are available for inspection at the following locations:

Director Office of Environmental Affairs, Bureau of Reclamation, Room 7622, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-4991

Property and Services Branch, Technical Publications and Library Branch, Engineering and Research Center, Code 960, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 236-5972

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O. Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524-5580

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

To obtain views and comments from interested individuals and organizations relating to the environmental impacts of the proposed project, Reclamation will hold a public hearing at 3 p.m. on March 14, 1986, at the Community Center, 12th Street, Steamboat Springs, Colorado.

Oral statements will be limited to 10 minutes each. Speakers may not trade their time to obtain a longer oral presentation; however, the person conducting the hearing may allow any speaker additional opportunity to comment after all scheduled speakers have been heard. Whenever possible, speakers will be scheduled according to the time preference requested. Speakers not present when called will lose their turn in the scheduled order, but will be given an opportunity to speak at the end of the scheduled presentations. Requests for scheduled presentations will be accepted until 4 p.m., March 12, 1986. Subsequent requests will be handled at the hearing on a first-come first-served basis following the scheduled presentations. Organizations or individuals desiring to present statements at the hearings should contact the Regional Director in Salt Lake City by letter or telephone.

Oral and written statements presented at the hearing will be summarized and responded to in the final environmental statement. Written comments for the hearing record from individuals unable to attend and from those wishing to supplement their oral presentations at the hearings should be sent to the Regional Director, Salt Lake City, to be received by April 14, 1986. Written comments received by this date will be printed in full in the final environmental statement.

Dated: February 12, 1986.

C. Dale Duvall,

Commissioner.

[FR Doc. 85-3388 Filed 2-14-86; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Advisory Commission Meeting

A meeting of the Statue of Liberty/Ellis Island Commission is scheduled for March 4, 1986, from 1:00 PM to 5:00 PM, Room 5160, at the Department of the Interior, 18th and C Streets NW, Washington, D.C. The purpose of this meeting is for the consideration of subcommittee reports on the recommendation for use of the south side of Ellis Island, and such other business as may properly be before the Commission.

Dated: February 12, 1986.

Denis P. Galvin,

Acting Director.

[FR Doc. 86-3416 Filed 2-14-86; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF INTERIOR

Intention To Negotiate Concessions Contract; Glacier Bay Lodge, Inc.

SUMMARY: Pursuant to the provisions of section 5 of the Act of October 9, 1965

(79 Stat. 970; 16 U.S.C. 20d), and section 1307 of the Alaska National Interest Lands Conservation Act (94 Stat. 2479; 16 U.S.C. 3197), public notice is hereby given that the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Glacier Bay Lodge, Inc., authorizing it to continue to provide lodging, food and beverages, gifts and sundries, fuel and oil, marine tours and charter vessel services, vessel towing and repair, bus and taxi services and facilities for the public at Glacier Bay National Park and Preserve, Alaska, for a period of fifteen (15) years from January 1, 1986, through December 31, 2000.

This proposed contract requires construction and improvement of the facilities. The construction and improvement program has been addressed in the Glacier Bay National Park and Preserve General Management Plan, dated September 1984. Additionally, an assessment of the environmental impact of this proposed action has been made and it has been determined that it will no significantly affect the quality of the environment, and that it is not a major Federal action having significant impact on the environment under the National Evnironmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the Glacier Bay National Park and Preserve Office.

Glacier Bay Lodge, Inc., has performed its obligation to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1985, and, therefore, pursuant to the second act cited above, is entitled a right of first refusal in the renewal of said contract. The concessioner will have 60 days from January 27, 1986 in which to exercise this right.

Should Glacier Bay Lodge, Inc. fail to accept the terms and conditions of the proposed contract, the Director of the National Park Service will issue a prospectus and solicit offers from the public for a period of 60 days. The foregoing concessioner who has performed its obligations to the satisfaction of the Secretary under the existing contract is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as addressed in this paragraph, pursuant to the Act of October 9, 1965 as cited above.

FOR FURTHER INFORMATION CONTACT: The Alaska Regional Director, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503, telephone (907) 261–2690, or the Superintendent, Glacier Bay National Park and Preserve, Gustavus, Alaska 99826, telephone (907) 697–2232

M.V. Finley,

Acting Regional Director, Alaska Region.

[FR Doc. 86–3394 Filed 2–14–86; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Leasing of Historic Buildings; Skagway, AK

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

The National Park Service is soliciting interested parties as lessees for several historic buildings located in the City of Skagway, Alaska. These one- and two-story storefront buildings typify boom-town, wood frame, commercial architecture asssociated with the Klondike Gold Rush of 1898.

1. Boss Bakery: A one-story, wood frame building on a portion of lot 7 & 8, block 24 on Broadway Street between 5th and 6th Avenues.

2. Boas Tailor and Furrier: A two-story, wood frame building on a portion of lot 6, block 35 on Broadway Street between 2nd and 3rd Avenues.

3. Verbauwhedes Store and Confectionery: A two-story, wood frame building on a portion of lot 5, 6, block 35 on Broadway Street between 2nd and 3rd Avenues.

4. Verbauwhedes Alley Structure: A one-story, wood frame building behind Verbauwhedes Store on a portion of lots 5 and 6, block 35, between 2nd and 3rd Avenues.

These buildings are suitable for a variety of uses, including food services, retail sales, offices, storage, and other uses permitted by state and local ordinances and regulations. The National Park Service will consider any potential use that is lawful, non-polluting, compatible with visitor use, and tasteful and respectful of and compatible with the historic building being leased and its setting. From mid-May through September, Skagway expects 70,000 to 80,000 visitors on over 160 cruise ships; in addition, it is served daily by the state ferry system, air tours, land tours, and casual visitation. Local shops are normally open daily for 16 to 18 hours to meet visitor demand.

These buildings will be restored and rehabilitated historic structures complete with state of the art heating, electrical, plumbing, intrusion alarm, fire suppression and fire warning system. Finish floor coverings and finish interior painting will be the responsibility of the lessee. All improvements beyond the scope of the existing National Park Service work are the responsibility of the lessee, but must be designed according to the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings, and approved by the Regional Historical Architect prior to the implementation. It is anticipated the restoration will be completed between April and May 1986.

Leases will be awarded based upon evaluation and negotiation of proposals. The length of the lease will be negotiated, but will not exceed 99 years. The leases will be for at least fair market rental value of the structure(s).

The National Park Service issued a formal request for proposals on February 1, 1986. The requests outlines in greater detail the potential uses and restrictions and the factors which will be used in evaluating proposals. All parties interested in leasing these buildings and receiving the request for proposals should notify in writing the Superintendent, Klondike Gold Rush National Historic Park, PO Box 517, Skagway, Alaska 99840; or the Chief of Concessions, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503–2892. This solicitation will close April 1 1986.

William C. Welch,

Acting Regional Director.

[FR Doc. 86–3395 Filed 2–14–86; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 8, 1986. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 5, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Crittenden County

Earle, *Missouri Pacific Depot*, Main and Commerce Sts.

Pike County

Murfreesboro, *Conway Hotel*, 108 Courthouse Sq.

CALIFORNIA

Amador County

Jackson, *St. Sava Serbian Orthodox Church*, 724 N. Main

Los Angeles County

Pomona, *Pomona YMCA Building*, 350 N. Garey Ave.

Sonoma County

Petaluma, *Petaluma Silk Mill*, 420 Jefferson St.

CONNECTICUT

Fairfield County

Stamford, *South End Historic District*, Roughly bounded by Penn Central Railroad Tracks, Stamford Canal, Woodland Cemetery, and Washington Blvd.

New Haven County

New Haven, *Imperial Granum-Joseph Parker Buildings*, 47 and 49–51 Elm St.

FLORIDA

Jackson County

Monticell, *Palmer Perkins House (Boundary Increase)*, Walnut St.

Palmetto County

Palmetto, *Woman's Club of Palmetto*, 910 Sixth St. W

GEORGIA

Coweta County

Newman, *Crowder, Willaim Leonard, Home Place*, 1615 Handy Rd.

Fulton County

Atlanta, *Booker T. Washington High School*, 45 Whitehouse Dr. SW

Atlanta, *Grant Park North*, Roughly bounded by Woodward Ave., Boulevard, Interstate 20, and Hill St.

Murray County

Chatsworth Vicinity, *Carter's Quarters*, Old US 411 9 mi. S of Chatsworth

Walton County

Between, *Upshaw, James Berrien, House*, US 78 & GA 11

Wilkes County

Washington, *Washington Commercial Historic District*, Roughly bounded by Court and Jefferson St., Robert Toombs Ave., and Allison St.

INDIANA

Elkhart County

Elkhart, *Elkhart River Race Industrial District*, Roughly bounded by E. Jackson Blvd., Clark St., Elkhart Ave., and Elkhart River

MAINE

Piscataquis County

Archeological Site 133.7
Archeological Site 133.8

MARYLAND

Anne Arundel County

Linthicum Heights, *Twin Oaks*, 421 Twin Oaks Rd.

Millersville, *Childs Residence*, 1003 Cecil Ave.

Baltimore (Independent City)

Baltimore, *School No. 27 (Commodore John Rodgers Elementary School)*, 2031 E. Fayette St.

Baltimore County

Parkton, *Hill House*, 19301 York Rd.

MISSOURI

Macon County

Macon, *Wardell House*, 1 Wardell Rd.

Jackson County

Independence, *Woodson-Sawyer House*, 1604 W. Lexington

NEVADA

Clark County

Boulder City Vicinity, *Willow Branch Gauging Station*, Lake Mead National Recreation Area

NEW JERSEY

Hudson County

Union City, *Monastery and Church of St. Michael the Archangel*, 2019 West St.

NEW YORK

Erie County

Buffalo, *17—21 Emerson Place Row (Masten Neighborhood Rows TR)*, 17—21 Emerson Pl.

Buffalo, *33—61 Emerson Place Row (Masten Neighborhood Rows TR)*, 33—61 Emerson Pl.

Buffalo, *Laurel and Michigan Avenues Row (Masten Neighborhood Rows TR)*, 1335—1345 Michigan Ave.

Buffalo, *Woodlawn Avenue Row (Masten Neighborhood Rows TR)*, 75—81 Woodlawn Ave.

Queens County

New York City, *Fort Totten Officer's Club*, Totten and Murray Aves.

NORTH CAROLINA

Cabarrus County

Rocky River Vicinity, *Rocky River Presbyterian Church*, NC 1139 at jct. of NC 1158

Sampson County

Clear Run, *Clear Run (Sampson County MRA)*, NC 411 at Black River

Clinton, *Bethune-Powell Buildings (Sampson County MRA)*, 118–120 E. Main St.

Clinton, *Clinton Depot (Sampson County MRA)*, West Elizabeth St.

Clinton, *College Street Historic District (Sampson County MRA)*, 600–802 College St.

Clinton, *Herring, Robert, House (Sampson County MRA)*, 216 Sampson St.

Clinton, *Pugh-Boykin House (Sampson County MRA)*, 306 Elizabeth St.

Clinton, *Royal-Crumpler-Parker House (Sampson County MRA)*, 512 Sunset Ave.

Clinton, *West Main-North Chesnutt Streets Historic District (Sampson County MRA)*, Roughly N. Chesnutt, Fayetteville, and Williams Sts., between W. Main and Margaret Sts.

Clinton Vicinity, *Boykin, General Thomas, House (Sampson County MRA)*, NC 1214 SW of NC 1222

Clinton Vicinity, *Killett, Marcheston, Farm (Sampson County MRA)*, NC 1222 N of US 701

Clinton Vicinity, *Oates, Livingston, Farm (Sampson County MRA)*, NC 1748 W of NC 403

Clinton Vicinity, *Pigford House (Sampson County MRA)*, NC 1751 S of US 701

Clinton Vicinity, *Pope House (Sampson County MRA)*, NC 1146 N of NC 1145

Clinton Vicinity, *Pugh, Francis, House (Sampson County MRA)* NC 1751 at NC 403

Delway, *Dell School Campus (Sampson County MRA)*, US 421 and NC 1003

Dunn Vicinity, *Wilson John E., House (Sampson County MRA)*, NC 1631 at NC 1630

Garland Vicinity, *Lamb, James H., House (Sampson County MRA)*, NC 1135 N of NC 411

Garland Vicinity, *Murphy-Lamb House and Cemetery (Sampson County MRA)*, NC 1135 of US 701

Garland Vicinity, *Sloan, Dr. David Dickson, Farm (Sampson County MRA)*, US 701 N of South River

Giddensville Vicinity, *Lee, Lovett, House (Sampson County MRA)*, NC 1725 and NC 1730

Harrells Vicinity, *Highsmith, Lewis, Farm (Sampson County MRA)*, US 421 S of NC 41

Harrells Vicinity, *Seavey, Dr. John B. House and Cemetery (Sampson County MRA)*, NC 1100 S of NC 1007

Ingold Vicinity, *Johnson, Samuel, House and Cemetery (Sampson County MRA)*, NC 1157 S of NC 1004

Ivanhoe, *Black River Presbyterian and Ivanhoe Baptist Churches (Sampson County MRA)*, NC 1102 E of NC 1100

Ivanhoe Vicinity, *Beatty-Corbett House (Sampson County MRA)*, NC 701 at NC 1200

Ivanhoe Vicinity, *Delta Farm (Sampson County MRA)*, NC 1100 N of NC 1105

Kerr Vicinity, *Kerr, James, House (Sampson County MRA)*, NC 1005 S of NC 1007

McDaniels Vicinity, *Owen Family House and Cemetery (Sampson County MRA)*, NC 1212 N of NC 1214

Roseboro, *Caison, Dan E., Sr. (Sampson County MRA)*, Broad St.

Roseboro, *Herring, Troy, House (Sampson County MRA)*, Broad St. S of NC 24

Roseboro, *Howell-Butler House (Sampson County MRA)*, Broad and McLamb Sts.

Rosin, *Bizzell, Asher W., House (Sampson County MRA)*, US 13 and NC 1845

Rosin, *McPhail, Jonas, House and McPhail, Annie, Store (Sampson County MRA)*, US 13 E of NC 1845

Salemburg, *Howard-Royal House (Sampson County MRA)*, 202 N. Main St.

Salemburg Vicinity, *Butler, Marion, Birthplace (Sampson County MRA)*, NC 242 at NC 1414
Suttontown, *Kornegay, Marshall, House and Cemetery (Sampson County MRA)*, NC 1725 and NC 1720
Taylors Bridge Vicinity, *Matthews, Dr. James O. (Sampson County MRA)*, NC 1960 S of NC 1004
Taylors Bridge Vicinity, *Matthis, Fleet, Farm (Sampson County MRA)*, US 421 S of NC 1146
Turkey Vicinity, *Cherrydale (Sampson County MRA)*, NC 1919 at NC 1952
Turkey Vicinity, *Hollingsworth-Hines Farm (Sampson County MRA)*, NC 1926 S of NC 1004
Waycross Vicinity, *Oak Plain Presbyterian Church (Sampson County MRA)*, NC 1943 S of NC 1945

PENNSYLVANIA

Centre County

Houserville Site (36 CE 65)

Erie County

Sommerheim Park Archeological District

York County

Fawn Township, *Payne Folly*, Watters Rd.

[FR Doc. 86-3478 Filed 2-14-86; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-156)]

Seaboard System Railroad, Inc.; Abandonment in Franklin and Lincoln Counties, TN; Notice of Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc. to abandon its 38.37-mile line of railroad between Decherd (milepost JC-1.595) and Fayetteville, TN (milepost JC-40.0) including milepost JD 21.47 to milepost JD-22.00 near Elora, TN, in Franklin and Lincoln Counties, TN.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 days period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 86-3531 Filed 2-14-86; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Filing of Written Notification of Evaluation of the Mechanisms of Heavy-Duty Diesel Particulate Trap Regeneration Project Pursuant to the National Cooperative Research Act of 1984 and Southwest Research Institute

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462("the Act"), Southwest Research Institute ("SWRI") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: *"Evaluation of the Mechanisms of Heavy-Duty Diesel Particulate Trap Regeneration."* The notification discloses (1) the identities of the parties to the project and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are:

Cummins Engine Company
Isuzu Motors, Ltd.
Volvo Truck Corporation
Nissan Diesel Motor Co.
NGK Insulators, Ltd.
John Deere Company
Nippon Shokubai Kagaku Kogyo Company, Ltd.
Babcock & Wilcox
Caterpillar Tractor Company
Mitsubishi Motors
Corning Glass Works
Hino Motors Ltd.
Saab-Scandia
General Motors Corporation (AC Spark Plug Division)
Ford Tractor Operations
Exxon Chemical Company
International Harvester
Donaldson Company
Isolite Babcock Refractories Company, Ltd.
Tsuchiya Seisakusho
Fuel Tech Inc.

The purpose of the project is to determine the mechanism of particulate combustion within a trap, by investigating the various parameters affecting diesel particulate trap regeneration; to define one or more new or improved regeneration methods; to develop and evaluate the new technology for regeneration and if desired by the parties to further evaluate a selected particulate trap regeneration system.

Membership in this group research project remains open.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 86-3443 Filed 2-14-86; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on March 3, 1986 from 9:00 a.m. to 5:30 p.m., Room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86-3425 Filed 2-14-86; 8:45 am]
BILLING CODE 7537-01-M

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Design Communication Section) will be held on March 5, 1986 from 9:00 a.m. to 6:00 p.m. and March 6, 1986 from 9:30 a.m. to 6:00 p.m., Room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on March 6, 1986 from 5:00 p.m. to 6:00 p.m. Topics for discussion will be Policy issues.

The remaining sessions of this meeting on March 5, 1986 from 9:00 a.m. to 6:00 p.m. and March 6, 1986 from 9:30 a.m. to 5:00 p.m. are for the purpose of Panel review, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–3426 Filed 2–14–86; 8:45 am]

BILLING CODE 7537–01–M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (American Film Institute Section) to the National Council on the Arts will be held on Monday and Tuesday, February 24–25, 1986 from 9:00 am – 5:30 pm in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with references to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–3424 Filed 2–14–86; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Professional Training Section) to the National Council on the Arts will be held on March 5, 1986 from 9:00 a.m.–8:00 p.m. and March 6, 1986 from 9:00 a.m. to 6:00 p.m., Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on March 6, 1986 from 11:00 a.m. to 12:30 p.m. Topics for discussion will be policy and guidelines.

The remaining sessions of this meeting on March 5, 1986 from 9:00 a.m. to 8:00 p.m., March 6, 1986 from 9:00 a.m. to 11:00 a.m. and March 6, 1986 to 12:30 p.m. to 6:00 p.m. are for the purpose of Panel review, discussion, evalation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–3427 Filed 2–14–86; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Artists Forums Section) to the National Council on the Arts will be held on March 4–6, 1986 from 9:00 a.m. to 6:00 p.m., Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Acting Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86–3428 Filed 2–14–86; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements for Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: Security Termination Statement.

3. The form number if applicable: NRC–136.

4. How often the collection is required: Occasionally.

5. Who will be required or asked to report: Approximately 22 NRC licensees and 35 contractors.

6. An estimate of the number of responses: 400.

7. An estimate of the total number of hours needed to complete the requirement or request: 40.

8. An indication of whether section 3504(h). Pub. L. 96–511 applies: Not applicable.

9. Abstract: The NRC Form 136 affects the employees of licensees and contractors who have been granted an NRC access authorization (security clearance). When the access authorization is no longer needed, the execution of the form apprises the respondent of their continuing security responsibilities and is used to initiate termination of the access authorization.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585. Dated at Bethesda, Maryland this 12th day of February 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–3464 Filed 2–14–86; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 2 to Regulatory Guide 1.105, "Instrument Setpoints for Safety-Related Systems," describes a method acceptable to the NRC staff for complying with the Commission's regulations for ensuring that instrument setpoints are initially within and remain within the technical specification limits. The guide endorses an Instrument Society of America standard, ISA–S67.04–1982, "Setpoints for Nuclear Safety-Related Instrumentation Used in Nuclear Power Plants."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of active guides may be purchased at the current Government Printing Office price. Information on current GPO prices may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 10th day of February 1986.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 86–3465 Filed 2–14–86; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number ME 305–4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 2 to Regulatory Guide 1.99 and is entitled "Radiation Damage to Reactor Vessel Materials." This guide describes general procedures acceptable to the NRC staff for calculating the effects of neutron radiation damage to the low-alloy steels currently used for light-water-cooled reactor vessels. The calculational procedures described in the guide are different from those in the pressurized thermal shock rule (§ 50.61 of 10 CFR Part 50), and public comments are requested on the relative merits of the two calculational procedures.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555. Comments will be most helpful if received by April 15, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555,

Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 11th day of February 1986.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 86-3466 Filed 2-14-86; 8:45am]

BILLING CODE 7590-01-M

Illinois Power Co.; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50-461]

The U.S. Nuclear Regulatory Commission (the Commission) is issuing exemptions from certain requirements of 10 CFR Part 50 to the Illinois Power Company (the applicant) for the Clinton Power Station, Unit 1 facility located in Dewitt County, Illinois.

Environmental Assessment

A. Containment Airlock Testing

Identification of Proposed Action: The exemption would eliminate the full pressure test required by Paragraph III.D.2(b)(ii) of Appendix J each time the air lock is opened during periods when containment integrity is not required and substitute a seal leakage test to be conducted at a pressure specified in the Technical Specifications. The exemption is in accordance with the applicant's request dated December 9, 1985.

The Need for the Action: The exemption is required to provide the applicant with greater plant availability over the lifetime of the plant.

Environmental Impact of the Action: The exemption would allow the substitution of an airlock seal test for an airlock pressure test while the reactor is in a shutdown or refueling mode. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability and the magnitude of containment leakage during an accident which would lead to potentially greater offsite radiological consequences. However, the potential increase due to this exemption is small and would result from the potential leakage path through the door mechanism which will not be measured by this modified test. The 6-month test requirement of paragraph III.D.2(b)(i) of Appendix J, the 3-day test requirement of paragraph III.D.2(b)(iii) of Appendix J and the test requirements when maintenance is performed on the airlock, will measure the leakage through the door mechanism and provide assurance that the air lock will not leak excessively.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no exemption impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

B. Leak Rate Testing of Main Steam Isolation Valves (MSIV's)

Identification of Proposed Action: The exemption would exclude the measured leakage from the MSIV's from the summation of the local leak rate test results. The proposed exemption is in accordance with the applicant's request dated December 9, 1985.

The Need for the Proposed Action: The exemption is needed because the NRC staff in Supplement 2 to the Clinton Safety Evaluation Report found the applicant's proposed MSIV leakage test program acceptable, and concluded that the design of the MSIV leakage control system at Clinton is acceptable. The Clinton Technical Specifications have been written based on the NRC staff's evaluation in Supplement 2 to the Clinton SER.

Environmental Impact of the Action: The proposed exemption would exclude the measured leakage through the MSIV's from the combined local leak rate test results. The MSIV leakage control system at Clinton is designed to control and minimize the release of fission products that could leak through the closed MSIV's after onset of a loss of coolant accident (LOCA) by maintaining a negative pressure between the MSIV's in each line. The effluent will be discharged into a volume where it will be processed by the standby gas treatment system before being released to the environs. A radiological analysis including this potential source of containment atmosphere leakage was performed, and the MSIV's will be periodically leak rate tested to verify that the leakage assumed in the radiological analysis is not exceeded.

Alternative to the Proposed Action: The proposed CPS Technical Specification requirements will provide reasonable assurance against undue MSIV leakage and that no material increase in the probability or extent of MSIV leakage is to be expected. Therefore, there is no significant increase in the probability of higher post-accident offsite or onsite doses related to the proposed exemption and no significant increase in environmental impact beyond that experienced with no exemption.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impact of plant operations and would provide no greater assurance that offsite or onsite doses, in the event of an accident that resulted in fission product release, would be any less.

Alternative Use of Resources: These actions in the granting of exemptions A and B above do not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Clinton Power Station, Unit 1," dated May 1982.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests that support the requested exemptions A and B above. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the requested exemptions.

Based upon the foregoing environmental assessment, we conclude that the requested actions will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the requests for the exemptions as listed herein, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Vesparian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland, this 12th day of February 1986

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 86-3467 Filed 2-14-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Babcock and Wilcox Water Reactors; Revised Notice of Meeting

The scheduled time for the February 25, 1986 ACRS Subcommittee on Babcock and Wilcox (B&W) Water Reactors published in the **Federal Register** (51 FR 4833) on February 7, 1986, Room 1046, 1717 H Street, NW, Washington, DC has been changed from 8:30 A.M. to *12:30 P.M.* The other items regarding this meeting remain the same as previously published.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1413) between 8:15 a.m. and 5 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: February 11, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–3447 Filed 2–14–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Proposed Modification of the List of Articles Eligible for Duty-Free Treatment Under the U.S. Generalized System of Preferences (GSP) To Remove Imports of Sodium Bromide From Israel

Notice is hereby given that the Trade Policy Staff Committee (TPSC) has initiated a review concerning the removal of Sodium Broimide classified under TSUS 420.82 of the Tariff Schedules of the United States Annotated, when imported from Israel, from the list of products currently eligible for duty-free treatment under the U.S. Generalized System of Preferences (19 U.S.C. 2461–2465). The review is initiated pursuant to a petition filed by the U.S. Bromine Alliance. Anyone interested in this matter is requested to provide written comments to the TPSC regarding the U.S. Bromine Alliance request not later than March 14, 1986. A public hearing on the proposed modification will not be scheduled unless a request for such hearing is received no later than close of business February 21, 1986.

All submissions should conform to 15 CFR 2003.2 and be submitted in 20 copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee. Information submitted in connection with the proposed modification will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2007.7. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and each page within the document, where appropriate, that confidential materials are included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

All communications with regard to the proposed modification should be addressed to the GSP Subcommittee, Office of the United States Trade Representative, 600 17 th Street NW., Room 517, Washington, D.C. 20506. Questions may be directed to the GSP Information Center at (202) 395–6971.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 86–3589 Filed 2–14–86; 8:45 am]

BILLING CODE 3190–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Production Planning Advisory Committee; Open Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Production Planning Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Genetic principles
- Outplanting
- Site ranking update
- Other
- Public comment

DATE: February 21, 1986; 9:30 a.m.

ADDRESS: The meeting will be held in the Council's meeting room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ron Eggers, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–3377 Filed 2–14–86; 8:45 am]

BILLING CODE 0000–00–M

POSTAL RATE COMMISSION

[Order No. 667; Docket No. A86–9]

Tie Plant, Mississippi 38960 (Lewis M. Moore, Petitioner); Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued February 10, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton; Patti Birge Tyson.

Docket Number: A86–9.
Name of Affected Post Office: Tie Plant, Mississippi 38960.
Name(s) of Petitioner(s): Lewis M. Moore, Jr.
Type of Determination: Consolidation.
Date of Filing of Appeal Papers: February 3, 1986.
Categories of Issues Apparently Raised:

1. Effect on the community [39 U.S.C. 404(b)(2)(A)].
2. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before February 18, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

February 3, 1986—Filing of Petition

February 6, 1986—Notice and Order of Filing of Appeal
February 28, 1986—Last day for filing petitions to intervene [*see* 39 CFR 3001.111(b)]
March 10, 1986—Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115(a) and (b)]
March 31, 1986—Postal Service Answering Brief [*see* 39 CFR 3001.115(c)]
April 15, 1986—(1) Petitioner's Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)]
April 22, 1986—(2) Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116]
June 3, 1986—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 86-3363 Filed 2-14-86; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-24015; 70-6985]

Middle South Energy, Inc., et al.; Notice of Proposed Amendments to Foreign Bank Loan Agreement

February 10, 1986.

Middle South Utilities, Inc. ("MSU"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, its electric generating subsidiary, Middle South Energy, Inc. ("MSE"), P.O. Box 61000, New Orleans, Louisiana 70161, and MSU's electric utility subsidiaries, Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi, 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112, have filed with this Commission post-effective amendments to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By supplemental order in this proceeding dated August 2, 1985 (HCAR No. 23782), this Commission authorized the conversion of MSE's revolving-credit borrowing to term loans pursuant to a Third Amended and Restated Bank Loan Agreement ("Domestic Bank Loan Agreement") among MSE, Manufacturers Hanover Trust Company and Citibank, N.A., as co-agents, and the banks listed therein ("U.S. Banks") and a Fourth Amendment to Loan Agreement ("Foreign Bank Loan Agreement") among MSE, Credit Suisse First Boston Limited, as agent, and the banks listed therein ("Foreign Banks"), respectively. MSE now owes $1,466,417,500 under the Domestic Bank Loan Agreement and $328,750,000 under the Foreign Bank Loan Agreement.

On January 10, 1986 (HCAR No. 23989), notice was given of MSE's proposal for certain amendments to the Foreign Bank Loan Agreement. MSE proposes an increase of 1% per annum over the present interest rate which is the London Interbank Offered Rate ("LIBOR") plus 1%. The new effective rate would thus be LIBOR plus 2%. The same increase would apply to loans made on certain alternative bases and to penalty interest in the event of a default. MSE also proposes to make certain changes in the Foreign Bank Loan Agreement related to Unit 2 of the Grand Gulf Nuclear Project. Specifically: (1) Clause 12(B), which presently requires prepayment of loans under the Foreign Bank Loan Agreement in the event of condemnation or abandonment of the entire Grand Gulf Project, would be amended to require that this could occur only if such events relate to Unit 1 of such Project. (2) Clause 12(C)(i), which presently requires prepayment of loans under the Foreign Loan Agreement in the event a governmental order or the like makes completion of the Project impracticable, would be amended to eliminate this prepayment requirement. (3) Clause 19(E), which presently requires MSE to use its best efforts to complete and maintain the Project in commercial operation, would be amended so that this obligation relates only to Unit 1 of the Project.

By a further post-effective amendment, MSE proposes to condition the effectiveness of some of the preceding proposed amendments to the Foreign Bank Loan Agreement (which collectively eliminate various references to Unit 2 of the Grand Gulf Project in the Foreign Bank Loan Agreement) on the payment in full by MSE of the Deferred Installments (defined below) and the payment when scheduled on or before the next scheduled payment date of any subsequent installment. The next scheduled installment under the Foreign Bank Loan Agreement is August 5, 1986.

MSE is seeking to: (1) Defer the payment of the February 3, 1986, and March 1, 1986, installments, in the amounts of approximately $115,000,000 and $125,000,000, respectively ("Domestic Deferred Installments"), due under the Domestic Bank Loan Agreement and (2) defer the payment of the February 5, 1986, installment, in the amount of approximately $45,300,000 ("Foreign Deferred Installment," and together with the Domestic Deferred Installments, the "Deferred Installments"), due under the Foreign Bank Loan Agreement, in each case, to March 17, 1986. MSE may also seek, if necessary, a further deferral from the U.S. Banks and the Foreign Banks after the end of the first deferral period for a period (to be specified by MSE) of up to 90 days in return for collateral pledged as security for the unpaid amount of the Deferred Installments. The collateral would be in the form of MSE first mortgage bonds ("MSE Collateral Bonds").

MSE proposes various amendments of the Domestic Bank Loan Agreement and the Foreign Bank Loan Agreement to accomplish, among other things, the following: (1) An additional 1% per annum (in excess of the respective interest rates currently provided for in the Domestic and Foreign Bank Loan Agreements) will accrue and be payable on each of the Deferred Installments. (2) All interest under the Domestic and Foreign Bank Loan Agreements and the commitment commissions will be paid monthly in arrears. (3) In the case of the Domestic Bank Loan Agreement, MSE will not be permitted (with certain limited exceptions) to pay any dividends on its common stock until payment in full of the Deferred Installments. In the case of the Foreign Bank Loan Agreement, MSE will not be permitted to pay any dividends on its capital stock until payment in full of the Deferred Installments. (4) MSE will pay ratably to the U.S. Banks and the Foreign Banks on a monthly basis all of it cash flow in excess of its requirements, such payments to be applied to reduce the outstanding amount of the Deferred Installments. (5) MSE will pledge MSE Collateral Bonds in an aggregate principal amount equal to the unpaid amount of the Deferred Installments to secure payments of the same. The amendments proposed in items 1 through 5 above would be terminated, and the MSE Collateral Bonds would (at the option of MSE, exercisable at any time) be released to MSE, when the Deferred Installments have been paid in full.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 6, 1986, to the Secretary, Securities and

Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-3368 Filed 2-14-85; 8:45am]

BILLING CODE 8010-01-M

[Release No. 34-22880; File No. SR-NASD-85-37]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on December 30, 1985, [1] a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to require NASD members to maintain a record of aggregate "short" positions in NASDAQ securities in all customer and proprietary firm accounts and to report such information to the NASD on a monthly basis. Member's reports will be non-public, and will be used by the NASD solely for an internal short sale study.

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. 22761, January 2, 1986) and by publication in the **Federal Register** (51 FR 801, January 8, 1986). No comments were received with respect to the proposed 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 the NASD, and particular, the requirements of section 15A 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, 17 CFR 200. 30-3(a).

John Wheeler,

Secretary.

February 7, 1986.

[FR Doc. 86-3366 Filed 2-14-86; 8:45 am]

BILLING CODE 8010-01-M

[1] On January 29, 1986, the NASD filed an amendment to the proposed rule change that would allow members' monthly reports to be received by the NASD no later than the second business day after the reporting settlement date. The Commission determined that the amendment was technical in nature and, therfore, it was unnecessary to publish the amendment for public comment.

[Release No. 34-22875; File No. SR-NYSE-86-4]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Amendments to Rule 431, "Margin Requirements," and Rule 432, "Daily Record of Required Margin"

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 23, 1985, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to comprehensively revise its margin requirements to reflect the regulatory and credit/risk concerns in today's markets and the recent revision of Regulation T of the Board of Governors of the Federal Reserve System ("Regulation T").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statement concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise the Exchange's margin requirements so that they reflect the regulatory and credit/risk concerns in today's markets. The rule change would also resolve inconsistencies between the Exchange's margin requirements and Regulation T resulting from the latter's revision and simplification in 1984.

Rule 431, "Margin Requirements," had not been subjected to a comprehensive review since its adoption in 1954. Since that time, the rule has been amended on an ad hoc basis, generally in response to the development of new products and situations that arose in its application unforeseen at the time of its adoption. The Exchange recognized that an examination of the rule was required to determine the extent to which the rule's effectiveness, applicability, and understandability had been affected and compromised, in particular by the evolution and diversification of the securities industry. In conjunction with a committee of representatives from the securities industry, the Exchange developed recommendations to resolve the rule's deficiencies; such recommendations from the basis of the proposed rule change.

The following significant changes are proposed to be made to Rule 431:

- Replace the 5 percent of principal amount requirement for U.S. government securities with a sliding scale of requirements (from 1 to 6 percent of principal amount), similar to the Commission's net capital rule, setting margin on the basis of time to maturity. The proposal would generally lower margin requirements for shorter term U.S. government securities while increasing the requirements for longer term U.S. government securities, in recognition, respectively, of the

diminishing risk as securities near maturity and the greater risk associated with securities having a longer time to maturity.

• Change the basis for computing requirements for municipal securities from the *lower* of 15 percent of principal amount or 25 percent of market value to the *greater* of 7 percent of principal amount or 15 percent of market value. Margin requirements generally would be unchanged from current requirements for municipal securities purchased at par, but lower for those purchased below par and higher for those purchased above par, in recognition of the greater risks associated with higher priced municipal securities, which are more likely to react to current market conditions.

• Reduce the requirements for non-convertible corporate debt securities eligible for "good faith" margin under Regulation T from 25 percent of market value to 20 percent of market value and impose a new minimum requirement of 7 percent of principal amount. The new minimum requirement would ensure adequate margin for, and thereby prevent over-speculation in, lower priced non-convertible corporate debt securities

• Allow the use of accrued interest on U.S. government, municipal, and non-convertible corporate debt securities as an offset to margin required.

• Allow the accounts of market makers, OTC market makers, and specialists to be carried on a margin basis satisfactory to both parties, provided the carrying organization takes a capital charge for the difference between the equity in the account and the margin otherwise required.

• Allow the proprietary positions of other broker/dealers to be carried on a margin basis satisfactory to both parties (to the extent permitted by Regulation T), provided the carrying organization takes a capital charge for the difference between the equity in the account and the margin otherwise required.

• Increae the amount of control and restricted securities that can be margined, subject to capital and concentration charges.

• Impose a capital charge when any account is guaranteed by another account and the total margin deficiencies guaranteed exceed 10 percent of the member organization's excess net capital.

• Limit the time period in which the amount of margin required must be obtained to 15 business days (rather than the current nonspecific "reasonable time"), unless the Exchange grants additional time.

• Eliminate the formula for establishing special initial margin requirements, but allow the Exchange to impose higher requirements, initial or maintenance, as it deems necessary.

• Require the establishment by member organizations of credit evaluation procedures to review credit risks, formulate requirements, and institute higher maintenance requirements when appropriate.

• Conform the rule to current Regulation T.

Proposed amendments to Rule 432, "Daily Record of Required Margin," parallel, to the extent necessary, the changes proposed to Rule 431.

Upon approval of the proposed rule change by the Commission, the Exchange would delay its effectiveness to allow adequate lead time in which member organizations may train personnel and develop computer systems to implement the revision. Voluntary compliance with the new requirements will be permitted 3 months after Commission approval of the rule change; compliance will be required 6 months after such approval.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") in that it is designed to protect investors and the public interest, in accordance with section 6(b)(5) of the Act, by ensuring that the Exchange's margin requirements adequately reflect current regulatory and credit/risk concerns. In addition, the change is consistent with section 7(a) of the Act, and the rules and regulations of the Board of Governors of the Federal Reserve System enacted pursuant to that provision, in that it is designed for the purpose of preventing the excessive use of credit for the purchase or carrying of securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In May 1985, the Exchange circulated an initial version of the proposed rule change to its membership for comment. Thirty letters of comment were received. Several changes were made to the proposed rule change to reflect suggestions made in the comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 11, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 7, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-3367 Filed 2-14-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 10, 1986.

The above named national securities exchange has filed applications with the

Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Ames Department Stores, Inc., Common Stock, $0.50 Par Value (File No. 7-8781).

Anheuser-Busch Companies, Inc., $3.60 Redeemable Convertible Preferred Stock, Series A (File No. 7-8782).

Baxter Travenol Laboratories, Inc., 7% Cumulative Convertible Exchangeable Preferred, Series A and B (File No. 7-8783).

Data-Design Laboratories, Common Stock, $0.33⅓ Par Value (File No. 7-8783).

Enserch Exploration Partners, Ltd., Depositary Units (File No. 7-8784).

Getty Petroleum Corporation, Common Stock, $0.10 Par Value (File No. 7-8785).

IP Timberlands, Ltd., Class A Depositary Units (File No. 7-8786).

Manor Care, Inc., Common Stock, $0.10 Par Value (File No. 7-8787).

Pansophic Systems, Inc., Common Stock, No Par Value (File No. 7-8788).

The Plessey Company plc, American Depository Receipts (File No. 7-8789).

Pope & Talbot, Inc., Common Stock, $2.00 Par Value (File No. 7-8790).

Primark Corporation, Common Stock, No Par Value (File No. 7-8791).

Revco D.S., Incorporated, Common Stock, $1.00 Par Value (File No. 7-8792).

Safety-Kleen Corporation, Common Stock, $0.10 Par Value (File No. 7-8793).

The Travelers Corporation, $4.16 Series A Convertible Preferred Stock (File No. 7-8794).

Triangle Pacific Corporation, Common Stock, $0.50 Par Value (File No. 7-8795).

United Jersey Banks, Common Stock, $1.66⅔ Par Value (File No. 7-8796).

West Point—Pepperell, Inc., Common Stock, $5.00 Par Value (File No. 7-8797).

Weyerhaeuser Company, $2.80 Cumulative Convertible Preferred (File No. 7-8798).

Weyerhaeuser Company, $4.50 Cumulative Convertible A Preferred (File No. 7-8799).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 3, 1986, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-3437 Filed 2-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22689; SR-NYSE-85-43]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") submitted on November 29, 1985 copies of proposed rules changes pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 to amend the Supplementary Material to NYSE's Rule 451 (Proxies) and Rule 465 (Company Reports to Stockholders) concerning approved charges by member organizations to issuers in connection with Rules 14b-1(c) and 17a-3(a)(9)(ii) under the Act. The proposed changes relate to the following: (1) The second, and final, surcharge that may be charged by NYSE member organizations to issuers in connection with proxy solicitations, which surcharge is intended to complete the recoupment of direct and indirect start-up costs incurred by NYSE member organizations in complying with the requirements of Rules 14b-1(c) and 17a-3(a)(9)(ii); and (2) a charge intended to ensure that NYSE members and their agents receive a fair and reasonable rate of reimbursement for costs incurred to comply with Rule 14b-1(c) in providing beneficial ownership information to requesting issuers.[1]

I. Background

In July, 1983, the Commission adopted new paragraph (c) of Rule 14b-1 under the Act to improve the process whereby issuers communicate with shareholders whose securities are held in street name.[2] New paragraph (c) required brokers to provide issuers, upon request and assurance of reimbursement of reasonable expenses (direct and indirect), with the names, addresses and securities positions of customers who are beneficial owners of the issuers' securities and who have not objected to such disclosure. The Commission also adopted a corresponding amendment to Rule 17a-3(a)(9) under the Act to require that the customer records maintained by brokers for street name holders include whether the beneficial owner has objected to the disclosure to issuers of his or her identity, address, and securities positions.[3]

In adopting the direct shareholder communications rules the Commission left the determination of reasonable costs to the SROs, because, as representatives of both issuers and brokers, they were deemed to be in the best position to make a fair evaluation and allocation of the costs associated with the amendments, including start-up and overhead costs.[4] Accordingly, the NYSE formed an Ad Hoc Committee on Identification of Beneficial Owners ("Ad Hoc Committee"), composed of issuers, broker-dealers, banks, transfer agents, and proxy solicitors, to provide guidance on this issue.

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[1] Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission release (Securities Exchange Act Release No. 34-22683, December 2, 1985) and by publication in the **Federal Register** (50 FR 50245, December 9, 1985). No written comments were filed with the Commission on this proposal.

[2] Securities Exchange Act Release No. 20021 (July 28, 1983), 48 FR 35082.

[3] To provide time for the determination of reasonable costs by self-regulatory organizations ("SROs") and to minimize costs, the Commission established January 1, 1985, as the effective date for both provisions. Thereafter, associations representing the entities most directly affected by the rules jointly recommended that the effective date be deferred to January 1, 1986, and agreed to facilitate the determination and allocation of reasonable costs and the development of an efficient means of furnishing beneficial owner information to issuers. The Commission deferred the effective date, as requested, in the belief that a cooperative effort would result in the best system for communicating with shareholders while maintaining the system of nominee registration.

In October 1985, the Commission further amended the shareholder communication rules. Rule 14b-1 was amended to allow a broker or dealer to employ an intermediary to act as its designated agent in performing its obligations under the rules. The amendments further specified the time frames within which brokers must perform those actions requested by the issuer as required under the rules. *See e.g.*, Rule 14b-1 (a), (b), (c). New Rule 14b-1(d) makes clear that, without assurance of reimbursement by the issuer of reasonable direct and indirect expenses incurred in connection with performing its obligations under the rules, a broker or dealer need not satisfy its obligations under Rule 14b-1 (b) or (c). These amendments became effective January 1, 1986. Securities Exchange Act Release No. 22533 (October 15, 1985); 50 FR 42672.

[4] Securities Exchange Act Release No 20021 (July 28, 1983), 48 FR 35082.

A. Surcharge for Proxy Mailings for Annual Meetings

Based on the recommendations of the Ad Hoc Committee, the NYSE proposed a rule change in January 1985 that the start-up costs associated with the implementation of the rules be funded by a surcharge of $.20 per proxy for each of an issuer's two annual meeting proxy solicitations subsequent to the approval of the surcharge. At the request of the Commission staff, the NYSE modified its original proposal to apply the surcharge for only one year and agreed to submit actual cost data when it proposed an additional surcharge for the following year's proxy dissemination.[5]

To satisfy their commitment to provide the Commission with actual cost data to support the request for a second year's surcharge, the NYSE conducted a survey to determine actual start-up costs incurred and the approximate number of proxies mailed to recoup brokers' start-up charges under the initial proxy surcharge. The NYSE obtained data providing the number of carrying accounts reported to the Commission in the consolidated FOCUS Report as of December 31, 1984. As of that date, brokers reported an aggregate of 22.5 million carrying accounts. The NYSE survey covered member organizations reporting 9.9 million carrying accounts.[6]

The NYSE states that available survey data indicates that a second and final surcharge of approximately $.185 per set of proxy material would be necessary to reimburse brokers for start up costs.[7]

The Ad Hoc Committee reviewed and approved the results of the NYSE's study and recommended to the NYSE that a second and final surcharge at the rate of $.185 per proxy be adopted. The NYSE believes that the aggregate $.385 per proxy surcharge will reimburse the brokerage industry as a whole although it cannot assure that each individual brokerage firm will recover all of its start-up costs.

B. Charge for Providing Beneficial Ownership Information to Requesting Issuers

Under the requirements of Rule 14b–1(c), a broker, either directly or through its agent, is required to provide an issuer with names, addresses and securities positions of the borker's customers who are beneficial owners of the issuer's securities and who have not objected to disclosure of such information. Rule 14a–13(b)(3) requires that issuers who request brokers to provide them with information relating to beneficial owners of the issuers' securities, pursuant to Rule 14b–1(c), pay the brokers' reasonable expenses, both direct and indirect, of providing the beneficial owner information. Rule 14b–1(d) permits a broker not to comply with the requirements of Rule 14b–1(c) where the issuer does not provide assurances of reimbursement of the broker's reasonable expenses, both direct and indirect, incurred in complying with these requirements.

The Ad Hoc Committee considered what the borkers' reasonable costs for maintaining and providing beneficial ownership data would be.[8]

Representatives from the Securities Industry Association estimated the costs to be approximately $.065 per name. The Committee accepted this figure and recommended to the NYSE that the fair and reasonable charge for reimbursement of brokers for providing beneficial ownership information to requesting issuers be set at $.065 per name.[9]

II. Discussion

Under Section 19(b) of the Act, the standard for approval of a proposed SRO rule change is that the proposal be consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 6(b) of the Act sets forth the general requirements for exchange rules. Section 6(b)(4) requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using the facilities of an exchange. Section 6(b)(5) requires, among other things, that exchange rules promote just and equitable principles of trade and that they are not designed to permit unfair discrimination between issuers, brokers, or dealers. Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this case, the Commission believes that, to the

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[5] The Commission approved an initial $.20 surcharge for one year's annual meeting proxy solicitations on March 28, 1985 in Securities Exchange Act Release No. 21900, March 28, 1985, 50 FR 13297.

The NYSE's initial cost estimates which served as the basis for the original fee proposal were based on the assumption that broker-dealers would be required to solicit "some 34 million shareowners" as to whether they would object to disclosure of their names and other information to issuers, at an estimated cost of $0.70 per shareholder. The 34 million number was taken from a 1983 NYSE survey of all shareowners including those who hold securities in their own names and those who hold securities through banks. Because broker-dealers only will be required to solicit consent of those shareowners whose securities are held by the broker in street name, this number appeared to be inflated. 1983 FOCUS data for all broker-dealers and 1984 FOCUS data for NYSE firms indicated that broker-dealer street name customer accounts totaled just under 20 million as of December 31, 1984. Therefore, the Commission determined that further cost data was necessary to assess adequately a second year surcharge.

[6] NYSE member organizations actually account for approximately 18.8 million of the 22.5 million carrying accounts reported in the FOCUS Report. The NYSE's survey, however, was limited to member organizations representing 9.9 million carrying accounts (or 44% of the consolidated FOCUS total).

[7] Specifically, the NYSE survey data indicated the following:

- Start-up costs averaged approximately $.609 per carrying account reported at December 31, 1984.
- An average of approximately 1.6 sets of proxy material was provided per carrying account reported at December 31, 1984.
- The aggregate amount of the surcharge, necessary to reimburse the indicated start-up costs incurred by the brokerage industry ($.609 per account), would be $.385 per set of proxy materials mailed in connection with the issuer's proxy solicitations for the two annual meetings held after March 28, 1985.
- Based on this data, and given the first year's proxy surcharge of $.20 per proxy, the second, and final surcharge would need to be $.185 to recover estimated start-up costs.

The survey data used by the NYSE was compiled in October 1985 and, according to the Exchange, represents the best data available at the time the Exchange prepared the proposed rule change for filing with the Commission. Telephone conversation between Michael Cavalier, Branch Chief, Division of Market Regulation, and Paul Wyciskala, NYSE, January 29, 1986.

[8] As the NYSE noted in its filing, both the Commission and the Ad Hoc Committee believe that an intermediary, acting as the designated agent of responding broker-dealers, is necessary to the effective implementation of the shareholder communication rules as amended in Securities Exchange Act Release No. 22533 (October 15, 1985); 50 FR 42672. The intermediary would serve as a central processing agent between brokers and issuers in the transmission of beneficial ownership data and would perform related brokers' administrative functions. The use of an intermediary would assure both client confidentiality and standardized delivery format. Rule 14b–1(c) allows a broker to employ an intermediary to act as its designated agent in performing its obligations under the Rule. While the Commission anticipates that brokers generally will choose to employ an agent under the Rule, and that the agent employed generally will be the intermediary selected by the Ad Hoc Committee—IECA Intermediary Services, a wholly-owned subsidiary of Independent Election Corporation of America—employing an intermediary is not required by the Rule.

The NYSE also noted that the Ad Hoc Committee had considered the fees IECA Intermediary Services proposes to charge issuers for its services and determined the charges to be reasonable. The proposed rate of reimbursement of brokers for providing such information to issuers do not include fees which might be charged by an intermediary agent used by the broker to comply with its obligations under Rule 14b–1(c).

[9] In a separate matter, the NYSE has filed with the Commission a proposed rule change (File No. SR–NYSE–85–46) amending the Supplementary Material to Rules 451 and 465 relating to reasonable rates of reimbursement of member organizations in connection with forwarding proxy and annual report mailings to beneficial shareowners. Securities Exchange Act Release No. 22740 (December 23, 1985), 50 FR 43413.

extend that the surcharge for proxy mailings for annual meetings and the allowable charge for brokers providing beneficial ownership information to requesting issuers that would be allowed under the proposal are reasonable and fairly allocated, they will meet the standards of the Act.

In determining to have the SROs develop a reasonable allocation of costs, the Commission recognized the need to balance the interests of broker-dealers and issuers in an area requiring difficult estimates. The data collected by the NYSE in the course of its study of brokers' start-up costs appear to support the NYSE's assertion that a second, and final, surcharge of $.185 is necessary to reimburse brokers for start-up costs incurred in complying with the requirements of Rules 14b–1(c) and 17a–3(a)(9)(ii). In addition, the estimates of representatives of the Securities Industry Association, as proposed by the NYSE and its Ad Hoc Committee, provide a reasonable basis for establishing a charge of $.065 per name as the fair and reasonable rate of reimbursement for brokers for providing beneficial ownership information to requesting issuers.[10] Moreover, the fees do not appear to unfairly discriminate among issuers because all issuers have the opportunity to request information regarding their beneficial owners, and more than a narrow class of issuers appears to be interested in receiving this information.[11]

The Commission believes that this proposal is the result of good faith negotiation between representatives of broker-dealers and issuers and is endorsed by associations representing both groups. Accordingly, the amount of the final surcharge and the charge for brokers providing beneficial ownership information to issuers appears to be reasonable and thus consistent with the section 6(b)(4) of the Act.

III. Conclusion

For the foregoing reasons, 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 Sections 6(b)(4), 6(b)(5), and 6(b)(8), 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.

Dated: February 11, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–3435 Filed 2–14–86; 8:45 am]

BILLING CODE 8010–01–M

[10] The Commission notes that the American Society of Corporate Secretaries ("ASCS") did not object to the proposed charges. *See* letter from Stephen P. Norman, Chairman, Securities Industry Committee, ASCS, to Richard A. Grasso, Executive Vice President, NYSE, dated November 25, 1985.

[11] It is, of course, possible for a rule nominally to apply across-the-board but, by virtue of an uneven impact, to impose inappropriate competitive burdens. The Commission has been unable to identify any such impacts from this proposed rule. The costs of this proposal for any given issuer will not be significant, and they will be borne proportionately by each issuer in accordance with the number of proxies it distributes.

[Release No. 34–22887; File No. SR–OCC–86–1]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corp.

On January 3, 1986, the Options Clearing Corporation ("OCC") filed a proposed rule change with the Commission under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Commission is publishing this Notice to solicit comment on the rule change.

OCC stated that the purpose of the filing is to permit its Clearing Members to use an electronic data processing pledge system ("EDP Pledge System")[1] for pledging securities to meet margin and clearing fund obligations. The present procedure requires physical delivery of a depository receipt representing securities held in the custody of an approved bank, trust company or other depository. The proposed rule change provides that the underlying securities pledged through the EDP Pledge System are pledged with the same legal effect as if a depository receipt had been filed.

OCC states in its filing that the proposal is consistent with the purposes and requirements of section 17A of the Act in that it will increase processing efficiency without affecting the rights that OCC presently has in respect of securities deposited by Clearing Members as collateral.

The rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number in the caption above and should be submitted by March 11, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 10, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–3436 Filed 2–14–86; 8:45 am]

BILLING CODE 8010–01–M

[1] Currently, OCC accepts pledges through the Depository Trust Company's (the "DTC") Participant Terminal System. DTC's electronic data processing pledge system was the subject of two previous filings, SR–DTC–85–2 and SR–DTC–85–7.

DEPARTMENT OF STATE

[Public Notice 955]

Agency Form Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—New.

(2) Originating office—Office of Legal Adviser.

(3) Title of information collection—Questionnaire Involving South Africa and Fair Labor Standards.

(4) Frequency—Annual.

(5) Respondents—U.S. firms operating in South Africa.

(6) Estimated number of responses—100.

(7) Estimated total number of hours needed to respond—3,000.

The final rule containing this collection of information was published in the Federal Register on December 31, 1985 (50 FR 53308).

Additional information or comments: Copies of the proposed form and supporting documents may be obtained from Gail J. Cook (202) 632-3528. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: February 14, 1986.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86-3364 Filed 2-14-86; 8:45 am]

BILLING CODE 4710-24-M

[Public Notice CM-8/941]

American Private Sector Overseas Security Advisory Council; Meeting

Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), dated October 6, 1972, the Department of State announces a closed meeting of the State Department—American Private Sector Overseas Security Advisory Council on April 3, 1986 at 9:30 A.M. in Room 1105, U.S. Department of State. Under the provision of the United States Code Title 5, Section 552b(c)(1) and (4) and Executive order #12356, it has been determined the meeting will be closed to the public. This decision relates to the anticipated disclosure of matters that are to be kept secret in the interest of national defense and foreign policy and items of a privileged commercial nature. The agenda will include a discussion of current U.S. foreign policy on responses to terrorist incidents and threats, committee reports on contingency planning and results of a survey conducted by the Council on security needs of the American private sector operating overseas. For further information, please contact Mr. Vernon E. Bishop at 202-647-5220.

Dated: February 7, 1986.

David C. Fields,

Director of the Diplomatic Security Service.

[FR Doc. 86-3919 Filed 2-14-86; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings; Application of Atlantic Gulf Airlines for Certificate Authority

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause (Order 86-2-25), Docket 43184.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order granting Air Illinois, Inc. d.b.a. Atlantic Gulf Airlines a certificate to engage in foreign scheduled air transportation of persons, property, and mail.

DATE: Persons wishing to file objections should do so no later than March 5, 1986.

ADDRESS: Responses should be filed in Docket 43184 and addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 755-3812.

Dated: February 11, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-3445 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Proposed Revocation of the Sections 401 and 418 Certificates of Capitol Air, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause, (Order 86-2-24) Docket 43797.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificates of Capitol Air, Inc., issued under section 401 and 418 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than March 5, 1986.

ADDRESSES: Responses should be filed in Docket 43797 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, D.C. 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 755-3814.

Dated: February 11, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-3436 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended February 7, 1986

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the applicaiton by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further procedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket number	Description
Feb. 3, 1986	43775	Olson Air Service, Inc., c/o Bill Miller, Bill Miller Associates, Suite 604, 1341 G Street, NW., Washington, DC 20005. Application of Olson Air Service, Inc., pursuant to section 401(d)(1) of the Act and Subpart Q of the Regulations requests authority to engage in interstate air transportation of persons, property and mail: Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 3, 1986.

Date filed	Docket number	Description
Feb. 7, 1986.....	43782	Pakistan International Airlines Corporation, c/o James L. Devall, Zuckert, Scoutt, Rasenberger & Johnson, 888 Seventeenth Street, NW., Washington, DC 20006. Application of Pakistan International Airlines Corporation pursuant to section 402 of the Act and Subpart Q of the Regulations requests an amendment to its foreign air carrier permit to add, as an intermediate point to its current United States-Pakistan route, Copenhagen, Denmark. Answers may be filed by March 7, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-3444 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petitions

This notice sets forth the reasons for the denials of petitions submitted to the National Highway Traffic Safety Administration under section 124 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381, 1410a).

On May 30, 1985 the agency informed Delmer Harris of Stanley, Kansas, that it was denying his petition to determine that a safety related defect attributable to rust exists in MacPherson front suspension towers on 1974 Subaru DL passenger cars. The agency had previously investigated alleged corrosion of the body/undercarriage sheet metal supporting the front suspension and steering components on 1973-74 Subarus (Engineering Analysis E80-025) but had closed the investigation in June 1983 because of the relatively low number of reports with low severity levels. The agency decided that further investigation of Mr. Harris' problem was unwarranted.

On October 7, 1985, Ed Strelau of Cincinnati, Ohio, asked the agency to conduct an investigation into corrosion and breakage of the sheet metal tie rod arms on 1976 Audi Fox vehicles. The agency's files revealed only one other complaint, and concluded that there was no justification for conducting an investigation, and Mr. Strelau was informed on November 19, 1985, that his petition was denied.

Jeffrey T. Meyers of Detroit, Michigan, asked the agency on April 26, 1985, to conduct a safety investigation into breakage of flexible blade engine cooling fans on 1977 Chevrolet Camaro passenger cars. Mr. Meyers' petition was assigned file number P85-22. In response to NHTSA inquiry, General Motors forwarded 29 complaints covering 1976 and 1977 Camaro fans (both models share the same engine compartment, fan, and engine specifications), and the agency found six more in its files. However, in relation to the overall size of the fleet, no pattern or failure trend emerged that would suggest the existence of a safety related defect. Since there did not appear to be a reasonable possibility that an order requiring the manufacturer to notify and remedy would be issued at the conclusion of an investigation, Mr. Meyers' petition was denied on November 20, 1985.

The agency has also recently denied two petitions filed by the Center for Auto Safety. The first, dated May 24, 1985, alleged that 1983-85 Ford passenger cars with fuel injected 3.8 and 5.0 litre engines may contain a safety related defect due to stalling. The petition was assigned file P85-24. NHTSA inquiry did disclose the existence of a problem: there were a reported fourteen accidents and three injuries allegedly resulting from stalling. Through its service information, Ford acknowledged the existence of driveability problems in cars equipped with electronic ingnition controls. These problems involve surge, spark knock, momentary increase of idle speed, fast idle, loss of power, mechanical noise, bucking, jerking on deceleration, rough idle, unexpected momentary engine speed decrease, failure to start, stalling on transmission engagement, hesitation and misfire during steady speeds, etc. However, the service bulletins and NHTSA analysis revealed no one item which could be described as the causal factor for these problems and no pattern emerged. Moreover, given the vehicle population of 2.2 million vehicles, the number of complaints did not indicate a trend indicating a safety related defect.

The second petition, filed on June 13, 1985, alleged the existence of a safety related defect caused by cracking of the junction of the fuel filler neck with the fuel tank on 1975-1981 Chevrolet Camaro and Pontiac Firebird passenger cars. This file was designated P85-25. Agency review indicated that twenty-five complaints had been made covering a vehicle population exceeding two million and the odor of raw gasoline alerted the drivers to the need for service attention. None indicated that there had been a rear end collision or a fire, and because of the facts that there are no spark sources at the rear, and leakage in the unconfined air space results in an air-fuel ratio too lean for ready ignition, the agency determined that were an investigation conducted, there was no reasonable possibility that an order would be issued at the end of it requiring notification and remedy.

The first petiton was denied on November 26, 1985, and the second, November 27, 1985.

(Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 12, 1986.

George Parker,

Associate Administrator for Enforcement.

[FR Doc. 86-3442 Filed 2-14-86; 8:45 am]

BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the forum, (3) The agency form number, if applicable, (4) how often the form must be filled out, (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 fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-

2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: February 11, 1986.

By direction of the Administrator.

Susan Livingstone,

Associate Deputy Administrator for Management.

Extension

1. Office of Budget and Finance
2. Monthly Summary of Payroll Deductions for Government Life Insurance
3. VA Form 4–800a
4. Monthly
5. Businesses or other for-profit
6. 588 responses
7. 147 hours
8. Not applicable

[FR Doc. 86–3384 Filed 2–14–86; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 32
Tuesday, February 18, 1986

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).

1

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 5141, February 11, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: February 12, 1986, 10:00 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No. and Docket Nos. and Companies

M-8—RM85-1-000, 148, 150 and 152 (Parts A-D), Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Citizens Energy Corporation, Natural Gas Pipeline Company of America, Southern Natural Gas Company, Texas Eastern Transmission Corporation, Northwest Pipeline Corporation and American Gas Association and Arkla Energy Resources)

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-3567 Filed 2-13-86; 3:22 pm]

BILLING CODE 6717-02-M

Federal Register

Tuesday
February 18, 1986

Part II

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

In accordance with the Impoundment Control Act of 1974, I herewith report seventy-seven new rescission proposals totaling $9,945,651,335, twenty-seven new deferrals of budget authority totaling $15,191,970,509, and fifteen revised deferrals of budget authority totaling $7,663,442,822.

The rescissions affect programs in the Departments of Agriculture, Commerce, Education, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, Transportation, and Treasury, Funds Appropriated to the President, National Aeronautics and Space Administration, Office of Personnel Management, Appalachian Regional Commission, Corporation for Public Broadcasting, National Endowment for the Humanities, State Justice Institute, and the United States Railway Association.

The deferrals affect programs in the Department of Commerce, Defense—Military and Civil, Energy, Health and Human Services, Housing and Urban Development, Justice, Labor, Transportation, and Treasury, Funds Appropriated to the President, the Commission on the Ukraine Famine, the Railroad Retirement Board, and the United States Information Agency.

The details of these rescission proposals and deferrals are contained in the attached report.

Ronald Reagan,

The White House,

February 5, 1986.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NUMBER	ITEM	BUDGET AUTHORITY Original Rescission	Sequester	Current Rescission
	Funds Appropriated to the President			
	Multilateral Assistance			
R86-1	International organizations and programs	51,711	11,951	39,760
	Department of Agriculture			
	Agricultural Stabilization and Conservation Service			
R86-2	Rural clean water program	6,000	0	6,000
R86-3	Agricultural conservation program	140,839	0	140,839
R86-4	Water bank program	8,371	0	8,371
R86-5	Dairy indemnity program	95	0	95
	Rural Electrification Administration			
R86-6	Reimbursement to the Rural electrification and telephone revolving fund for interest subsidies and losses	100,000	0	100,000
R86-7	Purchase of Rural Telephone Bank capital stock	30,000	1,290	28,710
	Farmers Home Administration			
R86-10	Rural development loan fund	13,674	0	13,674
	Soil Conservation Service			
R86-11	Watershed and flood prevention operations	60,401	0	60,401
R86-12	Great plains conservation program	6,606	0	6,606
	Food and Nutrition Service			
R86-13	Food donations program	5,183	0	5,183
	Department of Commerce			
	Economic Development Administration			
R86-14	Economic development assistance programs	109,200	7,891	101,309
	International Trade Administration			
R86-15	Operations and administration	20,000	710	19,290
	National Oceanic and Atmospheric Administration			
R86-16	Operations, research, and facilities	66,604	3,281	63,323
	National Telecommunications and Information Administration			
R86-17	Public telecommunications facilities, planning and construction	22,800	980	21,820
	Department of Education			
	Office of Elementary and Secondary Education			
R86-18	Compensatory education for the disadvantaged	7,500	323	7,177
R86-19	Special programs	40,200	2,418	37,782
	Office of Bilingual Education and Minority Languages Affairs			
R86-20	Immigrant education	30,000	1,290	28,710
	Office of Special Education and Rehabilitative Services			
R86-21	Education for the handicapped	104,688	60,324	44,364
R86-22	Rehabilitation services and handicapped research	126,585	51,146	75,439
R86-23	Payments to institutions for the handicapped	3,111	2,665	446
	Office of Vocational and Adult Education			
R86-24	Vocational and adult education	245,962	35,625	210,337
	Office of Postsecondary Education			
R86-25	Student financial assistance	456,347	0	456,347
R86-26	Higher education	193,160	12,278	180,882
	Special Institutions			
R86-27	Howard University	6,000	301	5,699
	Office of Educational Research and Improvement			
R86-28	Libraries	34,500	1,483	33,017
	Department of Health and Human Services			
	Health Resources and Services Administration			
R86-9	Health resources and services	211,455	0	211,455
R86-29	Indian health	24,262	0	24,262
R96-30	Indian health facilities	38,642	0	38,642
	Centers for Disease Control			
R86-31	Disease control, research, and training	34,096	0	34,096
	National Institutes of Health			
R86-32	National Cancer Institute	6,800	0	6,800
R86-33	National Heart, Lung and Blood Institute	11,469	0	11,469
R86-34	National Institute of Diabetes and Digestive and Kidney Diseases	7,980	0	7,980
R86-35	National Institute of Neurological and Communicative Disorders and Strokes	9,554	0	9,554
R86-36	National Institute of Allergy and Infectious Disease	1,513	0	1,513
R86-37	National Institute of General Medical Sciences	7,358	0	7,358
R86-38	National Institute of Child Health and Human Development	1,150	0	1,150

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NUMBER	ITEM	BUDGET AUTHORITY Original Rescission	Sequester	Current Rescission
R86-39	National Eye Institute.....	5,224	0	5,224
R86-40	National Institute on Aging....	2,679	0	2,679
R86-41	Office of the Director.....	23,055	0	23,055
	Alcohol, Drug Abuse, and Mental Health Administration			
R86-42	Alcohol, drug abuse, and mental health.....	39,718	0	39,718
	Health Care Financing Administration			
R86-43	Program management.....	912	0	912
	Social Security Administration			
R86-44	Refugee and entrant assistance.	87,551	0	87,551
	Human Development Services			
R86-45	Human development services.....	29,980	0	29,980
R86-46	Family social services.....	6,157	0	6,157
R86-47	Work incentives.....	55,000	9,116	45,884
R86-48	Community services block grant.	182,139	0	182,139
R86-49	Community development credit union revolving fund.....	2,529	0	2,529
	Departmental Management			
R86-50	General Departmental management	19,619	0	19,619
R86-51	Policy research.....	220	0	220
	Department of Housing and Urban Development			
	Housing Programs			
R86-52	Subsidized housing programs....	4,416,131	0	4,416,131
R86-53	Congregate services program....	2,555	0	2,555
R86-54	Housing counseling assistance..	3,313	0	3,313
	Community Planning and Development			
R86-55	Urban development action grants	220,062	0	220,062
	Department of the Interior			
	Bureau of Land Management			
R86-56	Land acquisition.....	3,000	0	3,000
	United States Fish and Wildlife Service			
R86-57	Land acquisition.....	4,951	0	4,951
	National Park Service			
R86-58	Construction.....	13,613	0	13,613
R86-59	Land acquisition.....	83,917	0	83,917
R86-60	Historic preservation fund.....	18,523	0	18,523
	Department of Justice			
	Federal Prison System			
R86-61	National Institute of Corrections.....	3,315	0	3,315
	Office of Justice Programs			
R86-62	Justice assistance.....	140,393	5,727	134,666

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NUMBER	ITEM	BUDGET AUTHORITY Original Rescission	Sequester	Current Rescission
	Department of Labor			
	Employment and Training Administration			
R86-63	Training and employment services	534,786	118,749	416,037
	Department of Transportation			
	Federal Railroad Administration			
R86-64	Rail service assistance.....	15,000	645	14,355
R86-65	Northeast corridor improvement program.....	12,500	538	11,962
R86-66	Railroad rehabilitation and improvement financing funds...	33,500	1,441	32,059
	Urban Mass Transportation Administration			
R86-67	Discretionary grants.....	521,275	0	521,275
	Department of the Treasury			
	Office of Revenue Sharing			
R86-68	Payments to State and local government fiscal assistance trust fund.....	759,975	0	759,975
	Federal Law Enforcement Training Center			
R86-69	Salaries and expenses.....	4,976	0	4,976
	United States Customs Service			
R86-70	Salaries and expenses.....	4,169	0	4,169
R86-71	Operation and maintenance, air interdiction program.....	19,275	0	19,275
	National Atmospheric and Space Administration			
R86-72	Research and development.....	26,796	0	26,796
	Office of Personnel Management			
R86-73	Government payment for annuitants, employees health benefits.....	600,000	0	600,000
R86-73	Employees health benefits fund.	0	0	0
	Other Independent Agencies			
	Appalachian Regional Commission			
R86-74	Appalachian regional development programs.....	81,000	0	81,000
R86-75	Corporation for Public Broadcasting			
	Public broadcasting fund.....	44,000	0	44,000
	National Endowment for the			

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NUMBER	ITEM	BUDGET AUTHORITY Original Rescission	Sequester	Current Rescission
	Humanities			
R86-76	Grants and administration.....	1,903	0	1,903
	State Justice Institute.....			
R86-78	Salaries and expenses.....	7,656	0	7,656
	United States Railway Association			
R86-79	Administrative expenses.....	640	0	640
	Total, rescissions.....	10,275,823	330,172	9,945,651

Note -- Excludes $351 million reduction in the Rural housing insurance fund and $361 million reduction in FFB loan asset purchases, Rural housing insurance fund, Farmers Home Administration, Department of Agriculture.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NUMBER	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President	
	International Security Assistance	
D86-32	Foreign military sales credit..	4,590,000
D86-24A	Economic support fund.....	3,158,276
D86-33	Military assistance program....	661,350
D86-34	International military education and training.....	27,245
	Multilateral Development Banks	
D86-35	Contribution to the special facility for sub-saharan Africa	75,000
	Department of Commerce	
	Economic Development Administration	
D86-36	Economic development assistance programs.....	40,000
	National Oceanic and Atmospheric Administration	
D86-25A	Fisheries loan fund.....	2,297
	Department of Defense - Military	
D86-4A	Military construction.....	1,841,658
D86-27A	Family housing.....	221,842
	Department of Defense - Civil	
	Wildlife Conservation, Military Reservations	
D86-5A	Wildlife conservation.....	1,256
	Department of Energy	
	Energy Programs	
D86-38	Energy supply, research and development activities.....	65,763
D86-58	Uranium supply and enrichment activities.....	584,158
D86-6A	Fossil energy research and development.....	64,812
D86-8A	Naval petroleum and oil shale reserves.....	166,466
D86-37	Strategic petroleum reserve....	197,941
D86-10A	SPR petroleum account.....	577,534
D86-11A	Alternative fuels production...	1,899
	Power Marketing Administration	
D86-13A	Southwestern Power Administration, Operation and maintenance.....	13,243
	Department of Health and Human Services	
	Health Care Financing Administration	
D86-57	Program management.....	8,489
	Social Security Administration	

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NUMBER	ITEM	BUDGET AUTHORITY
D86-28A	Limitation on administrative expenses (construction).....	6,647
D86-39	Limitation on administrative expenses (excludes disability determination services).....	30,000
D86-40	Limitation on administrative expenses (information technology systems).....	114,641
	Department of Housing and Urban Development	
	Housing Programs	
D86-41	Annual contributions for assisted housing - budget authority....	7,032,443
D86-42	Annual contributions for assisted housing - contract authority..	641
D86-43	Rental housing development grants.....	77,400
D86-44	Congregate services program....	2,670
D86-45	Housing for the elderly or handicapped fund.....	599,801
D86-46	Nonprofit sponsor assistance...	1,000
	Community Planning and Development	
D86-47	Rental rehabilitation grants program.....	77,000
D86-48	Community development grants...	500,000
D86-49	Urban development action grants	251,000
D86-50	Rehabilitation loan fund.....	135,535
	Department of Labor	
	Employment and Training Administration	
D86-51	State unemployment insurance and employment service operation.....	37,000
	Department of Justice	
	Federal Prison System	
D86-17A	Buildings and facilities.....	30,730
	Office of Justice Programs	
D86-18A	Crime victims fund.....	103,396
	Department of Transportation	
	Federal Railroad Administration	
D86-52	Conrail labor protection.....	4,565
D86-29A	Federal Aviation Administration Facilities and equipment (Airport and airway trust fund)	1,368,162
	Maritime Administration	
D86-53	Operations and training.....	9,350

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NUMBER	ITEM	BUDGET AUTHORITY
	Department of the Treasury	
	Office of Revenue Sharing	
D86-30A	Local government fiscal assistance trust fund.....	105,226
	Other Independent Agencies	
	Commission on the Ukraine Famine	
D86-54	Salaries and expenses.....	233
	Railroad Retirement Board	
D86-55	Dual benefits payments account.	2,201
	United States Information Agency	
D86-56	Acquisition and construction of radio facilities.....	66,545
	Total, deferrals.....	22,855,413

SUMMARY OF SPECIAL MESSAGES
FOR FY 1986
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Third special message:		
New items	10,275,823	15,191,971
Revisions to previous special messages	0	4,544,529
Sequestered amounts	330,172	0
Effects of third special message	9,945,651	19,736,499
Amounts from previous special messages that are changed by this message (changes noted above)	0	3,118,914
Subtotal, rescissions and deferrals	9,945,651	22,855,413
Amounts from previous special messages that are not changed by this message	0	533,178
Total amount proposed to date in all special messages	9,945,651	23,388,592

Note - Of the amount initially withheld for rescission, $211,423 thousand has been sequestered pursuant to Public Law 99-177. The amount proposed for rescission after sequestration is $10,415,896 thousand. The details by account are noted in the Table of Contents above and on the individual reports that follow. Not all rescission reports are affected by sequestration because some amounts were not determined until after the sequestration had been made.

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FUNDS APPROPRIATED TO THE PRESIDENT

Multilateral Economic Assistance

International organizations and programs

Of the amounts made available under this head in Public Law 99-190, $39,760,475 are rescinded.

Rescission Proposal No: R86-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority**.....$247,922,475 1/ (P.L. 99-190)
Bureau: Multilateral Assistance	**Other budgetary resources**
Appropriation title and symbol: International organizations and programs 1161005	**Total budgetary resources** 247,922,475
	Amount proposed for rescission $ 51,711,475
OMB identification code: 11-1005-0-1-151	**Legal authority** (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual	**Type of budget authority:** ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☐ No-Year	☐ Other

Justification: This account funds voluntary contributions by the United States to selected multilateral developmental, humanitarian, and scientific programs, most of which are associated with the United Nations. A rescission of $51,711,475 is proposed because, useful as some of these programs may be, a higher priority must be afforded other foreign assistance activities accomplishing the same objectives. The proposed rescission would reduce the 1986 program to the original 1986 request level.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
326,660	299,831	26,829	12,931	---	---	--	---

1/ Does not include $30,000,000 for the International Fund for Agricultural Development, the availability of which is contingent upon receipt of a budget request by the Congress and the United States entering into an agreement to participate in the second replenishment of the organization.

Note - $11,951,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $39,760,475.

R86-1

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Rural clean water program

Of available funds under this head, $6,000,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority.....** $ _____ (P.L. _____)
Bureau: Agriculture Stabilization and Conservation Service	**Other budgetary resources** $ 16,635,093
Appropriation title and symbol: Rural clean water program 12X3337	**Total budgetary resources** $ 16,635,093
	Amount proposed for rescission $ 6,000,000
OMB identification code: 12-3337-0-1-304	**Legal authority (in addition to sec. 1012):** | | Antideficiency Act | | Other _____
Grant program: | | Yes | X | No	
Type of account or fund: | | Annual | | Multiple-year _____ (expiration date) | X | No-Year	**Type of budget authority:** | X | Appropriation | | Contract authority | | Other _____

Justification: Under the experimental Rural Clean Water Program (RCWP), a total of $70 million was appropriated in 1980 and 1981 to develop and test means of controlling agricultural nonpoint source water pollution in rural areas. Twenty-one projects were approved, for which full funding over the 3 to 10-year life of the project areas was estimated to be $70 million. Due to a decline in the inflation rate from 15 percent to 5 percent, and to a lower level of farmer participation as a result of the depressed farm economy, revised cost estimates, assuming a relatively stable inflation rate, indicate that approximately $64 million is sufficient to complete the 21 RCWP projects. Cost-share funds sufficient to meet projected demand will be available to complete the 19 projects not yet completed under this program. The balance of $6 million is proposed for rescission.

Estimated Program Effect: None

Outlay Effect: None

R86-3

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Agricultural conservation program

Of the funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, $140,839,000 are rescinded.

Rescission Proposal No: R86-3

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	New budget authority..... $190,000,000 (P.L. 99-190)
Bureau: Agricultural Stabilization and Conservation Service	Other budgetary resources 27,476,369
Appropriation title and symbol: Agricultural conservation program 12X3315	Total budgetary resources $217,476,369
	Amount proposed for rescission $140,839,000
OMB identification code: 12-3315-0-1-302	Legal authority (in addition to sec. 1012): | | Antideficiency Act | | Other
Grant program: | | Yes | X | No	
Type of account or fund: | | Annual | | Multiple-year (expiration date) | X | No-Year	Type of budget authority: | X | Appropriation | | Contract authority | | Other

Justification: The primary objectives of the program are: (1) to help assure a continued supply of food and fiber necessary for a strong and healthy economy and people, (2) to facilitate sound resource management systems through soil and water conservation, (3) to control erosion and sedimentation from agricultural land, (4) to control pollution from animal wastes, (5) to encourage voluntary compliance by agricultural producers with State and Federal requirements to solve point and nonpoint sources of pollution, (6) to improve water quality, (7) to help achieve national priorities in the National Environmental Policy Act, (8) to help achieve national priorities in the Federal Water Pollution Control Act, and (9) to encourage the energy conservation measures specified in the Energy Security Act of 1980. The rescission is proposed to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. In addition, Presidental policy calls for privatization when possible. Responsibility for the maintenance of the productivity and profitability for the individual farm is primarily the responsibility of its owner, who has an economic stake in preserving its productivity. Finally, financial assistance under the Food Security Act of 1985 should be concentrated on the longer term conservation of cropland that meets strict criteria for entry in a Conservation Reserve Program.

Estimated Program Effect: No new activity beyond what is currently under contract will be initiated under this program in fiscal year 1986. Practices for which funds were previously obligated will be completed. Existing long-term agreements will be honored.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
203,377	160,000	43,377	80,452	3,780	3,780	3,780	5,670

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Water bank program

Of the funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, $8,371,000 are rescinded.

Rescission Proposal No: R86-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority**..... $8,800,000 (P.L. 99-190)
Bureau: Agricultural Stabilization and Conservation Service	**Other budgetary resources** 529,315
Appropriation title and symbol:	**Total budgetary resources** 9,329,315
Water bank program 12X3320	**Amount proposed for rescission** $8,371,000
OMB identification code: 12-3320-0-1-302	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: The objectives of the Water Bank Program are to conserve water; preserve, maintain, and improve the Nation's wetlands; increase waterfowl habitat in migratory waterfowl nesting, breeding, and feeding areas in the United States; and secure recreational and environmental benefits for the Nation. The program was authorized by the Water Bank Act, approved December 19, 1970, as amended by Public Law 96-182, approved January 2, 1980. A rescission is proposed to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. In addition, the major program thrust for waterfowl habitat protection is in the Department of Interior which has a dedicated source of funding for water fowl habitat preservation authorized by the Migratory Bird Conservation Act. Finally, the "swampbuster provision" of the Food Security Act of 1985 would deny farm benefits to producers who convert wetlands to crop use in the future, except where the impact of the action is found to be minimal.

Estimated Program Effect: No new contracts will be signed in FY 1986. Expiring agreements will not be renewed and payment rates on 5-year old contracts will not be increased. However, existing agreements through 1995 will be honored.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
9,944	8,900	1,044	862	862	862	862	3,879

R86-5

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Dairy indemnity program

Of the funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, $95,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority.....** $100,000 (P.L. 99-190)
Bureau: Agri. Stabilization and Conserv. Svc.	**Other budgetary resources** -5,000
Appropriation title and symbol: Dairy indemnity program 1/ 12X3314	**Total budgetary resources** 95,000
	Amount proposed for rescission $ 95,000
OMB identification code: 12-3314-0-1-351	**Legal authority** (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund:	**Type of budget authority:**
☐ Annual	☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-Year	☐ Other

Justification: This program makes indemnification payments to dairy farmers and manufacturers of dairy products when milk is found to contain residues of chemicals or nuclear radiation and is removed from commercial markets. This is a low priority program for which no fiscal 1985 claims for losses have been filed to date. The $95,000 provided by the 1986 appropriation addresses a problem which is of limited scope. Rescission of the funds is proposed because of the need to reduce Federal spending pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
112	17	95	---	---	---	---	---

1/ This account was the subject of similar rescission in 1985 (R85-23).

Department of Agriculture

Rural Electrification Administration

Rural Electrification and Telephone Revolving Fund Loan Authorization

All funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority**..... $100,000,000 (P.L. 99-190)
Bureau: Rural Electrification Administration	**Other budgetary resources**
Appropriation title and symbol: Reimbursement to the Rural Electrification and Telephone Revolving Fund 1/ 1263101	**Total budgetary resources** 100,000,000
	Amount proposed for rescission $100,000,000
OMB identification code: 12-3101-0-1-271	**Legal authority** (in addition to sec. 1012): ___ Antideficiency Act
Grant program: ___ Yes | X | No	___ Other
Type of account or fund:	**Type of budget authority:**
| X | Annual	| X | Appropriation
___ Multiple-year (expiration date)	___ Contract authority
___ No-Year	___ Other

Justification: This appropriation is to reimburse the Rural Electrification and Telephone Revolving Fund for interest subsidies and losses sustained in prior years. This rescission is proposed because the Fund has not incurred a loss that would necessitate use of the appropriations. In fact, the Fund has never incurred a loss since its inception in 1973. In 1984, interest receipts collected into the fund exceeded interest expenses paid by the fund by almost $84 million as shown in the following table:

1984 Interest Receipts.....	$479,165,007
Less 1984 Interest Expenses.....	395,563,755
Net Income.....	83,601,252
1984 interest paid by Treasury without reimbursement from the Fund on advances totaling $7.9 billion.....	307,163,252

Only when this net income is reduced by imputed interest costs incurred and paid by Treasury without reimbursement from the revolving fund does the fund realize a loss. It should be emphasized that the imputed interest costs are not paid for by the revolving fund, as provided by P.L. 93-32, which forgave REA this interest. Therefore, for the operations of the fund in fiscal year 1984 there is no need for a reimbursement to the fund since actual interest income to the fund exceeded the actual interest expenses incurred.

Estimated Program Effect: None

Outlay Effect: Elimination of the interest subsidy would reduce outlays substantially (see Administration's legislative proposal for REA direct loan interest rates). The following table represents the effect of the rescission on this account only since the Rural Electrification and Telephone revolving fund could still borrow (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
100,000	---	100,000	---	---	---	---	---

1/ A similar rescission was proposed in 1985 (R85-28).

Department of Agriculture

Rural Electrification Administration

Rural Telephone Bank

All funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, are rescinded.

Rescission Proposal No: R86-7

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority.....** $30,000,000 (P.L. 99-190)
Bureau: Rural Electrification Administration	**Other budgetary resources**
Appropriation title and symbol: Purchase of Rural Telephone Bank Capital Stock 1/ 12X3102	**Total budgetary resources** 30,000,000
	Amount proposed for rescission $30,000,000
OMB identification code: 12-3102-0-1-452	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act
Grant program: | | Yes | X | No	| | Other
Type of account or fund: | | Annual	**Type of budget authority:** | X | Appropriation
| | Multiple-year (expiration date)	| | Contract authority
| X | No-Year	| | Other

Justification: This account funds the purchase of class A stock of the Rural Telephone Bank, providing capital to the Bank with a 2 percent rate of return. The difference between 2 percent and Treasury's rates is borne by U.S. taxpayers. The Federal Government has already provided through 1985 $420 million in capital to the Bank. The statute requires that the funds begin to be repaid starting in 1996. The Bank has the authority to raise funds in private credit markets on the capital base provided by the Federal Government, and it is authorized to borrow virtually without limitation from the U.S. Treasury at the same interest rate the Treasury pays. Even without the capital proposed for rescission, the Bank would continue to be heavily subsidized with taxpayer dollars, and rural telephone borrowers would continue to enjoy low-cost money. The Bank's current lending rate is 9.5 percent. This proposal would not affect the Bank's lending levels or outlays.

Estimated Program Effect: None

Outlay Effect: There would be a Government-wide savings of about $64 million in interest subsidy over the life of the single $30 million capital loan. The following table represents the impact only on this account (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
28,710	---	28,710	---	---	---	---	---

1/ A similar rescission was proposed in 1985 (R85-29).

Note - $1,290,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $28,710,000.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural development loan fund

Of available funds under this head, $13,674,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority**..... $_____ (P.L._____)
Bureau: Farmers Home Administration	**Other budgetary resources** 13,674,000
Appropriation title and symbol: Rural development loan fund 12X4233	**Total budgetary resources** 13,674,000
	Amount proposed for rescission $13,674,000
OMB identification code: 12-4233-0-3-452	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other_____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other_____

Justification: Funding for the Rural development loan fund is authorized under Section 623 and 633 of the Community Development Act of 1981 (42 U. S. C. 9801 et seq.). The Rural development loan fund assists low income rural residents through the provision of loans and guarantees to eligible borrower organizations at a reasonable cost to improve, develop, or finance business and industrial development; to create employment opportunities; to develop local ownership; to attract additional private capital into rural communities; and to improve and expand the ability of rural institutions to better serve the economic needs of low income residents. The proposed rescission is part of the Administration's effort to reduce the size and scope of Federal programs and their adverse impact on the management of future fiscal policy. The Administration believes that the most efficient way to manage both local community investment and local business investment is to rely upon the American private credit market--not federal loans, guarantees and grants.

Estimated Program Effect: The proposed rescission would eliminate unobligated balances of $13,674,000.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
13,274	-400	13,674	---	---	---	---	---

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Watershed and flood prevention operations

Of the funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, $60,401,000 are rescinded.

Rescission Proposal No: R86-11

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority**..... (P.L. 99-190) $ 230,795,000
Bureau: Soil Conservation Service	**Other budgetary resources** 24,788,064
Appropriation title and symbol: Watershed and flood prevention operations1/ 12X1072	**Total budgetary resources** 255,583,064
	Amount proposed for rescission $ 60,401,000
OMB identification code: 12-1072-0-1-301	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund: |__| Annual	**Type of budget authority:** |X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: This program provides for cooperation between the Federal Government and States and their political subdivisions in installing works of improvement: to reduce damage from floodwater, sediment and erosion; for the conservation, development, utilization, and disposal of water; and for the conservation and proper utilization of land. This rescission is proposed to prepare for proposed termination of the Watershed and Flood Prevention Operations Program in 1987. No new contracts will be initiated after January 31, 1986. This action is taken to assist in achieving the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The watershed structures for which funding is being terminated are small and relatively inexpensive with local benefits that are well within the capabilities of local communities to finance.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
236,456	218,336	18,120	27,180	15,101	---	---	---

1/ This account was the subject of a rescission proposal in 1985 (R85-34).

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Great Plains conservation program

Of the funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, $6,606,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority** (P.L. 99-190) $21,500,984
Bureau: Soil Conservation Service	**Other budgetary resources** -920,000
Appropriation title and symbol: Great Plains Conservation Program 12X2268	**Total budgetary resources** $20,580,000
	Amount proposed for rescission $ 6,606,000
OMB identification code: 12-2268-0-1-302	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act
Grant program: | | Yes | X | No	| | Other
Type of account or fund:	**Type of budget authority:**
| | Annual	| X | Appropriation
| | Multiple-year (expiration date)	| | Contract authority
| X | No-Year	| | Other

Justification: This program provides cost-share and technical services to participating landowners or operators in the Great Plains area in the development and installation of long-term conservation plans and practices for their land under contracts entered into in prior years. It is a voluntary program in 519 designated counties of 10 Great Plains States. Contracts with individual landowners range in time from 3 to 10 years. This rescission action is proposed to reflect the termination of the Great Plains Conservation Program during FY 1986. No new contracts will be signed after February 1, 1986. Remaining program funds would be used to pay severance pay and other costs associated with terminating those employees assigned to this program.

Estimated Program Effect: This low priority program would be terminated.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
21,101	21,101	---	1,580	1,623	1,366	905	754

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food donations program

Of the funds included under this head in the conference version of H.R. 3037, making appropriations for Agriculture, Rural Development, and Related Agencies, 1986, and made available by section 101(a) of Public Law 99-190, $5,183,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority** (P.L. 99-190) $194,573,000
Bureau: Food and Nutrition Service	**Other budgetary resources** -1,168,000
Appropriation title and symbol: Cash and commodities for selected groups 1/ 1263503	**Total budgetary resources** $193,405,000
	Amount proposed for rescission $ 5,183,000
OMB identification code: 12-3503-0-1-605	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: This account provides commodities for needy Indian families in lieu of food stamps and subsidies for meals served to the elderly, regardless of their incomes. A rescission is proposed for the Elderly Feeding program within this account. The Department of Agriculture reimburses meal providers for each meal they serve within the constraint established by the program's authorized level. For 1986, an amount exceeding the authorization was appropriated. The proposed rescission would return program resources to the authorized level.

Estimated Program Effect: Depending on final counts of meals served by meal providers, the reimbursement rate would be approximately 52 cents rather than from 61 cents to 63 cents per meal.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
149,631	144,934	4,697	486	---	---	---	---

1/ This account was formerly titled "Food donations program".

DEPARTMENT OF COMMERCE

Economic Development Administration

Economic development assistance programs

Of the funds made available under this head in Public Law 99-180, $101,309,000 are rescinded.

Rescission Proposal No: R86-14

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce	**New budget authority.....** $183,500,000 (P.L. 98-180, 99-190)
Bureau: Economic Development Administration	**Other budgetary resources** 535,000
Appropriation title and symbol: Economic development assistance programs 1/ 1362050 13X2050	**Total budgetary resources** 184,035,000
	Amount proposed for rescission $109,200,000
OMB identification code: 13-2050-0-1-452	**Legal authority** (in addition to sec. 1012): |_| Antideficiency Act
Grant program: |X| Yes |_| No	|_| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|_| Multiple-year _____ (expiration date)	|_| Contract authority
|_| No-Year	|_| Other_____

Justification: This account provides public works projects, planning and technical assistance grants, and research and evaluation to state and local governments for economic development activities. In order to reduce the Federal deficit and to reflect Administration policies to rely on the private sector to create jobs and to transfer responsibility for community and economic development assistance to state and local governments, a rescission is proposed for the unobligated balances of the Economic Development Administration's grant programs.

Estimated Program Effect: This reduction along with other proposals will reduce unnecessary spending. The effect of the reduction will be to transfer responsibility for economic development to private, state, and local sources.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
240,498	230,367	10,131	20,262	25,327	25,327	15,196	5,066

1/ This account is also the subject of a deferral (D86-36) and was the subject of similar rescission proposals in 1985 (R85-55 and R85-56).

Note - $7,891,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $101,309,000

DEPARTMENT OF COMMERCE

International Trade Administration

Operations and administration

Of the funds made available under this head in Public Law 99-180, $10,180,000 are rescinded; an additional $9,110,000 is rescinded from other available balances.

Rescission Proposal No: R86-15

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce **Bureau:** International Trade Administration **Appropriation title and symbol:** Operations and administration 1/ 13X1250	**New budget authority.....** $192,000,000 (P.L. 98-180) **Other budgetary resources** 22,254,225 **Total budgetary resources** 214,254,225 **Amount proposed for rescission** $20,000,000
OMB identification code: 13-1250-0-1-376 **Grant program:** [X] Yes [ ] No	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: This account funds programs intended to promote an improved trade posture for U.S. industry in a manner consistent with national security and foreign and economic policy. The Trade Adjustment Assistance (TAA) program, funded in this account, provides technical assistance, grants, direct loans, and loan guarantees to businesses adversely affected by increased imports. The fact that a firm has been harmed by import competition should not in and of itself constitute justification for special Government assistance. U.S. trade laws provide remedies against unfair import competition. In addition, high TAA default rates suggest that a large proportion of these loans and loan guarantees have not resulted in the intended adjustment. A rescission of $20,000,000 (including $9,110,000 in unobligated balances from prior year appropriations) is part of an overall proposal to reduce this program. Supplemental language reducing the direct and guaranteed loan programs is included in the 1987 President's budget.

R86-15

Estimated Program Effect: The Trade Adjustment Assistance program would be terminated.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
Operations and administration							
171,306	160,016	11,290	---	---	---	---	---
Miscellaneous appropriations							
---	---	---	6,490	1,510	---	---	---

1/ This account was the subject of a similiar rescission in 1985 (R85-60A).

Note - $710,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $19,290,000.

R86-16

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Operations, Research, and Facilities

(including transfers of funds)

Of the funds made available under this head in Public Law 99-180, $63,323,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce	**New budget authority.....** $1,172,399,000 (P.L. 99-180, 99-190)
Bureau: Nat'l Oceanic and Atmospheric Admin.	**Other budgetary resources** 211,238,046
Appropriation title and symbol: Operations, research, and facilities 1/ 13X1450	**Total budgetary resources** 1,383,637,046
	Amount proposed for rescission $ 66,604,000
OMB identification code: 13-1450-0-1-306	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: This account funds a variety of programs related to the oceanic and coastal areas, marine fisheries, the atmosphere, satellites, and environmental data. Consistent with the President's policy to eliminate unnecessary and low priority Federal programs to achieve deficit reduction targets established by the Balanced Budget and Emergency Deficit Control Act of 1985, the following are proposed for rescission:

Coastal Zone State Assistance Grants ($36,000,000)

This program was created to help states build capacity to manage coastal resources. The program has completed its mission and additional Federal funding is no longer necessary. Over $500 million have been provided since 1974 and approved plans now cover 90 percent of the U.S. coastline.

Sea Grant ($30,604,000)

The Sea Grant program was created to develop a network of colleges and universities with marine education programs. The program has completed its goal and 21 institutions have established marine science programs. The Sea Grant program has become primarily an ongoing funding source for local and regionally oriented research projects and marine services. More than $460 million has been awarded to these colleges since the inception of the program 20 years ago.

Estimated Program Effect: These rescissions will not affect essential Government services and will enable Federal budget resources to be used for programs that are appropriate Federal responsibilities.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,102,870	1,063,707	39,163	19,582	4,578	---	---	---

1/ This account was the subject of a similar rescission proposed in 1985 (R85-64A).

Note - $3,281,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $63,323,000.

R86-17

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public telecommunications facilities, planning and construction

Of the funds made available under this head in Public Law 99-180, $21,820,000 are rescinded.

Rescission Proposal No: R86-17

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce **Bureau:** National Telecommunications and Information Administration	**New budget authority.....** $24,000,000 (P.L. 99-180) **Other budgetary resources** 2,118,053 **Total budgetary resources** 26,118,053
Appropriation title and symbol: Public telecommunications facilities, planning and construction 1/ 13X0551	**Amount proposed for rescission** $22,800,000
OMB identification code: 13-0551-0-1-503	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act; |__| Other
Grant program: |X| Yes |__| No	
Type of account or fund: |__| Annual; |__| Multiple-year (expiration date); |X| No-Year	**Type of budget authority:** |X| Appropriation; |__| Contract authority; |__| Other

Justification: The public telecommunications facilities program provides grants to plan for and construct non-commercial broadcasting in areas not served by public television and radio. Over 95 percent of the United States currently receives public broadcasting. This rescission will eliminate the funds available from grants from the FY 1986 appropriation while allowing for an orderly phase out of the program.

Estimated Program Effect: The objective of this program was to provide initial funds for the development of public telecommunications facilities. With over 95 percent of the United States currently receiving public broadcasting, this objective has been accomplished.

R86-17

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
Public telecommunication facilities, planning and construction:							
19,805	17,623	2,182	---	---	---	---	---
Miscellaneous appropriations, General Administration:							
---	---	---	11,448	6,546	1,636	---	---

1/ This account was the subject of a similar rescission proposal in 1985 (R85-69A)

Note - $980,000 of the amount previously withheld for rescission is sequestered purusant to P.L. 99-177. The current proposed rescission is $21,820,000.

R86-18

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Compensatory education for the disadvantaged

Of the funds made available under this head in Public Law 99-178 for carrying out section 418A of the Higher Education Act, as amended, $7,177,000 are rescinded.

Rescission Proposal No: R86-18

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority**..... $3,695,663,000 (P.L. 99-178)
Bureau: Office of Elementary and Secondary Education	**Other budgetary resources** -154,816,420
Appropriation title and symbol: Compensatory education for the disadvantaged 9160900 916/70900 915/60900	**Total budgetary resources** $3,540,846,580
	Amount proposed for rescission $ 7,500,000
OMB identification code: 91-0900-0-1-501	**Legal authority** (in addition to sec. 1012):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[X] Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Coverage:

Appropriation	Account Symbol	Rescission Proposal
Compensatory education for the disadvantaged.....	9160900	$7,177,000

Justification: This account funds activities authorized under chapter 1 of the Education Consolidation and Improvement Act of 1981. Funds for the High School Equivalency ($6,029,000) and the College Assistance Migrant ($1,148,000) programs are proposed for rescission. Both programs are expensive relative to the number of students served and other Federal programs provide similar services at a lower cost. The Department, in its 1987 Higher Education Act reauthorization proposal, will seek to consolidate the authority for High School Equivalency program with the Upward Bound, Talent Search, and Educational Opportunity Centers programs to form a new postsecondary outreach program and to merge the College Assistance Migrant program authority with the Special Services program to create a new program designed to provide special services to disadvantaged college students. This reduction will help achieve the deficit reductions required by the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Two lower priority, expensive programs will be terminated.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
2,951,933	2,950,928	1,005	4,594	1,578	---	---	---

Note - $323,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $7,177,000.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Special programs

Of the funds made available under this head in Public Law 99-178, $37,782,000 are rescinded, of which $6,968,000 are rescinded from funds available for section 403 of the Civil Rights Act of 1964; $5,742,000 are rescinded from funds available for title IX, part C of the Elementary and Secondary Education Act; $4,785,000 are rescinded from funds available for section 1524 of the Education Amendments of 1978; $1,914,000 are rescinded from funds available for section 1525 of the Education Amendments of 1978; $1,627,000 are rescinded from funds available for Public Law 92-506; $2,392,000 are rescinded from funds available for title VI of the Education for Economic Security Act; $7,177,000 are rescinded from funds available for the Follow Through Act; and $7,177,000 are recinded from funds available for title IX of Public Law 98-588.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority.....** $705,109,000 (P.L. 99-178)
Bureau: Office of Elementary and Secondary Education	**Other budgetary resources** -18,392,832
Appropriation title and symbol: Special Programs 1/ 916/71000 91X1800 9161000 915/61000 91X1000 91X1700	**Total budgetary resources** 686,716,168
	Amount proposed for rescission $ 40,200,000
OMB identification code: 91-1000-0-1-501	**Legal authority** (in addition to sec. 1012): |_| Antideficiency Act
Grant program: |X| Yes |_| No	|_| Other
Type of account or fund: |X| Annual; |X| Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date); |X| No-Year	**Type of budget authority:** |X| Appropriation; |_| Contract authority; |_| Other

Coverage:

Appropriation	Account Symbol	Rescission Proposal
Special programs	9161000	$26,586,000
Special programs	916/71000	8,804,000
Special programs	91X1000	2,392,000
		$37,782,000

Justification: The Special Programs account includes funds appropriated for: the Chapter 2 State block grant and discretionary fund, the science and mathematics education program, the Magnet schools program, and eight other small grant programs. Within the Special Programs account, funds were appropriated for a number of narrow categorical programs authorized under such authorities as the Education Amendments of 1978, the Elementary and Secondary Education Act (ESEA), and the Education for Economic Security Act. In order to eliminate program duplication, to focus support on priority programs, and to restrain Federal spending to help achieve the deficit reductions required by P.L. 99-177, the following funds are proposed for rescission: $6,968,000 from Training and advisory services authorized under

title IV of the Civil Rights Act of 1964; $5,742,000 for the Women's Educational Equity Act (WEAA); $4,785,000 for General assistance to the Virgin Islands; $1,914,000 for Territorial teacher training; $1,627,000 for Ellender fellowships; $2,392,000 for the Excellence in education program; $7,177,000 for the Follow Through Act; and $7,177,000 for the Leadership in educational administration (LEAD) program. The rescission for Training and advisory services would be the first step in a two-year program termination. Funding for the other seven programs would be terminated immediately. In all cases, these programs can be considered nonessential uses of Federal resources.

Estimated Program Effect: The rescission for Training and advisory services would result in reductions of $3,484,000 each for ESEA grants and Grants for desegregation assistance centers. The other rescissions would result in elimination of the following projected activities: 57 WEEA grants, 5,800 Ellender fellowships, 90 Follow through grants, 94 Excellence in education grants; 50 LEAD contracts, and 6 grants-in-aid to the Outlying Areas.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
661,779	659,609	2,170	27,506	7,401		705	--- ---

1/ This account was the subject of a similar rescission proposal in 1985 (R85-76).

Note - $2,418,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $37,782,000.

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Bilingual education

Of the funds made available under this head in Public Law 99-178 for Emergency immigrant education activities, $28,710,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority**..... $172,951,000 (P.L. 99-178)
Bureau: Office of Bilingual Education and Minority Languages Affairs	**Other budgetary resources** -5,417,262
Appropriation title and symbol: Bilingual education 1/ 915/61300 9161300	**Total budgetary resources** 167,533,738
	Amount proposed for rescission $ 30,000,000
OMB identification code: 91-1600-0-1-501	**Legal authority** (in addition to sec. 1012):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[X] Multiple-year 9/30/86 (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Coverage:

Appropriation	Account Symbol	Rescission Proposal
Bilingual education.....	9161300	$28,710,000

Justification: The Emergency Immigrant Education Program provides grants for educational services to recent immigrant children to districts that have 500 such children or where these students represent at least three percent of the enrollment. Children in need of assistance who are eligible for these services may also qualify for services under other programs if they are educationally disadvantaged or have limited English proficiency. Funds available under Chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 and Title VII of the Elementary and Secondary Education Act are sufficient to provide educational services to any eligible immigrant children in need of them. In addition, this rescission will help achieve the deficit reductions required by the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: An estimated 32 states will not receive grants to help cover the cost of educational services for 390,000 immigrant children.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
127,615	127,615	---	14,642	12,632	1,436	---	---

1/ This account was the subject of a similar rescission proposal in 1985 (R85-77).

Note - $1,290,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $28,710,000.

R86-21

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitation Services

Education for the handicapped

Of the funds made available under this head in Public Law 99-178, $44,364,000 are rescinded, of which $28,137,000 are rescinded from funds available for section 611 of the Education of the Handicapped Act.

Rescission Proposal No: R86-21

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority....** (P.L. 99-178) $1,411,000,000
Bureau: Office of Special Education and Rehabilitation Services	**Other budgetary resources** 61,359,175
Appropriation title and symbol: Education for the handicapped 916/70300 91X0300 9160300 915/60300	**Total budgetary resources** 1,472,359,175
	Amount proposed for rescission $ 104,688,000
OMB identification code: 91-0300-0-1-501	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [X] Annual [X] Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Coverage:

Appropriation	Symbol	OMB Identification Code	Rescission Proposal
Education for the handicapped.....	9160300	91-0300-0-1-501	$16,227,000
Education for the handicapped.....	916/70300	91-0300-0-1-501	28,137,000
			$44,364,000

Justification: This account funds formula grants to states to assist in providing appropriate public education to handicapped children, preschool incentive grants and special purpose projects. Within the Education for the Handicapped account, funds were appropriated for numerous discretionary and formula grant activities under the Education of the Handicapped Act. As part of the President's program to eliminate unnecessary Government spending, to direct Federal support to priority programs, and to help achieve the deficit reductions required by P.L. 99-177, the following funds are proposed for rescission: $28,137,000 for the State Grant Program, $2,355,000 for Deaf-Blind Centers, $485,000 for Severly Handicapped Projects, $468,000 for Early Childhood Education, $269,000 for Innovation and Development, $247,000 for Media Services and Captioned Films, $29,000 for Regional Resource Centers,

$37,000 for Recruitment and Information, $11,248,000 for Special Education Personnel Development, and $1,089,000 for Special Studies. The proposed rescissions would bring the funding for these programs in line with the President's budget request for fiscal year 1986.

Estimated Program Effect: Fewer new awards will be made.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,512,329	1,508,565	3,764	31,900	6,806	1,894	---	---

Note - $60,324,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $44,364,000.

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitation Services

Rehabilitation services and handicapped research

Of the funds made available under this head in Public Law 99-178, $75,439,000 are rescinded, of which $2,105,000 are rescinded from funds available for section 316 of the Rehabilitation Act; $718,000 for South Carolina and $4,785,000 for the Oregon Hearing Institute are rescinded from funds available for section 311 of the Rehabilitation Act, and $45,148,000 are rescinded from funds available for grants to States under part B of title I of the Rehabilitation Act: Provided, That of the funds available, $1,098,694,084 are made available for State allotments under section 100(b)(1) and $1,305,916 are made available forpayments under section 110(b)(3).

Rescission Proposal No: R86-22

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority**..... (P.L. 99-178) $1,362,000,000
Bureau: Office of Special Education and Rehabilitation Services	**Other budgetary resources** -51,704,000
Appropriation title and symbol: Rehabilitation services and handicapped research 91X0301 9160301	**Total budgetary resources** 1,310,296,000
	Amount proposed for rescission $ 126,585,000
OMB identification code: 91-0301-0-1-506	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act | | Other
Grant program: |X| Yes | | No	
Type of account or fund: |X| Annual | | Multiple-year (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation | | Contract authority | | Other

Justification: This account funds vocational rehabilitation state grants, client assistance formula grants, service projects, the Helen Keller Center, independent living centers, training and evaluation, and the National Institute of Handicapped Research. Within the Rehabilitation Services and Handicapped Research account, funds were appropriated for numerous formula and discretionary grant activities authorized under the Rehabilitation Act of 1973, as amended. As part of the President's program to eliminate unnecessary Government spending, to direct Federal support to priority programs, and to help achieve the deficit reductions required by P.L. 99-177, the following funds are proposed for rescission: $45,148,000 for vocational rehabilitation State grants; $112,000 for client assistance; $5,503,000 for special demonstration programs; $2,105,000 for recreation programs; $7,000 for migratory worker projects; $625,000 for grants to Indian tribes; $1,547,000 for projects with industry; $5,527,000 for comprehensive services for independent living; $11,000 for independent living centers; $4,785,000 for independent living services for older blind; $5,838,000 for training; $3,108,000 for National Institute of Handicapped Research; and $1,123,000 for evaluation. The proposed rescissions are consistent with the President's budget request for 1986 and would return most programs to their 1985 funding levels.

R86-22

Estimated Program Effect: Under this rescission proposal, State vocational rehabilitation agencies will reduce the level of services available to some clients or serve slightly fewer clients; earmarked funds will not be awarded to South Carolina or the Oregon Hearing Institute under the special demonstration program; fewer new awards will be made for migratory worker projects, grants to Indian tribes, projects with industry, independent living centers, research activities, and evaluation studies; no new awards will be made for training; and no awards will be made for independent living services for older blind or for recreation programs.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,490,009	1,431,923	58,086	12,072	5,281	---	---	---

Note - $51,146,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $75,439,000.

DEPARTMENT OF EDUCATION

Special Institutions

Gallaudet College

Of the funds made available under this head in Public Law 99-178, $446,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	New budget authority..... $ 99,500,000 (P.L. 99-178)
Bureau: Office of Special Education and Rehabilitation Services	Other budgetary resources -4,278,000
Appropriation title and symbol: Payments to institutions for the handicapped 9160602 9160601 9160600	Total budgetary resources 95,222,000
	Amount proposed for rescission $ 3,111,000
OMB identification code: 91-0604-0-1-500	Legal authority (in addition to sec. 1012): | | Antideficiency Act | | Other
Grant program: | | Yes | X | No	
Type of account or fund: | X | Annual | | Multiple-year (expiration date) | | No-Year	Type of budget authority: | X | Appropriation | | Contract authority | | Other

Coverage:

Appropriation	Symbol	OMB Identification Code	Rescission Proposal
Gallaudet College.....	9160602	91-0604-0-1-500	$446,000

Justification: This account provides operating funds to three institutions serving handicapped students. Funds were appropriated that are not necessary for adequate program operations at Gallaudet College for the College Programs ($250,000), the Model Secondary School for the Deaf (MSSD) ($94,000), and the Kendall Elementary School (KDES) ($102,000). Therefore, as part of the President's program to eliminate unnecessary Federal spending in order to control the Federal deficit, the funds are proposed for rescission.

Estimated Program Effect: None.

Outlay Effect: (in thousands of dollars)

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
123,707	123,288	419	27	---	---	---	---

Note - $2,665,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $446,000.

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

Vocational and adult education

Of the funds made available under this head in Public Law 99-178, $210,337,000 are rescinded, of which $2,593,290 are rescinded from funds available for programs authorized by section 103, $170,292,710 are rescinded from funds available for State grants under title II, $7,178,000 are rescinded from funds available for part A of title III, and $30,273,000 are rescinded from funds available for part B of title III of the Carl D. Perkins Vocational Education Act: Provided, That of the funds available, no more than $39,694,397 shall be available for State administration: Provided further, That notwithstanding the provisions of sections 102 and 202 of said Act, of the funds available, $390,876,328 shall be for programs authorized by title II, part A, of which $68,574,794 shall be for handicapped individuals, $150,864,549 shall be for disadvantaged individuals, $82,289,753 shall be for adults who are in need of training and retraining, $58,288,575 shall be for individuals who are single parents or homemakers, $24,001,178 shall be for individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education and $6,857,479 shall be for criminal offenders who are in correctional institutions.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	Smith Hughes Act 7,148,159
Bureau: Office of Vocational and Adult Education	**New budget authority.....** (P.L. 99-178) $940,777,000
Appropriation title and symbol:	**Other budgetary resources** 99,635,151
Vocational and adult education 91X0400 916/70400 915/60400	**Total budgetary resources** 1,047,560,310
OMB identification code: 91-0400-0-1-501	**Amount proposed for rescission** $245,962,000
Grant program: [X] Yes [ ] No	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act
Type of account or fund:	[ ] Other
[ ] Annual	**Type of budget authority:**
[X] Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date)	[X] Appropriation
[X] No-Year	[ ] Contract authority
	[ ] Other

Coverage:

Appropriation	Account Symbol	Rescission Proposal
Vocational and adult education.....	916/70400	$210,337,000

Justification: This account funds grants for vocational education, including programs for Indians and native Hawaiians. As part of the President's program to eliminate the Federal deficit and to direct available funds to higher priority programs, the following vocational educational funds are proposed for rescission: $2,593,290 from Indian and Hawaiian Natives programs; $170,792,710 from basic grants; $7,178,000 from the community-based organization program; and $30,273,000 from the consumer and homemaking education program. Activities authorized by the consumer and homemaking education and community-based organizations programs can, at State and local discretion, be carried out with basic grant funds.

Estimated Program Effect: Under this rescission proposal: States would no longer receive separate categorical grants to support consumer and homemaking activities; States would not receive first-time categorical awards for community-based organizations; basic grants would be reduced by an average of 23 percent; and the number of awards under the Indian program would be reduced by 10. Within basic grants, States may reserve up to 7 percent for State administration. Title II, part A of the Perkins Act, that vocational education opportunities for six special populations, will be funded at $390,876,328. The remaining basic grant funds will be available for title II, part B, which authorizes funds for improvement, innovation, and expansion activities. Therefore, funding earmarked for programs for the handicapped, the disadvantaged, adult training and retraining, single parents and homemakers, sex equity, and persons in correctional institutions, will be kept to the post-sequester levels.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
992,425	988,218	4,207	143,029	52,585	10,516	---	---

Note - $35,625,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $210,337,000.

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Student financial assistance

Of the funds made available under this head in Public Law 99-178, $456,347,000 are rescinded, of which $137,262,000 are rescinded from funds made available for subpart 2 of part A of title IV of the Higher Education Act.

Rescission Proposal No: R86-25

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education **Bureau:** Office of Postsecondary Education	**New budget authority.....** $4,887,000,000 (P.L. 99-178) **Other budgetary resources** 1,414,988,658
Appropriation title and symbol: Student financial assistance 915/60200 916/70200	**Total budgetary resources** 6,301,988,658 **Amount proposed for rescission** $ 456,347,000
OMB identification code: 91-0200-0-1-501	**Legal authority** (in addition to sec. 1012): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [X] Multiple-year Sept. 30, 1986 / Sept. 30, 1987 (expiration date) [ ] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Student financial assistance account finances five student aid grant, loan and work study programs. Rescissions are proposed in all programs, except Pell grants, to curtail Federal spending and help achieve deficit reduction. The affected programs are all of lower priority or are unnecessary given State and institutional sources of aid funds. Student aid would continue to be available to the neediest students. Rescissions are proposed as follows: $137,262 thousand for supplemental opportunity grants; $64,523 thousand for work study; $181,830 thousand for the Federal capital contribution for direct student loans; and $72,732 thousand for State student incentive grants.

Estimated Program Effect: The proposed rescissions would reduce the number of awards to students as follows: 240 thousand supplemental grants; 85 thousand work study awards; 193 thousand direct student loans; and 291 thousand State incentive grants.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
5,064,895	4,990,168	74,727	335,585	46,035	---	---	---

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Higher education

Of the funds made available under this head in Public Law 99-178, $180,882,000 are rescinded, of which $86,416,000 are rescinded from funds available from Part A, subpart 4 of title IV of the Higher Education Act of 1965, as amended; $2,871,000 are rescinded from funds available for section 420 of the Higher Education Act of 1965, as amended; $2,163,000 are rescinded from funds available for title X of the Higher Education Act of 1965, as amended; $25,408,000 are rescinded from funds available for title VI of the Higher Education Act of 1965, as amended; $5,263,000 are rescinded from funds available for section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1965; $13,781,000 are rescinded from funds available for title VIII of the Higher Education Act of 1965, as amended; $9,570,000 are rescinded from funds available for part B of title VII of the Higher Education Act of 1965, as amended; $18,901,000 are rescinded from funds available for parts B, C, D, and E of title IX of the Higher Education Act of 1965, as amended; $9,570,000 are rescinded from part E of title V of the Higher Education Act of 1965, as amended; $718,000 are rescinded from funds available for title XIII, part H, subpart 1 of the Education Amendments of 1980; $479,000 are rescinded from funds available for section 1204(c) of the Higher Education Act of 1965, as amended; and $5,742,000 are rescinded from funds available for title V, section 501 of the Human Services Reauthorization Act.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority.....** (P.L. 99-178; 99-190) $ 455,238,000
Bureau: Office of Postsecondary Education	**Other budgetary resources** 28,863,405
Appropriation title and symbol: Higher education 1/ 9160201 915/60201 916/70201 91X0201	**Total budgetary resources** $484,101,405
	Amount proposed for rescission $193,160,000
OMB identification code: 91-0201-0-1-502	**Legal authority (in addition to sec. 1012):** |_| Antideficiency Act
Grant program: |_| Yes |X| No	|_| Other
Type of account or fund: |X| Annual; |X| Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date); |X| No-Year	**Type of budget authority:** |X| Appropriation; |_| Contract authority; |_| Other

Coverage:

Appropriation	Symbol	OMB Identification Code	Amount Proposed for Rescission
Higher education.....	9160201	91-0201-0-1-502	$156,000,000
Higher education.....	916/70201	91-0201-0-1-502	5,742,000
Higher education.....	91X0201	91-0201-0-1-502	19,140,000
			$180,882,000

Justification: This account provides aid to developing institutions, special programs to the disadvantaged, the minority institution science improvement program, and interest subsidy grants. The following programs are proposed for rescission: $86,416,000 for special programs for the disadvantaged; $2,871,000 for veterans' cost-of-instruction; $2,163,000 for the Fund for the Improvement of Postsecondary Education; $30,671,000 for international education and foreign language studies; $13,781,000 for cooperative education;

$9,570,000 for academic facilities construction grants; $18,901,000 for graduate programs; $9,570,000 for Carl D. Perkins scholarships; $718,000 for the Robert A. Taft Institute of Government; $479,000 for assistance to Guam; and $5,742,000 for the Center for Excellence in Education. The activities proposed for rescission either are duplicative of or similar to other Federal, state, or local programs, or are narrow in purpose and nonessential. In addition, this reduction will help achieve the deficit reductions required by the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: This rescission would result in eliminating approximately 600 veterans' cost-of-instruction grants, 90 national resource centers, 960 domestic and overseas fellowships and 170 other domestic and overseas international education projects, 180 cooperative education grants, 40 academic facilities construction grants, 4,000 graduate fellowships, 50 Carl D. Perkins scholarship grants, two special purpose grants to individual institutions of higher education, and one grant to Guam. Continuation grants under special programs for the disadvantaged would be ratably reduced by 50 percent, and the number of new grants would be reduced. The number of new grants awards under the Fund for the Improvement of Postsecondary Education would be reduced by 20 percent and the average grant award would be reduced by 10 percent.

Outlay Effect: (in thousands of dollars)

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
477,379	456,610	20,769	121,643	35,412	3,058	---	---

1/ This account was the subject of a rescission proposal in 1985 (R85-78).

Note - $12,278,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $180,882,000.

DEPARTMENT OF EDUCATION

Special Institutions

Howard University

Of the funds made available under this head in Public Law 99-178, $5,699,000 are rescinded.

Rescission Proposal No: R86-27

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	**New budget authority**..... $164,230,000 (P.L. 99-178)
Bureau: Office of Postsecondary Education	**Other budgetary resources** -6,462,000
Appropriation title and symbol: Howard University 9160603 91X0603	**Total budgetary resources** 157,768,000
	Amount proposed for rescission $ 6,000,000
OMB identification code: 91-0604-0-1-502	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Coverage:

Appropriation	Symbol	OMB Identification Code	Amount Proposed for Rescission
Howard University.....	9160603	91-0604-0-1-502	$4,785,000
Howard University.....	91X0603	91-0604-0-1-502	914,000
			$5,699,000

Justification: This provides funding for the academic program and the teaching hospital facilities at this educational institution that receives 61 percent of its support from the Federal government. The rescission proposal would reduce funds available for matching Howard's endowment to a level more consistent with the University's demonstrated ability to generate non-Federal funds. The rescission proposed for the research funds reflects the fact that the 1985 appropriation for this purpose was intended to be a one-time supplemental to improve Howard's research grant acquisition capacity. Research is an integral part of University academic operations and should not be funded as if it were a separate activity.

Estimated Program Effect: The rescission would reduce the amount of Federal endowment matching funds to the level the University is expected to raise in 1986. Research projects would be financed from academic program funding and through applying for competitive grants.

Outlay Effect: (in thousands of dollars)

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
181,534	176,540	4,994	705	---	---	---	---

Note - $301,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $5,699,000.

R86-28

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Libraries

Of the funds made available under this head in Public Law 99-178, $33,017,000 are rescinded, of which $21,533,000 are rescinded from funds available for title II and $4,785,000 from funds available for title VI of the Library Services and Construction Act, and $957,000 are rescinded from funds available for part B and $5,742,000 from funds available for part C of title II of the Higher Education Act.

Rescission Proposal No: R86-28

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education	New budget authority..... $127,500,000 (P.L. 99-178)
Bureau: Office of Educational Research and Improvement	Other budgetary resources 3,976,298
Appropriation title and symbol: Libraries 9160104 91X0104	Total budgetary resources 131,476,298
	Amount proposed for rescission $ 34,500,000
OMB identification code: 91-0104-0-1-503	Legal authority (in addition to sec. 1012): [ ] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Coverage:

Appropriation	Symbol	OMB Identification Code	Amount Proposed for Rescission
Libraries.....	9160104	91-0104-0-1-503	$11,484,000
Libraries.....	91X0104	91-0104-0-1-503	21,533,000
			$33,017,000

Justification: Federal funds have been provided through grants to States and through project grant awards to public library systems, institutions of higher education, major research libraries and for training of paraprofessionals and professionals in the library field. Within the Libraries account, funds were appropriated for programs authorized under both the Library Services and Construction Act (LSCA) and title II of the Higher Education Act (HEA). The following funds are proposed for rescission under LSCA: Public Library Construction, $21,533,000; Library Literacy Programs, $4,785,000; under HEA: Training and Demonstrations, $957,000; and Research Libraries, $5,742,000. This proposal is based on the recognition that State and local governments are in a better position to assume responsibility for public library construction and that other public and private sources of funds can be made available to support the other efforts.

R86-28

Estimated Program Effect: The rescission would eliminate about 200 public library construction projects, about 192 literacy projects in public libraries, about 69 fellowships for librarians, about 3 library research contracts, and about 43 awards to assist major research libraries.

Outlay Effect: (in thousands of dollars)

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
132,753	128,963	3,790	19,955	6,976	2,296	---	---

Note - $1,483,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $33,017,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health resources and services

Of the funds made available under this head in Public Law 99-178, $206,455,000 are rescinded, and in addition, $5,000,000 are rescinded from available balances.

Rescission Proposal No: R86-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... (P.L. 99-178) $1,497,934,000
Bureau: Health Resources and Services Administration	**Other budgetary resources** -552,000
Appropriation title and symbol:	**Total budgetary resources** $1,497,097,000
Health resources and services 7560350 755/60350 75X0350	**Amount proposed for rescission** $ 211,455,000
OMB identification code: 75-0350-0-1-550	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [X] Annual [X] Multiple-year Sept. 30, 1986 (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: The appropriation supports health resources and health services categorical programs and health services block grants. Federal efforts in support of the health professions have resulted in long-term trends of steadily increasing supplies of physicians and nurses and an improvement in the distribution of health care practitioners among the medically underserved areas of the country. At the same time, cumulative Federal contributions to health professions and nursing student loan funds, combined with Health Educational Assistance Loans (HEAL) loan guarantees, have put in place a foundation of Federal health professions student aid. Because of this, programs providing general support to health education to increase the numbers and improve the distribution of practitioners are no longer needed. The authorization for health planning program expired at the end of 1982 and the programs are scheduled for phase-out in 1986. Emergency construction of outpatient facilities is available through disaster relief funds. Direct operations funds are being reduced to reflect proposed program rescissions. These savings are being proposed for rescission from appropriations realized

in excess of the 1986 President's Budget Request to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. Reductions are proposed for the following items (in thousands of dollars):

Community health centers	21,000
Migrant health	646
Home health service	1,435
National health service crops	2,445
National health service crops scholarships	2,201
Payment to Hawaii for treatment of Hansen's disease	658
Exceptional need scholarships	6,699
Health Profession Institutional Assistance: Conversion	479
Public health capitation	4,785
Health administration grants	1,436
Public health traineeships	2,871
Health administration traineeships	479
Preventive medicine residencies	1,531
Family medicine/general dentistry residencies and training	21,452
General internal medicine and pediatrics	11,862
Family medicine departments	6,699
Physician assistants	4,594
H.P. special education initiative	7,656
Area health education centers	12,483
Disadvantaged assistance	11,403
Health professions analytical studies and reports	414
Nurse training:	
Advanced nurse training	12,071
Nurse practitioner	11,106
Special projects	6,747
Traineeships	11,005
Fellowships	1,181
Research	7,790
Nurse anesthetists	766
Special projects for new purposes	1,292
Faculty fellowships	526
Direct operations, BHPR	4,291
Local planning	11,566
State planning	4,594
Planning methods development	400
Outpatient facilities construction	4,035
Direct operations, BHMORD	1,046
Program management	1,195
Facilities planning and engineering	1,145
Organ transplant	2,471
Center for Nursing Research	5,000
Total, savings	211,455

Estimated Program Effect: The above programs providing general support to health education, unauthorized health planning programs, and other health services activities will be reduced and/or terminated.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,559,335	1,453,983	105,352	106,103	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Indian health

Of the funds made available under this head in Public Law 99-190, $24,262,000 are rescinded.

Rescission Proposal No: R86-29

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $818,194,000 (P.L. 99-190)
Bureau: Health Resources and Services Administration	**Other budgetary resources** 54,985,000
Appropriation title and symbol:	**Total budgetary resources** $873,179,000
Indian health 7560390	**Amount proposed for rescission** $ 24,262,000
OMB identification code: 75-0390-0-1-551	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year (expiration date) [ ] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: This program provides medical care, public health services, and health profession scholarships for American Indians and Alaska Natives. These savings are being proposed for rescission from appropriations realized in excess of the 1986 President's Budget Request to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. Reductions are proposed for the following items (in thousands of dollars):

Clinical services	9,265
Preventive services	11,085
Urban health projects	2,444
Tribal management	1,468
	24,262

Estimated Program Effect: Clinical Services - Reduces funding for direct and contract health care. The reduction may be offset by increased third-party reimbursements and by better negotiated contract care rates.

Preventive Services and Urban Health Projects - Funds are available for the continued operation of Community health representative program through March 1986 and the orderly phase out of operations during April 1986.

Tribal Management - Eliminates support for the Tribal health development activities.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
760,097	743,352	16,745	5,520	1,422	575	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Indian health facilities

Of the funds made available under this head in Public Law 99-190, $38,642,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $46,947,000 (P.L. 99-190)
Bureau: Health Resources and Services Administration	**Other budgetary resources** 38,356,455
Appropriation title and symbol: Indian health facilities 75X0391	**Total budgetary resources** $85,303,455
	Amount proposed for rescission $38,642,000
OMB identification code: 75-0391-0-1-551	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: This program funds construction, major repair, improvement, and equipment for health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings, purchases of trailers and provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act. These savings are being proposed for rescission from appropriations realized in excess of the 1986 President's Budget request to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. Reductions are proposed for the following items (in thousands of dollars):

Hospitals:	
New and replacement.....	12,262
Modernization and repair.....	639
Subtotal.....	12,901
Outpatient care.....	715
Sanitation facilities.....	19,456
Personnel quarters.....	5,570
Total.....	38,642

Estimated Program Effect: Prior year unobligated balances of $38 million are available in 1986 for current projects.

Eliminates funding for construction in 1986 for Rosebud, SD hospital and quarters at Kanakanak, AK and Ft. Thompson, SD.

Eliminates funding for planning and design in 1986 of Kotzebue, AK hospital and outpatient clinics located in Toppenish, WA and Wagner, S.D.

Eliminates funding for provision of sanitation facilities to 2,200 Indian homes in 1986, but funding for sanitation facilities will be provided to 700 Indian homes in 1986.

Eliminates funding for renovating quarters located in Sacaton, AZ.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
77,297	65,523	11,774	16,492	5,281	5,095	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Disease control

Of the funds made available under this head in Public Law 99-178, $34,096,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $461,861,000 (P.L. 99-178)
Bureau: Centers for Disease Control	**Other budgetary resources** 45,032,000
Appropriation title and symbol: Disease control 75 6 0943 75 6/7 0943 75 X 0943	**Total budgetary resources** 506,893,000
	Amount proposed for rescission $ 34,096,000
OMB identification code: 75-0943-0-1-550	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|X| Multiple-year Sept. 30, 1987 (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: This account funds the activities of the Centers for Disease Control, including preventive health, developing new immunizations, treating chronic and environmental diseases, occupational health and safety, necessary facilities, and program management. Amounts are being proposed for rescission that are in excess of the 1986 President's Budget to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. Reductions are proposed for the following items (in thousands of dollars):

Prevention centers.....	1,436
Infectious diseases.....	16,633
Chronic and environmental diseases..	5,742
Occupational safety and health.....	8,383
Buildings and facilities.....	1,902
Total.....	34,096

Estimated Program Effect: This proposal maintains CDC's high priority disease prevention programs and high priority AIDS funding for the AIDS program proposed by HHS. This proposal would reduce low priority health promotion and equipment funding. The proposal also reflects ADAMHA's existing expertise on drug and alcohol abuse.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
457,206	436,123	21,083	13,013	---	---	---	---

R86-32

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Cancer Institute

Of the funds made available under this head in Public Law 99-178, $6,800,000 are rescinded.

Rescission Proposal No R86-32

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $1,252,737,000 (P.L. 99-178)
Bureau: National Institutes of Health	Other budgetary resources -54,958,000
Appropriation title and symbol: National Cancer Institute 7560849	Total budgetary resources 1,197,779,000
	Amount proposed for rescission $ 6,800,000
OMB identification code: 75-0849-0-1-550	Legal authority (in addition to sec. 1012): |_| Antideficiency Act |_| Other
Grant program: |_| Yes |X| No	
Type of account or fund: |X| Annual |_| Multiple-year (expiration date) |_| No-Year	Type of budget authority: |X| Appropriation |_| Contract authority |_| Other

Justification: The central mission of the National Cancer Institute is to develop the means of reducing the incidence of morbidity from cancer through a broad range of basic and applied research, control, and resource development activities. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 74, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,190,433	1,187,101	3,332	3,468	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Heart, Lung and Blood Institute

Of the funds made available under this head in Public Law 99-178, $11,469,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $859,239,000 (P.L. 99-178)
Bureau: National Institutes of Health	Other budgetary resources -37,616,000
Appropriation title and symbol: National Heart, Lung and Blood Institute 7560872	Total budgetary resources 821,623,000
	Amount proposed for rescission $ 11,469,000
OMB identification code: 75-0872-0-1-550	Legal authority (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |_| Yes |X| No	|_| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|_| Multiple-year (expiration date)	|_| Contract authority
|_| No-Year	|_| Other

Justification: This program provides Federal support for research and research training in the areas of heart, lung, blood vessel, and blood diseases. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 69, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
853,792	848,747	5,045	6,424	---	---	---	---

R86-34

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases

Of the funds made available under this head in Public Law 99-178, $7,980,000 are rescinded.

Rescission Proposal: R86-34

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $569,340,000 (P.L. 99-178)
Bureau: National Institutes of Health	**Other budgetary resources** -25,098,000
Appropriation title and symbol: National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases 7560884	**Total budgetary resources** $544,242,000
	Amount proposed for rescission $ 7,980,000
OMB identification code: 75-0884-0-1-550	**Legal authority** (in addition to sec. 1012): |___| Antideficiency Act
Grant program: |___| Yes |_X_| No	|___| Other
Type of account or fund: |_X_| Annual	**Type of budget authority:** |_X_| Appropriation
|___| Multiple-year (expiration date)	|___| Contract authority
|___| No-Year	|___| Other

Justification: This program provides Federal support for research and training in the areas of arthritis, diabetes, digestive and kidney diseases. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 99, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
562,259	558,647	3,612	4,368	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Institute of Neurological and Communicative Disorders and Stroke

Of the funds made available under this head in Public Law 99-178, $9,544,000 are rescinded.

Rescission Proposal No: R86-35

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $433,362,000 (P.L. 99-178)
Bureau: National Institutes of Health	**Other budgetary resources** -18,903,000
Appropriation title and symbol: National Institute of Neurological and Communicative Disorders and Stroke 7560886	**Total budgetary resources** $414,459,000
	Amount proposed for rescission $ 9,554,000
OMB identification code: 75-0886-0-1-550	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|__| No-Year	|__| Other_____

Justification: This program provides Federal support for research and research training in the areas of neurological and communicative disorders and strokes. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 48, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
418,000	413,796	4,204	5,350	---	---	---	---

R86-36

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Institute of Allergy and Infectious Diseases

Of the funds made available under this head in Public Law 99-178, $1,513,000 are rescinded.

Rescission Proposal: R86-36

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority** (P.L. 99-178) $383,452,000
Bureau: National Institutes of Health	**Other budgetary resources** -16,709,000
Appropriation title and symbol: National Institute of Allergy and Infectious Diseases 7560885	**Total budgetary resources** $366,743,000
	Amount proposed for rescission $ 1,513,000
OMB identification code: 75-0885-0-1-550	**Legal authority** (in addition to sec. 1012): |___| Antideficiency Act
Grant program: |___| Yes |X| No	|___| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|___| Multiple-year (expiration date)	|___| Contract authority
|___| No-Year	|___| Other

Justification: This program provides Federal support for research and training in immunology, allergic and immunologic diseases and in microbiology and infectious diseases. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 62, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
373,446	372,720	726	787	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Institute of General Medical Sciences

Of the funds made available under this head in Public Law 99-178, $7,358,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $514,765,000 (P.L. 99-178)
Bureau: National Institutes of Health	**Other budgetary resources** -22,372,000
Appropriation title and symbol: National Institute of General Science Medical Sciences 7560851	**Total budgetary resources** $492,393,000
	Amount proposed for rescission $ 7,358,000
OMB identification code: 75-0851-0-1-550	**Legal authority** (in addition to sec. 1012): |___| Antideficiency Act
Grant program: |___| Yes |X| No	|___| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|___| Multiple-year (expiration date)	|___| Contract authority
|___| No-Year	|___| Other

Justification: This program provides Federal support for biomedical research and research training in the areas of cellular and molecular basis of disease, genetics, pharmacological sciences, physiology, biophysics, physiological sciences, and minority access to research careers. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 162, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
491,311	488,000	3,311	4,047	---	---	---	---

R86-38

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Institute of Child Health and Human Development

Of the funds made available under this head in Public Law 99-178, $1,150,000 are rescinded.

Rescission Proposal: R86-38

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $321,796,000 (P.L. 99-178)
Bureau: National Institutes of Health	**Other budgetary resources** -14,053,000
Appropriation title and symbol: National Institute of Child Health and Human Development 7560844	**Total budgetary resources** $307,743,000
	Amount proposed for rescission $ 1,150,000
OMB identification code: 75-0844-0-1-550	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |_| Yes |X| No	|_| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|_| Multiple-year (expiration date)	|_| Contract authority
|_| No-Year	|_| Other

Justification: This program provides Federal support for research and research training in maternal and child health and in population sciences. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 16, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
313,683	313,183	500	650	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Eye Institute

Of the funds made available under this head in Public Law 99-178, $5,224,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority** (P.L. 99-178) $195,094,000
Bureau: National Institutes of Health	**Other budgetary resources** -8,490,000
Appropriation title and symbol: National Eye Institute 7560887	**Total budgetary resources** $186,604,000
OMB identification code: 75-0887-0-1-550	**Amount proposed for rescission** $ 5,224,000
Grant program: [ ] Yes [X] No	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Type of account or fund: [X] Annual [ ] Multiple-year (expiration date) [ ] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: This program provides Federal support for research and research training in the areas of eye diseases and visual disorders. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 27, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
178,279	175,929	2,350	2,874	---	---	----	---

R86-40

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Institute on Aging

Of the funds made available under this head in Public Law 99-178, $2,679,000 are rescinded.

Rescission Proposal: R86-40

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $156,491,000 (P.L. 99-178)
Bureau: National Institutes of Health	**Other budgetary resources** -6,868,000
Appropriation title and symbol: National Institute on Aging 7560843	**Total budgetary resources** $149,623,000
	Amount proposed for rescission $ 2,679,000
OMB identification code: 75-0843-0-1-550	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act
Grant program: | | Yes | X | No	| | Other
Type of account or fund:	**Type of budget authority:**
| X | Annual	| X | Appropriation
| | Multiple-year (expiration date)	| | Contract authority
| | No-Year	| | Other

Justification: This program provides Federal support for research and research training in the area of aging. Funds for research project grants in excess of the 1986 President's Budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The proposed rescission would reduce the number of research grants by 24, thus insuring a smooth transition from the 1985 NIH total of 18,357 to the 18,000 NIH grant total requested in the President's 1987 budget. In addition, the rescission would result in this Institute's share of an NIH-wide 4.5% average increase in the cost of a grant.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
133,882	132,336	1,546	1,133	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

Office of the Director

Of the funds made available under this head in Public Law 99-178, $23,055,000 are rescinded.

Rescission Proposal No: R86-41

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $116,992,000 (P.L. 99-178)
Bureau: National Institutes of Health	**Other budgetary resources** -5,033,000
Appropriation title and symbol: Office of the Director 7560846	**Total budgetary resources** 111,959,000
	Amount proposed for rescission $ 23,055,000
OMB identification code: 75-0846-0-1-550	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|__| No-Year	|__| Other_____

Justification: The Office of the Director provides overall administration to the National Institutes of Health through centralized services, policy development, and program coordination. Funds in excess of the 1986 President's budget request are being proposed for rescission to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985. The following items are affected (in thousands of dollars):

Acquired Immune Deficiency Syndrome (AIDS).....	$13,915
Research Centers in Minority Institutions (RCMI and Academic Research Enhancement Award (AREA).....	9,140
Total.....	23,055

Estimated Program Effect: The rescission of AIDS funds will not affect on going projects, but new initiatives will be reduced in scope and some proposed projects will not be funded. The rescission of funds for RCMI/AREA grants will reduce the number of projects selected for funding.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
52,324	35,263	17,061	5,994	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Alcohol, drug abuse, and mental health

Of the funds made available under this head in Public Law 99-178, $39,718,000 are rescinded.

Rescission Proposal No: R86-42

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Health and Human Services

Bureau: Alcohol, Drug Abuse, and Mental Health Administration

Appropriation title and symbol:

Alcohol, drug abuse, and mental health

7561361
75X1361

OMB identification code:

75-1361-0-1-550

Grant program:
|X| Yes |__| No

Type of account or fund:

|X| Annual

|__| Multiple-year _____ (expiration date)

|X| No-Year

New budget authority..... $968,860,000
(P.L. 99-178)

Other budgetary resources -38,669,000

Total budgetary resources 930,191,000

Amount proposed for rescission $ 39,718,000

Legal authority (in addition to sec. 1012):

|__| Antideficiency Act

|__| Other_____

Type of budget authority:

|X| Appropriation

|__| Contract authority

|__| Other_____

Justification: This program provides Federal support for research and research training in the areas of alcohol, drug abuse, and mental health. Amounts are being proposed for rescission that are in excess of the 1986 President's Budget to achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985. Reductions are proposed for the following items (in thousands of dollars):

General Mental Health:	
Planning and demonstration.....	$11,008
Training.....	19,140
Protection and advocacy.....	9,570
Total.....	39,718

Estimated Program Effect: The community support demonstrations are completed and further Federal support is not required. The clinical training program has built a national training capacity which will continue without further Federal support. The administration believes that States have the capacity to monitor care for the mentally ill.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
902,487	882,474	20,013	19,705	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Program management

Of the funds made available under this head in Public Law 99-178, $912,000 are rescinded: Provided, That not to exceed $1,079,296,000 shall be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $ 89,533,000 (P.L. 99-178)
Bureau: Health Care Financing Administration	**Other budgetary resources** 1,176,206,000
Appropriation title and symbol: Program management 1/ 75660511	**Total budgetary resources** 1,265,739,000
	Amount proposed for rescission $ 912,000
OMB identification code: 75-0511-0-1-550	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other
Type of account or fund: |X| Annual	**Type of budget authority:** |X| Appropriation
|__| Multiple-year (expiration date)	|__| Contract authority
|__| No-Year	|__| Other

Justification: This account funds research, medicare contractors, State certification, and administrative costs. This rescission is being proposed to achieve the deficit reduction goals of the President and of the Balanced Budget and Emergency Deficit Control Act of 1985. Reductions are proposed for the following items (in thousands of dollars):

Medicare Contractor Activity..... Funding for claims payment will be reduced.	$2,069
Research Activity..... The rescission would result in a reduction in new awards amounting to $2.3 million for Alternative Payment Systems, $.9 million for Hospital Payment Systems, and $4.1 million for Program Analysis Evaluation and Quality of Care.	7,332
Total savings.....	9,401
Reduced trust fund transfer.....	-8,489
Amount proposed for rescission.....	912

Estimated Program Effect: Funding for lower priority programs will be reduced.

Outlay Effect (in thousands of dollars):

1986 Outlay estimate Without Rescission	1986 Outlay estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
86,345	85,725	620	292	---	---	---	---

1/ This account is the subject of a related deferral (D86-57).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Rsettlement

Refugee and entrant assistance

Of the funds made available in section 101(j) of Public Law 99-190 for refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, $87,551,000 are rescinded.

Rescission Proposal No: R86-44

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $427,861,000 (P.L. 99-190)
Bureau: Office of Refugee Resettlement	**Other budgetary resources** -18,398,000
Appropriation title and symbol: Refugee and entrant assistance 7560473	**Total budgetary resources** 409,463,000
	Amount proposed for rescission $ 87,551,000
OMB identification code: 75-0473-0-1-609	**Legal authority** (in addition to sec. 1012): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: This program provides funding to assist in the refugee settlement process. Services include cash and medical assistance, English and vocational training, educational assistance, and health screening. States are subsidized for administering the refugee assistance program. Amounts proposed for rescission (pursuant to 31 U.S.C. 1512 - the Antideficiency Act) are in excess of any ability to use them effectively. Reductions are proposed for the following items (in thousands of dollars):

State administered programs - social services...	23,815
Targeted assistance.....	47,850
Educational assistance.....	15,886
Total.....	87,551

Recent funding under continuing resolutions has resulted in maintaining resources at a higher than necessary level in the face of declining refugee flows.

Estimated Program Effect: None. Remaining social services funding will be sufficient to provide services for recent arrivals who are most in need. The targeted assistance program has already accumulated resources sufficient to address any backlogs of need -- 1985 targeted assistance grants are expected to last well into 1987. The educational assistance program has put in place the capacity necessary to meet the needs of refugee students.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
413,143	392,850	20,293	44,620	22,008	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Human Development Services

Human development services

Of the funds made available under this head in Public Law 99-178, $24,980,000 are rescinded, and in addition, $5,000,000 are rescinded from available balances from prior year appropriations for Child Abuse Challenge Grants.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $2,015,922,000 (P.L. 98-178)
Bureau: Human Development Services	**Other budgetary resources** -81,685,000
Appropriation title and symbol: Human development services 7561636 75X1636	**Total budgetary resources** $1,934,237,000
	Amount proposed for rescission $ 29,980,000
OMB identification code: 75-1636-0-1-506	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year (expiration date)	|__| Contract authority
|X| No-Year	|__| Other

Justification: This account funds human development services activities, including Head Start, child abuse state grants, Title III services and meals for senior citizens, state grants and advocacy for developmental disabilities, and financial assistance for native Americans. Amounts are being proposed for rescission that are in excess of requirements for several existing human development services activities and for duplicative new categorical programs. Reductions are proposed for the following items (in thousands of dollars):

1985 appropriation:

Child abuse challenge grants.....	$5,000

1986 appropriation:

Child abuse discretionary activities.....	3,296
Dependent care.....	4,785
Aging research training and discretionary projects.....	11,425
Developmental disabilities program.....	3,943
Native American discretionary activities.....	1,531
	29,980

Estimated Program Effect:

1. Child abuse challenge grants - The rescission would eliminate this new categorical program for which no grants have been made.
2. Child abuse discretionary - All categories of grants currently being funded will continue to be funded, but less will be spent in each category.
3. Dependent care - The rescission would eliminate this new categorical program for which no grants have been made.
4. Aging research training and discretionary activities - The number of grant awards will be decreased, but with careful analysis selected grants will be of the highest quality.
5. Development disabilities - For state grants, protection and advocacy, and University Affiliated grants, 1985 levels would be continued. The Special projects program would be eliminated.
6. Native American programs - Discretionary activities would be eliminated as a separate line item. Similar activities would be carried out under the financial grant program.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
1,928,211	1,921,522	6,689	20,496	2,795	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Human Development Services

Family social services

Of the funds made available under this head in Public Law 99-178, $6,157,000 are rescinded.

Rescission Proposal No: R86-46

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $777,237,000 (P.L. 98-178)
Bureau: Human Development Services	**Other budgetary resources** -16,407,000
Appropriation title and symbol: Family social services 7561645	**Total budgetary resources** 760,830,000
	Amount proposed for rescission $ 6,157,000
OMB identification code: 75-1645-0-1-506	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|__| No-Year	|__| Other_____

Justification: This account funds family social services activities, including foster case, adoption assistance, child welfare services, child welfare training, adoption opportunities, and child welfare research and demonstration. Amounts are being proposed for rescission that are in excess of requirements for research and demonstration activities and adoption opportunities. Reductions are proposed for the following items (in thousands of dollars):

Adoption opportunities.....	$3,385
Child welfare research and development	2,772
Total.....	6,157

Estimated Program Effect: The rescission will return both programs to the 1986 President's Budget request level. All categories of grants currently made will continue to be made, but the number of grants in each category will be decreased from the number without the rescission.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
754,119	752,703	1,416	4,504	237	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Human Development Services

Work incentives

Of the funds made available under this head in Public Law 99-178, $45,884,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... (P.L. 99-178) $220,000,000
Bureau: Human Development Services	Other budgetary resources
Appropriation title and symbol: Work Incentives 7561639	Total budgetary resources 220,000,000
OMB identification code: 75-1639-0-1-504	Amount proposed for rescission $ 55,000,000
Grant program: [X] Yes [ ] No	Legal authority (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Type of account or fund: [X] Annual [ ] Multiple-year (expiration date) [ ] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The work incentive (WIN) program was designed to encourage and assist individuals receiving support from the aid to families with dependent children (AFDC) program to achieve self-support through a program of employment, training, and support services. Repeated studies of WIN have shown that it is not a cost-effective program. This rescission will eliminate new financing for the program in the last quarter of FY 1986. The program will be phased out with unexpended carryover funds. Fiscal restraint requires that marginal and ineffective programs be constrained or eliminated, especially where alternative programs are in operation.

Estimated Program Effect: AFDC recipients may use programs financed under the Social Services Block Grant and the Job Training Partnership Act (which requires equitable services to AFDC recipients) for job-finding, job training, and social services in lieu of identical services previously provided by WIN.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
217,382	179,707	37,675	7,328	881	---	---	---

Note - $9,116,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $45,884,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

Community services block grants

Of the funds made available under this head in Public Law 99-178, $182,138,500 are rescinded.

Rescission Proposal No: R86-48

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $370,300,000 (P.L. 99-178)
Bureau: Office of Community Services	**Other budgetary resources** -15,923,000
Appropriation title and symbol: Community services block grant 7561635	**Total budgetary resources** 354,377,000
	Amount proposed for rescission $182,138,500
OMB identification code: 75-1635-0-1-506	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|__| No-Year	|__| Other_____

Justification: The Community services block grant (CSBG) funds community services activities and Federal administration block grants. The proposed rescission for this non-entitlement program is based on the following: most of the CSBG funds allocated to the States are used to administer other Federal programs which already have their own built-in administrative overhead allowances; other CSBG funds allocated to the States are used for direct services to the poor that duplicate the kinds of services funded under the Social Services Block Grant (SSBG); and approximately 9% of the CSBG is used for direct Federal grants to some 75-80 organizations operating projects that duplicate those funded by other Federal agencies such as the Departments of Housing and Urban Development, Agriculture, and Labor, and the Environmental Protection Agency.

Estimated Program Effect: Existing community action agencies (CAAs) could continue to function since the CSBG accounts, on average, for only 12% of CAA funding. 86% or $2.4 billion of CAA funds, including money for salary and operating expenses, derives from other Federal funding authorities, with 2% supplied by State and local governments and the private sector.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
357,091	233,189	123,902	53,807	---	---	---	---

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

Community development credit union revolving loan fund

Of the funds available under this head, $2,528,562 are rescinded.

Rescission Proposal No: R86-49

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $ _____ (P.L. _____)
Bureau: Office of Community Services	**Other budgetary resources** 2,528,562
Appropriation title and symbol: Community development credit union revolving loan fund 75X4441	**Total budgetary resources** 2,528,562
	Amount proposed for rescission $ 2,528,562
OMB identification code: 75-4441-0-3-452	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other _____
Type of account or fund: |__| Annual	**Type of budget authority:** |X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other _____

Justification: Because no new direct loans or loan guarantees are planned from this fund in 1986 or 1987, the unobligated balances are proposed for rescission and return to the Treasury general fund.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
-500	-500	---	---	---	---	---	---

R86-50

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Departmental Management

General departmental management

Of the funds made available under this head in Public Law 99-178, $19,619,000 are rescinded.

Rescission Proposal No: R86-50

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority.....** $144,449,000 (P.L. 99-178)
Bureau: Departmental Management	**Other budgetary resources** 27,283,000
Appropriation title and symbol: General departmental management 7560120	**Total budgetary resources** $171,732,000
	Amount proposed for rescission $ 19,619,000
OMB identification code: 75-0120-0-609	**Legal authority** (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund:	**Type of budget authority:**
☒ Annual	☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☐ No-Year	☐ Other

Justification: This account funds leadership, policy or administrative guidance and services to components of the Department of Health and Human Services. Amounts are proposed for rescission for construction projects that are in excess of National Institutes of Health program needs ($4,307,000). The rescission proposal also includes funds for demonstration on Acquired Immune Deficiency Syndrome (AIDS) health care services delivery, maintaining the Federal focus on AIDS control and research ($15,312,000). Neither of these projects is consistent with the mission of General Department management.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
136,002	118,541	17,461	1,079	1,079	----	----	----

R86-51

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Departmental Management

Policy research

Of the funds made available under this head in Public Law 99-178, $220,000 are rescinded.

Rescission Proposal No: R86-51

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human services	**New budget authority.....** $6,500,000 (P.L. 99-178)
Bureau: Departmental Management	**Other budgetary resources** 220,000
Appropriation title and symbol: Policy research 7560122	**Total budgetary resources** 6,720,000
	Amount proposed for rescission $ 220,000
OMB identification code: 75-0122-0-1-609	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|__| No-Year	|__| Other_____

Justification: This activity supports research to develop new policy initiatives and improve existing HHS programs. This proposal would rescind funds for low priority social research projects in excess of the President's fiscal year 1986 Budget.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
8,183	8,082	101	83	25	---	---	---

R86-52

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Annual contributions for assisted housing

Of the budget authority provided under this head in Public Law 99-160, $4,413,430,643 are rescinded, of which $143,550,000 are rescinded from funds available for rental rehabilitation and development grants pursuant to section 17(a)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o): Provided, That of the balances of budget authority provided under this head in Public Law 99-160, and in lieu of the provisions of the second and ninth provisos thereof, $80,731,140 shall be for assistance in financing the development or acquisition cost of public housing; $458,325,000 shall be for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 14371); $12,810,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $184,462,500 shall be for the section 8 existing housing program, $102,853,890 shall be for the section 8 moderate rehabilitation program, and $1,115,207,500 shall be for the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f): Provided further, That notwithstanding any provision under this heading in Public Law 99-160, all amounts of budget authority (and contract authority) equal to the amounts of such budget authority (and contract authority) which are recaptured during fiscal year 1986 from amounts provided for assistance payments under section 235 of the National Housing Act and for development grants under

section 17(a)(1)(B) of the United States Housing Act of 1937, shall be rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	New budget authority.....$ 9,815,607,781 (P.L. 99-160)
Bureau: Housing Program	Other budgetary resources 918,498,386
Appropriation title and symbol: Annual contributions for assisted housing 1/ 86X0164	Total budgetary resources $10,734,106,167
	Amount proposed for rescission $ 4,416,131,175
OMB identification code: 86-0164-0-1-999	**Legal authority (in addition to sec. 1012):** |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund: |__| Annual	**Type of budget authority:** |X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other _____

Coverage:

Appropriation	Symbol	OMB Identification Code	Rescission Proposal
Annual contributions for assisted housing:			
Budget authority	86X0164	86-0164-0-1-999	$4,269,880,642
Contract authority	86X0164	86-0164-0-1-999	640,533
Rental housing development grants	864/60164	86-0164-0-1-999	(
	865/60164	86-0164-0-1-999	(73,855,000
	8660164	86-0164-0-1-999	(
Rental rehabiitation grants programs	864/60164	86-0164-0-1-999	(71,755,000
	865/60164	86-0164-0-1-999	(
	8660164	86-0164-0-1-999	(
Total			$4,416,131,175

Justification: This account funds subsidized housing programs such as section 8 lower-income housing, and public and Indian housing development. The President's budget proposes to fund 50,000 housing vouchers in 1986, in lieu of mix of activities presumed in the 1986 HUD-Independent Agencies Appropriations Act. Because vouchers require less budget authority than the new construction and the 15-year section 8 existing programs that vouchers will replace, the $4.4 billion in budget authority is no longer necessary. The rescission package also includes a rescission of $143,550,000 of new budget authority for the Rental Housing Development program (HODAG) and the Rental Rehabilitation grant programs and an estimated additional $2 million rescission of recoveries of prior year obligations. HODAG is an expensive means to house very low-income households relative to housing vouchers and unnecessary as a housing stimulus program for moderate- and upper-income persons in a time when national vacancy rates are at their highest levels in 18 years. Continued spending for rental rehabilitation grants cannot be justified in the current atmosphere of budget restraint, especially when the program's purpose can be achieved by other programs like the Community Development Block Grant program and through market forces.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
10,206,876	10,164,219	42,657	63,389	44,707	60,275	104,002	117,200

1/ This account is the subject of deferrals in 1986 (D86-41, D86-42, D86-43, and D86-47).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Congregate services

Of the funds made available under this head in Public Law 99-160, $2,555,477 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $2,670,300 (P.L. 99-160)
Bureau: Housing Program	**Other budgetary resources** 2,887,961
Appropriation title and symbol: Congregate services 86X0178 865/60178 866/70178	**Total budgetary resources** $5,560,261
	Amount proposed for rescission $2,555,477
OMB identification code: 86-0178-0-1-604	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[X] Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: This demonstration program tested whether contracting directly with local public housing agencies and section 202 Housing for the elderly or handicapped sponsors was more effective than Department of Health and Human Services and other social services programs. It included meal services and essential support services. The demonstration has been concluded and no further resources are required. The results of the demonstration were inconclusive.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
5,900	5,900	---	1,022	1,278	255	---	---

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Housing counseling assistance

Of the funds made available under this head in Public Law 99-160, $3,312,656 are rescinded.

Rescission Proposal No: R86-54

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $3,461,500 (P.L. 99-160)
Bureau: Housing Programs	**Other budgetary resources** -148,844
Appropriation title and symbol: Housing counseling assistance 8660156	**Total budgetary resources** 3,312,656
	Amount proposed for rescission $3,312,656
OMB identification code: 86-0156-0-1-506	**Legal authority** (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Housing counseling assistance program provides comprehensive housing counseling services to eligible homeowners or tenants, including default, prepurchase and renter counseling. This rescission is proposed to effect outlay savings consistent with deficit reduction policies included in the Balanced Budget and Emergency Control Act of 1985.

Estimated Program Effect: Funds will not be provided from this program to support comprehensive counseling assistance. However, communities may use their Community Development Block Grant funds for counseling assistance.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
3,500	3,500	---	3,313	---	---	---	---

R86-55

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development

Urban development action grants

Of the funds made available under this head in Public Law 99-160, $206,377,639 are rescinded; in addition, amounts previously appropriated, and subsequently deobligated but not reobligated before February 7, 1986, for grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act that are in excess of amounts required to fund projects which have received preliminary approval (in accordance with regulations promulgated by the Department of Housing and Urban Development) before February 7, 1986, are rescinded; and in addition, amounts deobligated after February 7, 1986 are rescinded.

Rescission Proposal No: R86-55

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $330,000,000 (P.L. 99-160)
Bureau: Community Planning and Development	**Other budgetary resources** 153,998,675
Appropriation title and symbol: Urban development action grants 1/ 863/60170, 864/70170 865/80170, 866/90170	**Total budgetary resources** 483,998,675
	Amount proposed for rescission $220,061,959
OMB identification code: 86-0170-0-1-451	**Legal authority** (In addition to sec. 1012): | | Antideficiency Act
Grant program: |X| Yes | | No	| | Other
Type of account or fund:	**Type of budget authority:**
| | Annual Sept. 30, 1986 Sept. 30, 1987	|X| Appropriation
|X| Multiple-year Sept. 30, 1988 (expiration date)	| | Contract authority
| | No-Year Sept. 30, 1989	| | Other

Justification: This account makes grants to cities and urban counties to attempt to stimulate economic development activity. The administration doubts whether these grants actually perform this function efficiently and whether it is appropriate to continue a program of this type in the current environment of intense budget restraint. This rescission is proposed to effect outlay savings consistent with the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985 and this administration's spending priorities.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
499,290	488,300	10,990	44,010	50,460	50,459	50,459	---

1/ This account is also the subject of a deferral (D86-49).

R86-56

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Land acquisition

Of available funds provided for equalization payments in connection with land exchanges pursuant to the Navajo-Hopi Relocation Act, as amended, $3,000,000 are rescinded.

Rescission Proposal No: R86-56

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Interior	**New budget authority.....** $2,300,000 (P.L. 99-190)
Bureau: Bureau of Land Management	**Other budgetary resources** 4,602,455
Appropriation title and symbol: Land acquisition 14X5033	**Total budgetary resources** 6,902,453
	Amount proposed for rescission $3,000,000
OMB identification code: 14-5033-0-2-302	**Legal authority** (in addition to sec. 1012): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-Year	**Type of budget authority:** [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: This account provides for acquiring lands or interests in lands when necessary for public recreation use and other appropriate uses that are essential to improving management of the public lands. Unobligated balances from funds provided in fiscal year 1984 for equalization payments in connection with land exchanges to be carried out under the Navajo-Hopi Relocation Act, as amended, are no longer needed for those payments. All required land exchanges have been completed, and these funds are not needed for the purposes for which they were provided. This rescission proposal is made pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
3,114	114	3,000	---	---	---	---	---

R86-57

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Land acquisition

Of the funds made available under this head in Public Law 99-190, $4,951,000 are rescinded.

Rescission Proposal No: R86-57

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Interior	**New budget authority**..... $40,670,000 (P.L. 99-190)
Bureau: Fish and Wildlife Service	**Other budgetary resources** 31,709,191
Appropriation title and symbol: Land acquisition 14X5020	**Total budgetary resources** 72,379,191
	Amount proposed for rescission $ 4,951,000
OMB identification code: 14-5020-0-2-303	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: These funds are used to acquire areas which have important fish and/or wildlife values and provide natural resource benefits over a broad geographical area. A rescission of $4,951,00 is proposed for two low priority land acquisition projects. This amount includes $4,000,000 for Tortuguero Lagoon (PR) and $951,000 is for Bon Secour (AL). Funding for these acquisitions can be eliminated without significant impact.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
50,800	47,829	2,971	1,980	---	---	---	---

R86-58

DEPARTMENT OF THE INTERIOR

National Park Service

Construction

Of the funds made available under this head in Public Law 99-190, $8,713,000 are rescinded, and in addition, $4,900,000 are rescinded from available balances of prior year appropriations.

Rescission Proposal No: D86-58

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of the Interior

Bureau:
National Park Service

Appropriation title and symbol:
Construction
14X1039

OMB identification code:
14-1039-0-1-303

Grant program:
|__| Yes |X| No

Type of account or fund:
|__| Annual
|__| Multiple-year _____ (expiration date)
|X| No-Year

New budget authority..... $ 108,558,274
(P.L. 99-190)
Other budgetary resources 117,775,848
Total budgetary resources 226,334,122
Amount proposed for rescission $ 13,613,000

Legal authority (in addition to sec. 1012):
|__| Antideficiency Act
|__| Other_____

Type of budget authority:
|X| Appropriation
|__| Contract authority
|__| Other_____

Justification: This account funds construction projects in national parks (highways, bridges, cultural resources, operational facilities). Emergency repairs and planning are also funded. This rescission is proposed to withdraw 1986 appropriations for construction projects regarded to be of lower priority and prior year appropriations for a project which has been cancelled at Fort Sumter National Monument.

Estimated Program Effect: Low priority construction projects will be postponed or cancelled.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
104,880	103,177	1,703	3,502	3,986	3,159	1,263	---

R86-59

DEPARTMENT OF THE INTERIOR

National Park Service

Land acquisition and State assistance

Available balances of the contract authority provided for fiscal year 1986 by 16 U.S.C. 460L-10a are rescinded; and in addition, of the funds made available under this head in Public Law 99-190, $55,207,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Interior **Bureau:** National Park Service	(16 U.S.C. 460L-10a) **New budget authority.....** $128,400,000 (P.L. 99-190)
Appropriation title and symbol: Land acquisition and State assistance 1/ 14X5035	**Other budgetary resources** 154,754,161 **Total budgetary resources** 283,154,161
OMB identification code: 14-5035-0-2-303	**Amount proposed for rescission** $ 83,917,000
Grant program: |X| Yes |___| No	**Legal authority** (in addition to sec. 1012): |___| Antideficiency Act |___| Other_____
Type of account or fund: |X| Annual 2/ |___| Multiple-year _____ (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation |X| Contract authority 2/ |___| Other_____

Justification: This appropriation provides (1) funds to acquire land for inclusion in the National Park system, and (2) grants to States for outdoor recreation purposes. Under existing law (16 U.S.C. 460L-10a), $30 million in contract authority is made available each fiscal year for use as an anti-cost escalation measure in purchasing authorized Federal recreation land. This authority was last used in 1969 and 1970, and there are no plans to use it in the future. The contract authority lapsed in fiscal years 1971-1981 and was rescinded by congressional action for 1982 (P.L. 97-257), 1983 (P.L. 98-63), 1984 (P.L. 98-396) and 1985 (P.L. 99-88). Consequently, the $28,710,000 in 1986 contract authority remaining after reductions pursuant to P.L. 99-177 is proposed for rescission. The Administration is also requesting that Congress permanently terminate the availability of this contract authority. In addition, the rescission proposes to effect savings ($19,306,000) by withdrawing 1986 appropriations for low priority projects and part of the funds ($35,901,000) appropriated for State grants. This is consistent with the Administration's position that the cost of State programs should be borne by the States and based on the States' priorities.

Estimated Program Effect:
1. Low priority acquisition projects will not be undertaken ($19,306,000)
2. Grants for States will be reduced by $35,901,000
3. Contract authority - none

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
186,921	173,542	13,379	11,041	30,787	---	---	---

1/ This account was also subject to a similar rescission proposal in 1985 (R85-146).
2/ A portion of the funding proposed for rescission is non-grant contract authority with a one-year availability.

R86-60

DEPARTMENT OF THE INTERIOR

National Park Service

Historic preservation fund

Of the funds made available under this head in Public Law 99-190, $18,523,330 are rescinded.

Rescission Proposal No: R86-60

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Interior	New budget authority..... $24,945,000 (P.L. 99-190)
Bureau: National Park Service	Other budgetary resources -1,215,670
Appropriation title and symbol: Historic preservation fund 146/75140	Total budgetary resources $23,729,330
OMB identification code: 14-5140-0-2-303	Amount proposed for rescission $18,523,330
Grant program: [X] Yes [ ] No	Legal authority (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Type of account or fund: [ ] Annual [X] Multiple-year Sept. 30, 1987 (expiration date) [ ] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: This program funds State historic preservation grants and the National Trust for Historic Preservation. This proposal would rescind funds appropriated for State grants and to the National Trust for Historic Preservation. It is consistent with the Administration's position that the cost of the State programs should be borne by the States based on the States' priorities for these activities. The amounts proposed to be rescinded do not include amounts committed under the Continuing Resolution prior to enactment of Public Law 99-190.

Estimated Program Effect: Grants to States and to the National Trust for Historic Preservation will be reduced.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
24,712	18,044	6,668	5,557	6,298	---	---	---

DEPARTMENT OF JUSTICE

Federal Prison System

National Institute of Corrections

Of the funds made available under this head in Public Law 99-180, $3,315,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Justice	**New budget authority.....** $11,000,000 (P.L. 99-180)
Bureau: Federal Prison System	**Other budgetary resources** 4,584,158
Appropriation title and symbol: National Institute of Corrections 1/ 15X1004	**Total budgetary resources** 15,584,158
	Amount proposed for rescission $ 3,315,000
OMB identification code: 15-1004-0-1-754	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Justification: The National Institute of Corrections awards contracts and grants to provide technical assistance to requesting correctional organizations; to maintain an information service to provide information on the latest developments, research results, et cetera, in the field of corrections; to provide training to the correctional community; to improve systems and skills; and to conduct limited research and evaluation of correctional activities. Unobligated grant funds from prior years totaling $3,315,000 are proposed to be rescinded. In light of the increasing Federal deficit, the Federal Government can no longer afford to fund programs to benefit State and local governments at the same level as in the past. The remaining funds are adequate to carry out the National Institute of Corrections' mission.

Estimated Program Effect: Lower priority programs will not be funded.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
19,356	16,041	3,315	---	---	---	---	---

1/ A rescission was proposed for this account in 1985 (R85-160).

R86-62

DEPARTMENT OF JUSTICE

Office of Justice Programs

Justice assistance

Of the funds made available under this head in Public Law 99-180, $122,109,000 are rescinded, of which $5,000,000 are rescinded from funds available for grants to states for their expenses of incarcerating Mariel Cubans; in addition, $12,557,351 are rescinded from other available balances.

Rescission Proposal No: R86-62

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Justice	**New budget authority.....** $203,982,000 (P.L. 99-180)
Bureau: Office of Justice Programs	**Other budgetary resources** 62,755,212
Appropriation title and symbol: Justice assistance 1/ 15X0401 1560401	**Total budgetary resources** 266,737,212
	Amount proposed for rescission $ 140,393,351
OMB identification code: 15-0401-0-1-754	**Legal authority** (in addition to sec. 1012): |_| Antideficiency Act
Grant program: |X| Yes |_| No	|_| Other
Type of account or fund: |X| Annual	**Type of budget authority:** |X| Appropriation
|_| Multiple-year (expiration date)	|_| Contract authority
|X| No-Year	|_| Other

Coverage:

Appropriation	Symbol	OMB Identification Code	Amount Proposed for Rescission
Justice assistance...	15X0401	15-0401-0-1-754	$135,393,351
Justice assistance...	1560401	15-0401-0-1-754	5,000,000
			$140,393,351

Justification: The Justice Assistance appropriation provides for activities authorized by the Juvenile Justice and Delinquency Prevention Act, Missing Children's Assistance Act, and Justice Assistance Act. In order to meet the goals of the Balanced Budget and Emergency Deficit Control Act of 1985 for 1987, it is necessary to rescind obligational authority in 1986 for programs which have a significant impact on outlays in 1987. About 50 percent of the

Justification: (continued)
budget authority for these programs would be outlayed in 1987. Three major programs are being proposed for rescission. The first, juvenile justice grants, has already accomplished its major program objectives, as established by the authorizing legislation -- i.e., separation of adult from juvenile offenders and deinstitutionalization of status offenders. The second program, State and local assistance grants, funds projects that are beneficial only to particular State or local communities, and should, therefore, be funded by those communities rather than by the Federal Government. The third program ($5 million) will reduce the reimbursement to 16 states for part of the costs of incarcerating Mariel Cubans.

Estimated Program Effect: These rescission requests will result in a reduction of grant funds to the Criminal and Juvenile Justice Systems. However, their termination will have negligible impact on the Federal criminal justice program.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
207,062	167,165	39,897	63,540	31,229	---	---	---

1/ This account was the subject of a proposed rescission (R85-162) and a deferral (D85-60) in 1985.

Note - $5,727,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $134,666,351.

DEPARTMENT OF LABOR

Employment and Training Administration

Training and employment services

Of the funds made available under this head in Public Law 99-178, $416,037,000 are rescinded: Provided, That notwithstanding section 251 of the Job Training Partnership Act, the Secretary of Labor shall allot the funds made available in Public Law 99-178 for the Summer Youth Employment and Training Program to specific geographic areas most in need of such programs as determined by the Secretary.

Rescission Proposal No: R86-63

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Labor	**New budget authority.....** $3,461,045,000 (P.L. 99-178)
Bureau: Employment and Training Administration	**Other budgetary resources** 2,420,000
Appropriation title and symbol: Training and employment services 1/ 166/70174	**Total budgetary resources** $3,463,465,000
	Amount proposed for rescission $ 534,786,000
OMB identification code: 16-0174-0-1-504	**Legal authority** (in addition to sec. 1012):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[X] Multiple-year Sept. 30, 1987 (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: This account funds a flexible and decentralized system of Federal and local programs of training and other services for economically disadvantaged persons, designed to lead to permanent gains in employment. Fiscal restraint requires reducing certain program levels and directing resources more effectively to areas most in need. Rescissions are proposed for Job Training Partnership Act (JTPA) programs for summer youth employment ($207,976,000), the Job Corps ($196,487,000), and for Native Americans, migrants, and veterans ($2,004,000). A rescission of $9,570,000 for a setaside for four service delivery areas under JTPA is proposed since it provides special financing above the levels these areas would receive under formula allocations contained in law. The Job Corps rescission will return the program to its capacity before it was increased during a time of fiscal stimulus by phasing out the most costly and least effective residential centers; summer youth job resources will be allocated to areas where youth unemployment is most serious.

Estimated Program Effect: Program levels will be reduced for the above JTPA programs, but remaining resources will be directed to areas with the greatest need for summer jobs for youth and to the most effective Job Corps centers located nearest to the target population.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1889	1990	1991
3,663,188	3,645,870	17,318	359,167	39,523	29	---	---

1/ This account was the subject of a rescission proposal in 1985 (R85-164A).

Note - $118,749,000 of the amount previously withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $416,037,000.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Rail service assistance

Of the funds made available under this head in Public Law 99-190, $14,355,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Transportation **Bureau:** Federal Railroad Administration **Appropriation title and symbol:** Rail service assistance 1/ 69X0122	**New budget authority** (P.L. 99-190) ..... $20,200,000 **Other budgetary resources** 33,285,310 **Total budgetary resources** 53,485,310 **Amount proposed for rescission** $15,000,000
OMB identification code: 69-0700-0-1-401 **Grant program:** [X] Yes [ ] No	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: Local rail service assistance provides discretionary and formula grants to States for rail planning and track rehabitation of light density branchlines. This rescission is proposed because the rail abandonment problems are local in nature and are more appropriately the responsibility of the State and local governments.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
51,379	45,924	5,455	4,019	4,881	---	---	---

1/ This account was the subject of a rescission proposal (R85-181) and a deferral (D85-49) in 1985.

Note - $645,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $14,355,000.

R86-65

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Northeast corridor improvement program

Of the funds made available under this head in Public Law 99-190, $11,962,000 are rescinded.

Rescission Proposal No: R86-65

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Transportation	**New budget authority** (P.L. 99-190) $12,500,000
Bureau: Federal Railroad Administration	**Other budgetary resources** 19,831,925
Appropriation title and symbol: Northeast corridor improvement program 1/ 69X0123	**Total budgetary resources** 32,331,925
	Amount proposed for rescission $12,500,000
OMB identification code: 69-0123-0-1-401	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act | | Other
Grant program: | | Yes | X | No	
Type of account or fund: | | Annual | | Multiple-year (expiration date) | X | No-Year	**Type of budget authority:** | X | Appropriation | | Contract authority | | Other

Justification: This program provides for capital improvements for the rail line between Boston, MA and Washington, D.C. Appropriations of $2.3 billion have been made through 1985 for this program, representing funding required to complete the necessary projects. This rescission is proposed because no additional funds are required. Sufficient unexpended balances are available to complete the remaining projects.

Estimated Program Effect: None

Outlay Effect: (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
192,120	191,400	720	3,230	5,620	2,392	---	---

1/ This account was the subject of a rescission proposal (R85-181) and a deferral (D85-50) in 1985.

NOTE - $538,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $11,962,000.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Railroad rehabilitation and improvement

Redeemable preference shares

All of the proceeds authorized to be expended under this head in Public Law 99-190 are rescinded.

Rescission Proposal No: R86-66

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Transportation	**New budget authority.....** $33,500,000 (P.L. 99-190)
Bureau: Federal Railroad Administration	**Other budgetary resources** 12,923,715
Appropriation title and symbol: Railroad rehabilitation and improvement financing funds 69X4411	**Total budgetary resources** 46,423,715
	Amount proposed for rescission $33,500,000
OMB identification code: 69-4411-0-3-401	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act; |__| Other
Grant program: |__| Yes |X| No	
Type of account or fund: |__| Annual; |__| Multiple-year (expiration date); |X| No-Year	**Type of budget authority:** |X| Appropriation; |__| Contract authority; |__| Other

Justification: This program, which provides direct loans to private freight railroad companies, has served the purpose for which it was intended and should have expired at the end of 1985 as scheduled. The proposed rescission would eliminate the Redeemable Preference Share funding consistent with the President's 1986 budget proposal. The provision of low cost loans to rehabilitate railroad lines is no longer necessary in light of the improved health of the railroad industry and the availability of private sector loans.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
31,603	30,000	1,603	1,603	6,411	11,221	11,221	---

Note - $1,441,000 of the amount originally withheld for rescission is sequestered pursuant to P.L. 99-177. The current proposed rescission is $32,059,000.

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Discretionary grants

The limitation on the use of contract authority included under this head in Public Law 99-190 is reduced to $702,868,150; in addition, balances of limitations included in prior year limitations are reduced by $223,600,000.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Transportation	**New budget authority.....** (P.L. 97-424) $1,100,000,000
Bureau: Urban Mass Transportation Administration	**Other budgetary resources** 511,812,260
Appropriation title and symbol: Discretionary grants 69X8191	**Total budgetary resources** $1,611,812,260
	Amount proposed for rescission $ 521,274,850
OMB identification code: 69-8191-0-7-401	**Legal authority** (in addition to sec. 1012): |_| Antideficiency Act
Grant program: |X| Yes |_| No	|_| Other
Type of account or fund:	**Type of budget authority:**
|_| Annual	|_| Appropriation
|_| Multiple-year (expiration date)	|X| Contract authority
|X| No-Year	|_| Other

Justification: Section 3 of the Urban Mass Transportation Act of 1964, as amended, authorizes the Secretary of the Department of Transportation to make grants for the construction, acquisition, and rehabilitation of public transportation vehicles and facilities. Congress provided a total of $3.45 billion in contract authority for 1984, 1985, and 1986, the obligation of which was limited to $3.39 billion in the 1984, 1985, and 1986 appropriation acts. This limitation on section 3 obligations, according to the Appropriations Committees' Conference Reports for 1984, 1985 and 1986, includes $1.207 billion for "new start" projects. Of these 1984 and 1985 "new start" funds, $359.0 million was included for projects in five cities: Los Angeles ($234.4 million), Miami ($84.0 million), San Diego ($11.3 million), Jacksonville ($17.3 million), and St. Louis ($12.0 million). Through 1985, $135.4 million has been obligated for these projects.

The Administration has determined that the balance of $223.6 million of 1984 and 1985 funds should not be obligated since these funds would not provide sufficient resources to complete the desired "new start" projects in these five cities. More specifically, the $223.6 million would only provide about five percent of the estimated $4.0 billion needed in Federal funds to construct fully the desired "new start" projects in these cities.

The Appropriations Committees' Conference Report for 1986 includes $385.0 million for "new start" projects. Of these "new start" funds, $311.05 million has been included for projects in eight cities: Los Angeles ($101.0 million), Miami ($38.0 million), San Diego ($9.3 million), St. Louis ($13.5 million), Seattle ($24.65 million), Atlanta ($69.0 million), Houston ($54.75 million), and Buffalo ($0.85 million). Sequestering will cut $13.38 million from these 8 cities, leaving a balance of $297.67 million.

The Administration has determined that the $297.67 million in 1986 funds should not be obligated since these funds would not provide sufficient resources to complete the desired "new start" projects in these eight cities. More specifically, the $297.67 million would only provide about seven percent of the estimated $4.4 billion needed in Federal funds to fully construct the desired "new start" project in these cities.

Given the need to reduce Federal expenditures now and in the coming years, especially in light of the Balanced Budget and Emergency Deficit Reduction Act of 1985, the Federal Government cannot promise that this $4 to $5 billion shortfall in Federal funding will be provided. This Administration opposes funding new fixed investments under the Discretionary Grants program. Investment in "new start" projects can result in the development of many inefficient, expensive transit systems that will cost more to operate than other transit alternatives. Therefore, the Administration proposes rescinding a total of $521.27 million; that is the sum of $297.67 of 1986 funds and $223.6 in 1984-1985 funds.

Estimated Program Effect: $521.27 million will not be provided for specific "new start" projects in Los Angeles ($225.66 million), Miami ($107.87 million), San Diego ($20.2 million), Jacksonville ($1.8 million), St. Louis ($22.92 million), Seattle ($23.59 million), Houston ($52.4 million), Buffalo ($0.81 million), and Atlanta ($66.03 million).

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
776,150	750,086	26,064	104,255	156,382	104,255	104,255	26,064

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

Local government fiscal assistance trust fund

Notwithstanding the provisions of 31 U.S.C. 6701-6724, payments to local governments from the Local Government Fiscal Assistance Trust Fund shall not exceed $3,425,025,000, and the amount provided to the trust fund by Public Law 99-160 shall be reduced by $759,975,000 through the elimination of such payments for the final quarter of the entitlement period beginning October 1, 1985 and ending September 30, 1986. The $759,975,000 is hereby rescinded, and shall be transferred to the General Fund of the Treasury.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury	New budget authority..... $4,185,000,000 (P.L. 99-160)
Bureau: Office of Revenue Sharing	Other budgetary resources 54,349,000
Appropriation title and symbol: Local government fiscal assistance trust fund 1/ 20X8111	Total budgetary resources 4,239,349,000
	Amount proposed for rescission $ 759,975,000
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1012): |___| Antideficiency Act
Grant program: |X| Yes |___| No	|___| Other
Type of account or fund: |X| Annual	Type of budget authority: |X| Appropriation
|___| Multiple-year (expiration date)	|___| Contract authority
|___| No-Year	|___| Other

Justification: This account makes payments to local governments under the General Revenue Sharing (GRS) program. The program was first enacted in 1972 to distribute the resources raised by the highly responsive Federal tax structure to states and localities, which in general had less flexible tax systems. Since enactment of GRS, the relative fiscal conditions of Federal and local governments have changed dramatically. Local governments, in the aggregate, have gone from deficit to surplus conditions while the Federal government deficit has deepened substantially. The Federal government can no longer afford to fund a program which does not serve a targeted national purpose; GRS does not encourage localities to shift or increase spending on national priorities. The Administration proposes to eliminate the final quarterly payment before the program's authorization expires at the end of 1986. This rescission will result in a 1987 outlay savings of $760 million and will help achieve the goals of the Balanced Budget and Emergency Deficit Control of 1985.

Estimated Program Effect: The level of funding requested will provide three full General Revenue Sharing Payments to localities during 1986 before the program's authorization expires at the end of FY 1986. The rescission eliminates the final quarterly payment, which the 1986 appropriation act had already reduced by $382 million.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
4,433,483	4,433,483	---	759,975	---	---	---	---

1/ This account is the subject of deferrals in 1986 (D86-30, D86-31) and in 1985 (D85-12, D85-13).

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Salaries and expenses

Of the funds included under this head in the conference version of H.R. 3036, Treasury/Postal Service, and General Government Appropriations Act, 1986, as amended, and made available by section 101(h) of Public Law 99-190, $4,976,000 are rescinded.

Rescission Proposal No. R86-69

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury **Bureau:** Federal Law Enforcement Training Center	**New budget authority.....** (P.L. 99-190) $23,803,000 **Other budgetary resources** 13,582,000
Appropriation title and symbol: Salaries and expenses 2060104	**Total budgetary resources** $37,385,000 **Amount proposed for rescission** $ 4,976,000
OMB identification code: 20-0104-0-1-751 **Grant program:** | | Yes | X | No	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act | | Other
Type of account or fund: | X | Annual | | Multiple-year (expiration date) | | No-Year	**Type of budget authority:** | X | Appropriation | | Contract authority | | Other

Justification: This account funds the necessary operating expenses of the Federal Law Enforcement Training Center. A rescission is proposed to eliminate funds for construction of a new dormitory at the Center.

Estimated Program Effect: A new 200-bed dormitory will not be constructed at the Center. The flexible nature of the Center facilities can currently accommodate in excess of 1,400 resident students. During those times when the Center housing facilities are full, some students will be housed at local commercial facilities.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
22,433	17,457	4,976	--	---	---	---	---

R86-70

DEPARTMENT OF THE TREASURY

United States Customs Service

Salaries and expenses

Of the funds included under this head in the conference version of H.R. 3036, Treasury/Postal Service, and General Government Appropriations Act, 1986, as amended, and made available by section 101(h) of Public Law 99-190, $4,169,000 are rescinded.

Rescission Proposal No. R86-70

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury	**New budget authority.....** $717,000,000 (P.L. 99-190)
Bureau: United States Customs Service	**Other budgetary resources** 41,533,000
Appropriation title and symbol: Salaries and expenses 2060602	**Total budgetary resources** $758,533,505
	Amount proposed for rescission $ 4,169,000
OMB identification code: 20-0602-0-1-751	**Legal authority** (in addition to sec. 1012): ___ Antideficiency Act
Grant program: ___ Yes | X | No	___ Other_____
Type of account or fund:	**Type of budget authority:**
| X | Annual	| X | Appropriation
___ Multiple-year _____ (expiration date)	___ Contract authority
___ No-Year	___ Other_____

Justification: This account funds the salaries and expenses for the United States Customs Service. A rescission is proposed to reduce discretionary investigatory spending and to slow down the acquisition of marine vessels.

Estimated Program Effect: Some lower-priority investigations will not take place.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
719,328	715,302	4,023	146	---	---	---	---

DEPARTMENT OF THE TREASURY

United States Customs Service

Operations and maintenance, air interdiction program

Of the funds included under this head in the conference version of H.R. 3036, Treasury/Postal Service, and General Government Appropriations Act 1986, as amended, and made available by section 101(h) of Public Law 99-190, $19,275,000 are rescinded.

307 Rescission Proposal No: R86-71

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury	**New budget authority.....** $75,000,000 (P.L. 99-190)
Bureau: United States Customs Service	**Other budgetary resources** -3,225,000
Appropriation title and symbol: Operations and maintenance, air interdiction program 2060604	**Total budgetary resources** 71,775,000
	Amount proposed for rescission $19,275,000
OMB identification code: 20-0604-0-1-751	**Legal authority** (in addition to sec. 1012):
Grant program: | | Yes | X | No	| | Antideficiency Act
	| | Other
Type of account or fund:	**Type of budget authority:**
| X | Annual	| X | Appropriation
| | Multiple-year (expiration date)	| | Contract authority
| | No-Year	| | Other

Justification: This account funds the operations and maintenance for the U.S. Customs Service air interdiction program. A rescission is proposed to reduce spending for P-3A aircraft enhancements and to eliminate funds for the purchase of an aerostat.

Estimated Program Effect: Some changes in lower priority operating activities will be required to meet the proposed rescission.

Outlay Effect (in thousands of dollars):

1986 Outlay estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
101,814	89,960	11,854	5,937	1,387	238	47	10

R86-72

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Research and development

Of the funds made available under this head in Public Law 99-160, $26,796,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: National Aeronautics and Space Administration	**New budget authority**..... $2,756,800,000 (P.L. 99-160)
Bureau:	**Other budgetary resources** 614,657,000
Appropriation title and symbol: Research and development 806/70108	**Total budgetary resources** 3,371,457,000
	Amount proposed for rescission $ 26,796,000
OMB identification code: 80-0108-0-1-999	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|X| Multiple-year Sept. 30, 1987 (expiration date)	|__| Contract authority
|__| No-Year	|__| Other_____

Justification: This appropriation provides for research and development activities of the National Aeronautics and Space Administration. This proposal would rescind funds for the Advanced Communications Technology Satellite (ACTS) flight demonstration of advanced communications technology. This is part of the administration's effort to avoid possible competition with the private sector and to minimize Government subsidies for activities more appropriately and effectively undertaken by the private sector.

Estimated Program Effect: ACTS will be terminated.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
2,676,225	2,653,256	22,969	3,827	---	---	---	---

OFFICE OF PERSONNEL MANAGEMENT

Government payment for annuitants, employee health benefits

Of the funds included under this head in the conference version of H.R. 3036, Treasury/Postal Service, and General Government Appropriations Act, 1986, as amended, and made available by section 101(h) of Public Law 99-190, $600,000,000 are rescinded.

Rescission Proposal No. R86-73

R86-73

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Office of Personnel Management

Bureau:

Appropriation title and symbol:
Government payment for annuitants, employees health benefits
24X0206

OMB identification code:
24-0206-0-1-551

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... (P.L. 99-190) $1,606,165,000
Other budgetary resources 118,699,543
Total budgetary resources $1,724,864,543
Amount proposed for rescission $ 600,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other_____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other_____

Justification: This appropriation covers: (1) the Government's share of the cost of health insurance for 1,484,000 annuitants as defined in sections 8901 and 8906 of title 5, United States Code; (2) the Government's share of the cost-of-health insurance for 45,000 annuitants (who were retired when the Federal employees health benefits law became effective), as defined in the Retired Federal Employees Health Benefits Act of 1960; and (3) the Government's contribution for payment of administrative expenses incurred by the Office of Personnel Management in administration of the act. This rescission is based on (1) enactment of legislation enabling refunds to Federal Employees Health Benefits enrollees and (2) the return of excess carrier reserves to the contingency reserves of the Federal Employees Health Benefits (FEHB) Fund. The anticipated return of reserves in 1986 reduces the need for 1986 appropriations for annuitants health benefits.

Estimated Program Effect: None.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
Government payment for annuitants, employee health benefits:							
1,373,523	913,523	460,000	134,000	6,000	---	---	---
Employees health benefits fund:							
-700,553	-230,553	-470,000	-134,000	---	----	---	---

APPALACHIAN REGIONAL COMMISSION

Appalachian regional development programs

Of the funds made available under this head by Public Law 99-141, $81,000,000 are rescinded.

Rescission Proposal No: R86-74

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Appalachian Regional Commission	**New budget authority**..... $120,000,000 (P.L. 99-141)
Bureau:	**Other budgetary resources** 57,789,679
Appropriation title and symbol: Appalachian regional development program 1/ 46X0200	**Total budgetary resources** 177,789,679
	Amount proposed for rescission $ 81,000,000
OMB identification code: 46-0200-0-1-452	**Legal authority** (in addition to sec. 1012):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: This appropriation provides funds for the Appalachian Regional Commission's highway, area development, and local development district support activities. This rescission is proposed to effect savings required as a result of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177). Consistent with the proposed termination of the Commission on September 30, 1986, currently uncommitted funds are proposed for rescission. This 20-year old program has outlined its usefulness.

Estimated Program Effect: This action would reduce funds available for highway construction and other programs in the 13 state Appalachian region.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
158,831	154,349	4,482	21,330	24,300	13,770	10,530	6,588

1/ This account is also the subject of a deferral (D86-1) and was the subject of a similar rescission proposal in 1985 (R85-1).

R86-75

Corporation for Public Broadcasting

Public broadcasting fund

Of the funds provided for The Corporation for Public Broadcasting for fiscal year 1988 in Public Law 99-178, $44,000,000 are rescinded.

Rescission Proposal No: R86-75

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Corporation for Public Broadcasting	**New budget authority.....** $214,000,000 (P.L. 98-178)
Bureau:	**Other budgetary resources**
Appropriation title and symbol: Public broadcasting fund 1/ 2080151	**Total budgetary resources** 214,000,000
	Amount proposed for rescission $ 44,000,000
OMB identification code: 20-0151-0-1-503	**Legal authority** (in addition to sec. 1012):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[X] Annual (1988 advanced appropriation)	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: The Corporation for Public Broadcasting (CPB) provides Federal assistance to the 273 radio and 180 television stations which comprise the non-commercial broadcasting system. It is the Administration's policy to encourage user and private support and whenever possible, to reduce the need for Federal support. The two year advance notice provided by this rescission proposal should permit time to plan for ensuing funding reductions.

Estimated Program Effect: The allocation of the CPB's appropriation among its programs is mandated by the Omnibus Reconciliation Act of 1981. Therefore, the $44 million proposed rescission would be similarly distributed. This proposal will have some effect on program planning levels.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
159,500	159,500	---	---	44,000	---	----	----

1/ This account was the subject of a similar rescission proposal in 1985 (R85-244).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

National capital arts and cultural affairs

Of the funds made available under this head in Public Law 99-190, $1,903,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: National Endowment for the Humanities	**New budget authority** (P.L. 99-190)..... $ 1,988,000
Bureau:	**Other budgetary resources** -85,000
Appropriation title and symbol: Grants and administration 59X0201	**Total budgetary resources** $ 1,903,000
	Amount proposed for rescission $ 1,903,000
OMB identification code: 59-0200-0-1-503	**Legal authority** (in addition to sec. 1012): |__| Antideficiency Act
Grant program: |X| Yes |__| No	|__| Other_____
Type of account or fund:	**Type of budget authority:**
|__| Annual	|X| Appropriation
|__| Multiple-year _____ (expiration date)	|__| Contract authority
|X| No-Year	|__| Other_____

Coverage:

Appropriation	Account Symbol	Rescission Proposal
National capital arts and cultural affairs.....	59X0201	$1,903,000

Justification: This appropriation supports non-competive grants to large Washington, D.C., cultural organizations. These organizations are eligible to compete, along with other U.S. cultural organizations, for funding under a variety of existing programs of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. A separate, non-competitive subsidy program for Washington, D.C. organizations is not warranted.

Estimated Program Effect: No grants would be made under the program.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
478	---	478	1,425	---	---	---	---

STATE JUSTICE INSTITUTE

Salaries and expenses

Of the funds made available under this head in Public Law 99-180, $7,656,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: State Justice Institute	**New budget authority.....** $8,000,000 (P.L. 99-180)
Bureau:	**Other budgetary resources** -344,000
Appropriation title and symbol: Salaries and expenses 4860052	**Total budgetary resources** $7,656,000
	Amount proposed for rescission $7,656,000
OMB identification code: 48-0052-0-1-752	**Legal authority** (in addition to sec. 1012): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: The State Justice Institute, a Federally-financed, private non-profit corporation, was established to provide grants and contracts to state courts to improve state and local judicial systems. The Administration opposes the creation of the State Justice Institute not only for budgetary concerns, but also because it is intended to address questions that are more appropriately the responsibility of the states. If this is deemed a priority by the states, they have sufficient funds to support judicial reform projects without Federal assistance.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
6,890	---	6,890	766	---	---	---	---

UNITED STATES RAILWAY ASSOCIATION

Administrative expenses

Of the funds made available under this head in Public Law 99-190, $640,000 are rescinded.

Rescission Proposal No: R86-79

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: United States Railway Association	**New budget authority**..... $ 2,400,000 (P.L. 99-190)
Bureau:	**Other budgetary resources** 30,083
Appropriation title and symbol: Administrative expenses 98X0100	**Total budgetary resources** 2,430,083
	Amount proposed for rescission $ 640,000
OMB identification code: 98-0100-0-1-401	**Legal authority** (in addition to sec. 1012): | | Antideficiency Act | | Other
Grant program: | | Yes | | No	
Type of account or fund: | | Annual | | Multiple-year (expiration date) | X | No-Year	**Type of budget authority:** | X | Appropriation | | Contract authority | | Other

Justification: The United States Railway Association (USRA) was created by the Regional Rail Reorganization Act of 1973 (3R Act). It was intended to be a temporary agency responsible for overseeing the formation of Conrail, monitoring its performance, and acting as a conduit for Federal assistance. Conrail is now operating as a profitable corporation and the Administration has sponsored legislation to sell its 85% interest to the Norfolk Southern Corporation. This legislation, currently pending before Congress, is expected to be enacted by the end of 1986. The USRA did not request new 1986 funds nor did the President's budget include such funding. The activities the USRA was created to perform have been completed. Therefore, this rescission is being proposed to eliminate all funding for the USRA as of May 1, 1986.

Estimated Program Effect: This rescission will result in the termination of the USRA. Any remaining activities related to the oversight of Conrail can be easily absorbed by the Department of Transportation or other parties participating in the proposed sale of Conrail.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
2,897	2,257	640	---	---	---	---	---

Deferral No: D86-32

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority**..... $5,190,000,000 (P.L. 99-190)
Bureau: International Security Assistance	**Other budgetary resources**
Appropriation title and symbol: Foreign military sales credit 1/ 1161082	**Total budgetary resources** 5,190,000,000
	Amount to be deferred: Part of year $4,590,000,000 Entire year
OMB identification code: 11-1082-0-1-152	**Legal authority** (in addition to sec. 1013): | X | Antideficiency Act | | Other
Grant program: | | Yes | X | No	
Type of account or fund: | X | Annual | | Multiple-year (expiration date) | | No-Year	**Type of budget authority:** | X | Appropriation | | Contract authority | | Other

Justification: The President is authorized by the Arms Export Control to sell or finance by credit or guarantees articles and defense services to friendly countries to facilitate the common defense. Under Section 2 of the Act, the Secretary of State, under the direction of the President, is responsible for sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order 11958 further requires the Secretary of State to obtain the prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guarantee transactions that are based upon national security and financial policies. These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign national security and financial policies of the United States and will not exceed the limits of available funds. In addition, it is anticipated that $223,170,000 of the deferred funds will be subject to sequestration as required by the Balanced Budget and Emergency Deficit Control Act of 1985. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-24).

Supplementary Report

Report pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-24 transmitted to the Congress on November 25, 1985.

This revised deferral of Funds Appropriated to the President for the Economic support fund increases the amount previously reported as deferred from $1,222,216,000 to $3,158,276,343. This increase of $1,936,060,343 is attributable to funds provided in the Foreign Assistance and Related Programs Appropriation Act, 1986, as included in Public Law 99--190. Funds are deferred pending approval of specific grants and loans by the Secretary of State.

Deferral No: D86-24A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority.....** (P.L. 99-190) *$3,706,000,000
Bureau: International Security Assistance	**Other budgetary resources** *1,247,045,343
Appropriation title and symbol: Economic support fund 1/ 11X1037 115/71037 * 1161037 * 115/61037	**Total budgetary resources** *4,953,045,353
	Amount to be deferred: Part of year *2,971,342,050
	Entire year * 186,934,293
OMB identification code: 11-1037-0-1-152	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[X] Multiple-year 9/30/86; 9/30/87 (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Coverage: 1/

Appropriation	Symbol	Identification Code	Amount Deferred
Economic Support Fund...	1161037	11-1032-0-1-152	*2,028,547,000
Economic Support Fund...	115/61037	11-1037-0-1-152	*942,795,050
Economic Support Fund...	115/71037	11-1037-0-1-152	170,000,000
Economic Support Fund...	11X1037	11-1037-0-1-152	*16,934,293
			*3,158,276,343

Justification: *This action defers funds pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-2C).

*/ Revised from previous report.

Deferral No: D86-33

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority.....** $782,000,000 (P.L. 99-179)
Bureau: International Security Assistance	**Other budgetary resources**
Appropriation title and symbol: Military assistance program 1/ 1161080	**Total budgetary resources** 782,000,000
	Amount to be deferred: Part of year $661,350,000
	Entire year
OMB identification code: 11-1080-0-1-152	**Legal authority** (in addition to sec. 1013):
Grant program: |__| Yes |X| No	|__| Antideficiency Act
	|__| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year (expiration date)	|__| Contract authority
|__| No-Year	|__| Other

Justification: Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain Presidential functions under the FAA to the Secretaries of State and Defense. These funds are being deferred until the budget implications of the Balanced Budget and Emergency Deficit Control Act of 1985 are reviewed. Subsequently, release of funds will follow approval of specific programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-3A).

Deferral No: D86-34

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority.....** $ 54,489,500 (P.L. 99-179)
Bureau: International Security Assistance	**Other budgetary resources**
Appropriation title and symbol: International military education and training 1/ 1161081	**Total budgetary resources** 54,489,500
	Amount to be deferred: Part of year $ 27,244,500
	Entire year
OMB identification code: 11-1081-0-1-152	**Legal authority** (in addition to sec. 1013):
Grant program: |__| Yes |X| No	|__| Antideficiency Act
	|__| Other
Type of account or fund:	**Type of budget authority:**
|X| Annual	|X| Appropriation
|__| Multiple-year (expiration date)	|__| Contract authority
|__| No-Year	|__| Other

Justification: Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to friendly countries or international organizations. These funds are being deferred until the budget implications of the Balanced Budget and Emergency Deficit Control Act of 1985 are reviewed. Subsequently, release of funds will follow approval of specific programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-25).

Deferral No: D86-35

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... $75,000,000 (P.L. 99-190)
Bureau: Multilateral Development Bank	Other budgetary resources
Appropriation title and symbol: Contribution to the Special Facility for Sub-Sahara Africa 11X0086	Total budgetary resources $75,000,000
	Amount to be deferred: Part of year $75,000,000
	Entire year
OMB identification code: 11-0086-0-1-151	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The FY 1986 continuing resolution provided authorization and appropriation for a $75 million payment to the Special Facility for Sub-Saharan Africa. Administered by the International Development Association, the Facility provides fast-disbursing loans to support Sub-Saharan African countries willing to undertake economic reforms. Funds were deferred until the budget implications of the Balanced Budget and Emergency Deficit Control Act of 1985 were reviewed. On January 17, 1986, the funds were made available for obligation.

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D86-36

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Commerce	New budget authority..... $183,500,000 (P.L. 99-180, 99-190)
Bureau: Economic Development Administration	Other budgetary resources 535,000
Appropriation title and symbol: Economic development assistance programs 1/ 1362060	Total budgetary resources 184,035,000
	Amount to be deferred: Part of year $ 40,000,000
	Entire year
OMB identification code: 13-2050-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This account provides public works projects, planning and technical assistance grants, and research and evaluation to state and local governments for economic development activities. The President's 1987 Budget proposes termination of the Economic Development Administration (EDA) grant and loan guarantee programs, as well as several other Commerce Department financial assistance programs that are not appropriate Federal responsibilities. The Budget proposes creation of a Grants and Loans Administration in the Office of the Secretary of Commerce to close-out and monitor these programs. The Grants and Loans Administration costs for 1987-1991 would be financed by a proposed reappropriation in 1986. These funds are deferred pending Congressional consideration of that proposal.

Estimated Program Effect: This deferral will ensure that funds are available to be reappropriated for closing out EDA without appropriation of new resources.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Change					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
Economic development assistance programs:							
238,986	235,217	-4,000	-8,000	-10,000	-10,000	-6,000	-2,000
Grants and loans administration:							
---	---	---	19,000	12,409	4,973	2,566	1,052

1/ This account is also the subject of a rescission proposal (R86-14). It was the subject of rescission proposals in 1985 (R85-55) and (R85-56).

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-25 transmitted to Congress on November 25, 1985.

This increases by $338,436 the previous deferral of $1,959,000 in the Department of Commerce's National Oceanic and Atmospheric Administration Fisheries loan fund, resulting in a total deferral of $2,297,436. The additional deferral is the result of anticipated recoveries of prior year obligations and are deferred because $1.8M of these funds are proposed for transfer in FY 1987 to NOAA's Operations, research and facilities account.

Deferral No: D86-25A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Commerce	**New budget authority.....** $* (P.L.)
Bureau: National Oceanic and Atmospheric Administration	**Other budgetary resources** 2,297,436
Appropriation title and symbol: Fisheries loan fund 1/ 12X5123	**Total budgetary resources** * 2,297,436
	Amount to be deferred: Part of year $
	Entire year 2,297,436
OMB identification code: 13-5123-0-2-376	**Legal authority** (in addition to sec. 1013): |__| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other
Type of account or fund:	**Type of budget authority:**
|__| Annual	|__| Appropriation
|__| Multiple-year (expiration date)	|__| Contract authority
|X| No-Year	|X| Other

Justification: *The Fisheries loan fund provides direct loans to vessel operators at subsidized rates (3% interest) for purchasing, contracting, equipping, maintaining, repairing, or operating new or used fishing vessels or gear. Loans are made primarily from direct appropriations. Loan recipients should be able to obtain financing from private sources without Federal Government intervention. The amount proposed for deferral is the carryover from 1985 to 1986 of unobligated balances, anticipated interest and repayments during 1986 from outstanding loans and anticipated recoveries of prior year obligations. The Fisheries loan fund is proposed for termination and extension of the authorization is not part of the President's 1986 legislative program. These funds are deferred pending Congressional consideration of the President's 1987 budget which proposes a transfer of $1.8 million to NOAA's Operations, research and facilities account.

Estimated Program Effect: None

D86-25A

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
* 2,675	378	-2,297	---	---	---	---	---

1/ This account was the subject of a rescission proposal in 1985 (R85-65).

* Revised from previous report.

D86-4A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-4 transmitted to Congress on October 1, 1985.

This increases by $1,488,578,960 the previous deferral of $353,079,040 in the Department of Defense, Military construction, resulting in a total deferral of $1,841,658,000. The increase in the amount deferred results from deferral of funds included in the 1986 Military Construction Appropriation Act.

Deferral No: D86-4A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Defense - Military	**New budget authority**.....*$5,552,583,000 (P.L. 99-178)
Bureau: Military Construction	**Other budgetary resources** *3,781,227,000
Appropriation title and symbol: See Coverage Section below 2/	**Total budgetary resources** *9,333,801,000
	Amount to be deferred: Part of year ____ Entire year *1,841,658,456
OMB identification code: See Coverage Section below 2/	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual Sept. 30, 1986 / Sept. 30, 1987 [X] Multiple-year Sept. 30, 1988 (expiration date) [X] No-Year Sept. 30, 1989 / *Sept. 30, 1990	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

Coverage: 2/

Appropriation	Symbol	OMB Identification Code	Deferred
*Military construction, Army.....	216/02050	21-2050-0-1-051	*$342,122,000
Military construction, Army.....	215/92050	21-2050-0-1-051	*174,442,000
Military construction, Army.....	214/82050	21-2050-0-1-051	---
Military construction, Army.....	213/72050	21-2050-0-1-051	---
Military construction, Army.....	212/62050	21-2050-0-1-051	---
*Military construction, Navy.....	216/01205	17-1205-0-1-051	*686,577,000
Military construction, Navy.....	175/91205	17-1205-0-1-051	---
Military construction, Navy.....	174/81205	17-1205-0-1-051	*
Military construction, Navy.....	173/71205	17-1205-0-1-051	*
Military construction, Navy.....	172/61205	17-1205-0-1-051	---
*Military construction, Air Force.	576/03300	57-3300-0-1-051	*295,048,000
Military construction, Air Force.	575/93300	57-3300-0-1-051	---
Military construction, Air Force.	574/83300	57-3300-0-1-051	---
Military construction, Air Force.	573/73300	57-3300-0-1-051	---
Military construction, Air Force.	572/63300	57-3300-0-1-051	---

Appropriation	Symbol	OMB Identification Code	Deferred
*Military construction, Defense Agencies	976/00500	97-0500-0-1-051	*78,196,000
Military construction, Defense Agencies	975/90500	97-0500-0-1-051	*
Military construction, Defense Agencies	974/80500	97-0500-0-1-051	*5,000,000
Military construction, Defense Agencies	973/70500	97-0500-0-1-051	*
Military construction, Defense Agencies	972/60500	97-0500-0-1-051	*6,864,000
*Military construction, Army National Guard	216/02085	21-2085-0-1-051	*12,233,000
Military construction, Army National Guard	215/92085	21-2085-0-1-051	---
Military construction, Army National Guard	214/82085	21-2085-0-1-051	---
Military construction, Army National Guard	213/72085	21-2085-0-1-051	---
Military construction, Army National Guard	212/62085	21-2085-0-1-051	---
*Military construction, Air National Guard	576/03830	57-3830-0-1-051	*19,690,000
Military construction, Air National Guard	575/93830	57-3830-0-1-051	---
Military construction, Air National Guard	574/83830	57-3830-0-1-051	---
Military construction, Air National Guard	573/73830	57-3830-0-1-051	---
Military construction, Air National Guard	572/63830	57-3830-0-1-051	---
*Military construction, Army Reserve	216/02086	21-2086-0-1-051	*13,156,000
Military construction, Army Reserve	215/92086	21-2086-0-1-051	---
Military construction, Army Reserve	214/82086	21-2086-0-1-051	---
Military construction, Army Reserve	213/72086	21-2086-0-1-051	---
Military construction, Army Reserve	212/62086	21-2086-0-1-051	---
*Military construction, Naval Reserve	176/01235	17-1235-0-1-051	*19,150,000
Military construction, Naval Reserve	175/91235	17-1235-0-1-051	---
Military construction, Naval Reserve	174/81235	17-1235-0-1-051	---
Military construction, Naval Reserve	173/71235	17-1235-0-1-051	---
Military construction, Naval Reserve	172/61235	17-1235-0-1-051	---

Appropriation	Symbol	OMB Identification Code	Deferred
*Military construction, Air Force Reserve	576/03730	57-3730-0-1-051	*21,980,000
Military construction, Air Force Reserve	575/93730	57-3730-0-1-051	---
Military construction, Air Force Reserve	574/83730	57-3730-0-1-051	---
Military construction, Air Force Reserve	573/73730	57-3730-0-1-051	---
Military construction, Air Force Reserve	572/63730	57-3730-0-1-051	---
*North Atlantic Treaty Organization Infrastructure	97X0804	97-0804-0-1-051	*167,200,000
Total			*$1,841,658,000

Justification: These funds are deferred due to administrative delays, such project designs not being completed and incomplete coordination of projects other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ Includes all accounts included under this appropriation title.

2/ These accounts were the subject of a similar deferral in 1985 (D85-6 and D85-6A).

* Revised from previous report.

D86-27A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-27 transmitted to the Congress on November 25, 1985.

This increases by $210,042,000 the previous deferral of $11,800,000 in the Department of Defense, Family housing, resulting in a total deferral of $221,842,000. The increase in the amount deferred results from deferral of funds included in the 1986 Military Construction Appropriation Act.

Deferral No: D86-27A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Defense - Military	**New budget authority**.....*$2,990,877,000 (P.L. 99-178)
Bureau: Family Housing, Defense	**Other budgetary resources** 276,164,000
Appropriation title and symbol: See Coverage Section below 1/	**Total budgetary resources** *3,267,041,000
	Amount to be deferred: Part of year *$ 94,842,000
	Entire year
OMB identification code: See Coverage Section below 1/	**Legal authority** (in addition to sec. 1013): |X| Antideficiency Act
Grant program: |___| Yes |X| No	|___| Other
Type of account or fund:	**Type of budget authority:**
|___| Annual 9/30/86 9/30/87	|X| Appropriation
|X| Multiple-year 9/30/88 9/30/89 (expiration date)	|___| Contract authority
|___| No-Year *9/30/90	|___| Other

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Deferred
*Family housing, Navy.....	176/00703	17-0703-0-1-051	$47,750,000
*Family housing, Army.....	216/00702	21-0702-0-1-051	35,292,000
*Family housing, Air Force.....	576/00704	57-0704-0-1-051	127,000,000
Family housing, Air Force.....	575/90704	57-0704-0-1-051	11,800,000
Family housing, Air Force.....	574/80704	57-0704-0-1-051	---
Family housing, Air Force.....	573/70704	57-0704-0-1-051	---
Family housing, Air Force.....	572/60704	57-0704-0-1-051	---
			*$221,842,000

Justification: These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-26).

* Revised from previous report.

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-5 transmitted to Congress on October 1, 1985.

This increases by $87,783 the previous deferral of $1,168,157 in the Department of Defense - Civil's Wildlife Conservation, military reservations account, resulting in a total deferral of $1,255,940. The increase in the amount deferred is attributable to increased estimates of receipts and adjustments in unobligated balances brought forward on October 1, 1985.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Defense - Civil **Bureau:** Wildlife Conservation, Military Reservations	**New budget authority.....** *$1,824,000 (P.L. 16 U.S.C. 670f) **Other budgetary resources** *1,414,994 **Total budgetary resources** *3,238,994
Appropriation title and symbol: Wildlife Conservation, Army - 21X5095 Wildlife Conservation, Navy - 17X5095 Wildlife Conservation, Air Force - 57X5095	**Amount to be deferred:** Part of year $ .... Entire year *1,255,940
OMB identification code: 97-5095-0-2-303 **Grant program:** |__| Yes |X| No	**Legal authority** (in addition to sec. 1013): |X| Antideficiency Act |__| Other_____
Type of account or fund: |__| Annual |__| Multiple-year _____ (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation |__| Contract authority |__| Other_____

Coverage: 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Wildlife Conservation, Army....	21X5095	21-5095-0-2-303	$ 873,000
Wildlife Conservation, Navy....	17X5095	17-5095-0-2-303	74,428
Wildlife Conservation, Air Force	57X5095	57-5095-0-2-303	*308,512
			*$1,255,940

Justification: These are permanent appropriations of receipts generated from hunting and fishing fees in accordance with the purpose of the law--to carry out a program of natural resource conservation. These funds are being deferred because: (1) installations may be accumulating funds over a period of time to fund a major project, (2) the installation may be designing and obtaining approval for the project, and (3) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. Funds collected in a prior year are deferred in order to be available to finance the program during summer and fall months or in subsequent years. Additional amounts will be apportioned if program requirements are identified. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Deferral No: D86-5A

Estimated Program Effect: None

Outlay Effect: None

1/ These accounts were the subject of a similar deferral in 1985 (D85-7 and D85-7A).

* Revised from previous report.

Deferral No: D86-38

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $1,772,271,000 (P.L. 99-141)
Bureau: Energy Programs	**Other budgetary resources** 629,565,559
Appropriation title and symbol: Energy supply, research and development 1/ 89X0224	**Total budgetary resources** $2,401,836,559
	Amount to be deferred: Part of year $ ____
	Entire year $ 65,763,000
OMB identification code: 89-0224-0-1-271	**Legal authority** (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: The purpose of Energy supply research and development activities is to: (1) Support long-term research and development on a mix of technologies that have the potential to provide adequate supplies of energy at reasonable cost, and (2) fund other research programs which provide significant benefits to the Government and the public. The deferral consists of (in thousands of dollars):

University construction projects (Center for Science and Technology, Advanced Science Center, Energy and Mineral Research Center, Center for Energy and Biomedical Technology, Demonstration Center for Information Technologies, and the National Center for Chemical Research)	$38,489
Solar and renewables research	23,351
In-house energy management projects	3,923
Total	$65,763

The university projects are deferred because during this period of budgetary restraint, funding for these lower priority activities can better be used to finance the 1987 appropriation request. Specific appropriation language is

proposed in the 1987 budget to reprogram these funds. The solar and renewables research and development activities are deferred because they are inconsistent with Administration Energy research and development policy or of lower priority, particularly in times of tight fiscal restraint. The funds for in-house energy management projects are in excess of current program requirements. These funds will be reprogrammed to defray costs in the Technical Information Management program in 1987.

Estimated Program Effect: Funding for lower priority projects will be reduced or terminated.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Deferral	1986 Outlay Estimate With Deferral	Outlay Savings 1986	1987	1988	1989	1990	1991
1,898,172	1,853,498	-44,674	33,128	2,003	9,543	---	---

1/ This account was the subject of a deferral in 1986 (D85-70).

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** $1,612,700,000 (P.L. 99-141)
Bureau: Energy Programs	**Other budgetary resources** 6,003,298
Appropriation title and symbol: Uranium supply and enrichment activities 1/ 89X0226	**Total budgetary resources** 1,618,703,298
	Amount to be deferred: Part of year $ ___
	Entire year 584,158,000
OMB identification code: 89-0226-0-1-271	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ___
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year ___ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ___

Justification: The purpose of the uranium enrichment program is to meet domestic, foreign, and United States Government requirements for uranium enrichment services in the most economical, reliable, safe, and environmentally acceptable manner possible. On June 5, 1985, the Department of Energy announced its decision to begin the immediate termination of the Gas Centrifuge Enrichment Plant (GCEP) and to place the Oak Ridge Gaseous Diffusion Plant (ORGDP) in standby. Budget authority from 1986 and prior years of $434,757,000 is deferred as a result of terminating GCEP. An additional $149,401,000 is deferred as a result of placing the ORGDP in standby and as a result of current and prior year power savings. The DOE Defense Program is retaining the option to start up the ORGDP in some future year. New budget authority for decontamination and decommissioning of the ORGDP and the GCEP facilities may be required in some future year for these or other purposes. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Deferral	1986 Outlay Estimate With Deferral	Outlay Changes 1986	1987	1988	1989	1990	1991
1,567,300	1,265,000	-302,300	-281,858	---	---	---	---

1/ This account was the subject of a similar deferral in 1985 (D85-65).

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-6 transmitted to Congress on October 1, 1985.

This increases by $55,565,000 the previous deferral of $9,247,000 in the Department of Energy's Fossil energy research and development account, resulting in a total deferral of $64,812,000. The increase results from funds related to projects and activities that are inconsistent with the Administration's policy of longer term higher risk research in Fossil energy.

Deferral No: D86-6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	P.L. 99-190 *$310,971,000 **New budget authority.....** $ 15,000,000 (P.L. 98-146)
Bureau: Energy Programs	**Other budgetary resources** *$56,899,015
Appropriation title and symbol: Fossil energy research and development 1/ 89X0213	**Total budgetary resources** *$382,870,015 **Amount to be deferred:** **Part of year** $ _____ **Entire year** *$64,812,000
OMB identification code: 89-0213-0-1-271	**Legal authority** (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: *This account funds research and development activities in coal, petroleum and unconventional gas. The deferral consists primarily of funds appropriated in the 1986 budget that are commercially-oriented and inconsistent with Administration research and development policy, as well as unobligated balances not required, the 1985 reduction of Fossil energy consulting services per Section 515 of the Treasury, Postal Service, and General Government Appropriations Act, 1985, and recoveries of prior year obligations. Of the deferred amount, $62,205,000 is related to projects and activities which are inconsistent with the Administration's policy of longer term higher risk research in Fossil energy. They are also inconsistent with efforts to reduce the Federal deficit. The balance of the deferred amount, $2,607,000, is unnecessary to the accomplishment of the Fossil energy program. All funds are being deferred through 1986 and will be applied to offset 1987 appropriation requirements.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Changes					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
322.389	302,945	-19,444	-12,962	19,444	12,962	---	---

1/ This account was the subject of a similar deferral (D85-27A) and rescission proposals in 1985 (R85-84 and R85-85).

* Revised from previous report.

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-8 transmitted to the Congress on October 1, 1985.

This revision to a deferral of funds available to the Department of Energy for Naval petroleum and oil shale reserves increases the amount previously reported as deferred from $155,667,981 to $166,465,981. This increase of $10,798,000 is attributable funds not obligated in 1985 and not needed in 1986.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....** *$13,668,000 (P.L. 99-190)
Bureau: Energy Programs	**Other budgetary resources** *208,193,586
Appropriation title and symbol: Naval Petroleum and Oil Shale Reserves 1/ 89X0219	**Total budgetary resources** *222,581,586
	Amount to be deferred: Part of year $_____ Entire year *166,465,981
OMB identification code: 89-0219-0-1-271	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other_____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other_____

Justification: *This account primarily funds activities necessary to operate, explore, conserve, develop, and produce the Naval Petroleum Reserves at the maximum efficient rate and to conserve the oil shale reserves. This deferral consisted of recoveries of prior year obligations that were deferred in 1985 and other funds not obligated in 1985. These funds were made available for obligation on January 9, 1986. This action was taken pursuant to the Antideficiency Act (31 U.S.C. 1512). The current deferral of $36.461 million in prior year funds results from: close-out of facilities construction at NPR-1 ($7 million); program direction due to understaffing ($.961 million); NPR-3 due to rescheduling of EOR expansion to allow for Pilot verification results ($9 million); NPR-1 reduced development drilling program and costs ($1.805 million); development facilities at NPR-1 due to cost savings and lower facility construction requirements than anticipated ($4 million); NPR-1 cost savings and reduced operations and maintenance requirements associated with lower level of development drilling ($13.695 million).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-29B) and a rescission proposal in 1985 (R85-86).

* Revised from previous report.

Deferral No: D86-37

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy Bureau: Energy Programs Appropriation title and symbol: Strategic Petroleum Reserve 1/ 89X0218	New budget authority..... $112,364,742 (P.L. 99-190) Other budgetary resources 302,204,083 Total budgetary resources 414,568,825
OMB identification code: 89-0218-0-1-274 Grant program: |__| Yes |X| No	Amount to be deferred: Part of year $_____ Entire year 197,940,825
Type of account or fund: |__| Annual |__| Multiple-year _____ (expiration date) |X| No-Year	Legal authority (in addition to sec. 1013): |X| Antideficiency Act |__| Other_____ Type of budget authority: |X| Appropriation |__| Contract authority |__| Other_____

Justification: Funds appropriated to this account are for the development, operation and management of the Strategic Petroleum Reserve (SPR). The deferral consists primarily of prior year appropriations for crude oil storage facilities construction and results from a proposed indefinite moratorium on further development of the SPR after December 1985. This moratorium will be reassessed as fiscal and oil market conditions warrant. These funds cannot be effectively used this year and will be used to offset part of the 1987 appropriation request. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: This deferral will result in an indefinite curtailment of new storage facilities construction. The partially completed storage facilities will be secured and maintained in a mothballed condition and all completed facilities will be maintained in a state of standby operational readiness in the event of a possible drawdown.

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-31A).

D86-10A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-10 transmitted to Congress on October 1, 1985.

This increases by $40,575,903 the previous deferral of $536,958,000 for the Department of Energy's SPR Petroleum account, resulting in a total deferral of $577,533,903. The increase in the amount deferred is the impact of an Administration proposal to impose a moratorium on the fill of the Strategic Petroleum Reserve after inventory reaches 500 million barrels.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority**..... $ (P.L.)
Bureau: Energy Programs	**Other budgetary resources** *727,079,014
Appropriation title and symbol: SPR Petroleum Account 1/ 89X0233	**Total budgetary resources** *727,079,014
	Amount to be deferred: Part of year $ *
	Entire year *577,533,903
OMB identification code: 89-0233-0-1-274	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: *This account funds the costs of acquiring crude oil for the Strategic Petroleum Reserve (SPR). The Administration is proposing an indefinite moratorium on the SPR fill at the end of April 1986, when the SPR inventory will reach 500 million barrels, less SPR test sale deliveries of 1 million barrels in December and January as required by law. With this inventory, the SPR provides a level of protection commensurate with that envisioned when the detailed plans for a 750 million barrel Reserve were set in 1979. Consequently, the balance of funds in the account are deferred until such time as fiscal and oil market conditions warrant their release. This balance consists of $536,968,316 that were approved for deferral in 1985, $27,948,889 of receipts from the test sale of SPR oil and $12,626,698 in other unneeded funds. The Administration is proposing legislation to eliminate requirements concerning SPR fill and linkages to Naval Petroleum Reserve production and sales. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: (in thousands of dollars):

1986 Outlay Estimate		Outlay Changes					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
516,287	389,290 2/	-126,997	---	---	---	---	---

1/ This account was the subject of a similar deferral in 1985 (D85-42).
2/ This is an increase of $126,340,000 from the amount shown in the 1987 Budget.
* Revised from previous report.

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D85-11 transmitted to Congress on October 1, 1985.

This revision to a deferral of the Department of Energy's Energy security reserves and alternative fuels production account increases the amount previously reported as deferred from $1,149,000 to $1,898,713. This net increase of $749,713 is attributed to additional recoveries of prior year obligations.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy **Bureau:** Energy Programs	**New budget authority.....** *$48,359,307 (P.L. 93-577; 95-238) **Other budgetary resources** *2,101,210 **Total budgetary resources** *50,460,517
Appropriation title and symbol: Alternative Fuels Production 1/ 89X5180	**Amount to be deferred:** **Part of year** $ *1,898,713 **Entire year** *
OMB identification code: 89-5180-0-2-271 **Grant program:** | | Yes |X| No	**Legal authority** (in addition to sec. 1013): |X| Antideficiency Act | | Other
Type of account or fund: | | Annual | | Multiple-year (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation | | Contract authority | | Other

Justification: *This program funds feasibility studies and cooperative agreements for the development and production of alternative fuels, administrative expenses associated with the Great Plains Gasification Project, and interest on borrowing from Treasury by the Department to meet its loan guarantee obligation to the Federal Financing Bank on the defaulted FFB loan to Great Plains Gasification Associates. The deferral consisted of recoveries of prior year obligations amounting to $1,898,713 for projects and activities which were completed or terminated. These funds were released on January 9, 1986. This action was taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a rescission proposal in 1985 (R85-93).

* Revised from previous report.

D86-13A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D85-13 transmitted to Congress on October 1, 1985.

This revision to a deferral of the Department of Energy's Southwestern Power Administration's operation and administration increases the amount previously reported as deferred from $5,000,000 to $13,243,000. This net increase of $8,243,000 is attributed to additional unobligated balances carried over from 1985.

Deferral No: D86-13A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $*29,500,000 (P.L. 99-141)
Bureau: Power Marketing Administration	Other budgetary resources *23,054,293
Appropriation title and symbol: Southwestern Power Administration, Operation and maintenance 1/ 89X0303	Total budgetary resources *52,554,293
	Amount to be deferred: Part of year $
	Entire year *13,243,000
OMB identification code: 89-0303-0-1-271	Legal authority (in addition to sec. 1013): |X| Antideficiency Act
Grant program: |__| Yes |X| No	|__| Other
Type of account or fund: |__| Annual	Type of budget authority: |X| Appropriation
|__| Multiple-year (expiration date)	|__| Contract authority
|X| No-Year	|__| Other

Justification: *This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern States. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. In 1985, funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it. The level of unobligated funds carried into 1986 for purchasing power was $13,243,000 million higher than previously assumed. There currently is no plan to use these funds in 1986, although the funds will be released later this year if a critical need arises. If a critical need does not arise, however, the funds will be deferred until 1987. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral (D85-17A) and a rescission proposal in 1985 (R85-96).
*/ Revised from previous report.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	New budget authority..... $ 89,533,000 (P.L. 99-178)
Bureau: Health Care Financing Administration	Other budgetary resources 1,176,206,000
Appropriation title and symbol: Program management 7560511	Total budgetary resources 1,265,739,000
	Amount to be deferred: Part of year $ ... Entire year 8,489,000
OMB identification code: 75-0511-0-1-550	Legal authority (in addition to sec. 1013): |X| Antideficiency Act |___| Other
Grant program: |___| Yes |X| No	
Type of account or fund: |X| Annual |___| Multiple-year (expiration date) |___| No-Year	Type of budget authority: |X| Appropriation |___| Contract authority |X| Other Trust Fund transfer

Justification: This account funds research, medicare contractors, State certification, and administrative costs. Part of the expenses are funded by transfers from trust funds. This deferral is being proposed to achieve the deficit reduction goals of the President and of the Balanced Budget and Emergency Deficit Control Act of 1985. A related rescission (R86-43) also includes supplemental language to reduce the transfer from trust funds by $8,489,000 to fund these activities. This deferral will provide the Congress the time and flexibility to consider the supplemental language after the funds withheld pending rescission have been released. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-28 transmitted to the Congress on October 1, 1985.

This increase by $157,419 the previous deferral of $6,489,137 in the Department of Health and Human Services, Limitation on administration expenses (construction) account, resulting in a total deferral of $6,646,556. This increase is due to an overestimation of field construction obligations in 1985 and unanticipated additional recoveries.

45:115,80

Deferral No: D86-28A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Svcs	**New budget authority.....** $ _____ (P.L. _____)
Bureau: Social Security Administration	**Other budgetary resources** *10,030,616
Appropriation title and symbol: Limitation on Administrative Expenses (Construction) 1/ 75X8704	**Total budgetary resources** *10,030,616
	Amount to be deferred: Part of year $ _____
	Entire year *6,646,556
OMB identification code: *75-8704-0-7-571	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: *This account provides funding for construction and renovation of the Social Security Administration's (SSA) headquarters and field office buildings. Obligational authority in the amount of this deferral is not needed at the present time. The increase of $157,419 is due to an overestimation of field construction obligations in FY 1985 ($151,463) and unanticipated additional recoveries ($5,956). There are no changes in projected FY 1986 obligations for construction. Should new requirements arise, subsequent apportionment requests will include revisions to this deferral This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-9).

* Revised from previous report.

Deferral No: D86-39

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health & Human Services	**New budget authority.....** $3,068,341,000 (P.L. 99-178)
Bureau: Social Security Administration	**Other budgetary resources** -133,066,300
Appropriation title and symbol: Limitation on administrative expenses (excludes disability determination services) 1/ 7568704	**Total budgetary resources** 2,935,008,700
	Amount to be deferred: Part of year $ 30,000,000
	Entire year _____
OMB identification code: 75-8007-0-7-571	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [X] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other _____

Justification: This account funds administrative costs of the Social Security and Supplemental Security Income (SSI) programs, including funds for reimbursable work done by the Social Security Administration (SSA) for other organizations. Current evaluation of 1986 resource requirements reveals that of the total obligational authority provided by P.L. 99-178, $30,000,000 is not needed at this time. The $30,000,000 was provided to ensure that service to the public does not deteriorate as a result of insufficient budgetary resources. At this time there is no reason to believe that deterioration of public service will occur. However, we will be reporting quarterly to Congress on a number of key indicators of public service such as a regional and national average processing times for new and revised claims and payment accuracy. A final decision regarding the need of these resources is expected to be made by March 31, 1986 based on the assessment of information contained in the quarterly reports sent to Congress. In the interim, these resources will not be used for any other purposes. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ Two separate limitations in this same account are also the subject of deferrals (D86-28A and D86-39). This account was the subject of similar deferrals in 1985 (D85-9A, D85-44, and D85-67).

Deferral No: D86-40

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health & Human Services	**New budget authority.....** $182,939,000 (P.L. 99-178)
Bureau: Social Security Administration	**Other budgetary resources** 217,503,121
Appropriation title and symbol: Limitation on administrative expenses (information technology systems) 1/ 75X8704	**Total budgetary resources** 400,442,121
	Amount to be deferred: Part of year $_____ Entire year 114,641,121
OMB identification code: 75-8007-0-7-571	**Legal authority** (in addition to sec. 1013): |X| Antideficiency Act |__| Other_____
Grant program: |__| Yes |X| No	
Type of account or fund: |__| Annual |__| Multiple-year _____ (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation |__| Contract authority |__| Other_____

Justification: This account funds the lease and purchase of ADP hardware and software, ADP supplies and contractual services, and major competitive telephone system procurements for the Social Security Administration. Current evaluation of 1986 projects and acquisition plans reveals that all resources available this year will not be required for obligation during the year. This is due in part to the carry-over of unobligated funds from 1985. Should new requirements arise, this deferral will be revised. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ Two separate limitations in this same account are also the subject of deferrals (D86-28A and D86-38). This account was the subject of similiar deferrals in 1985 (D85-9A, D85-4M and D85-67).

Deferral No: D86-41

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $9,815,607,781 (P.L. 99-160)
Bureau: Housing Programs	**Other budgetary resources** 918,498,386
Appropriation title and symbol: Annual contributions for assisted housing (budget authority) 1/ 86X0164	**Total budgetary resources** 10,734,106,167
	Amount to be deferred: Part of year $7,032,442,637 Entire year _____
OMB identification code: 86-0164-0-1-999	**Legal authority** (in addition to sec. 1013): |__| Antideficiency Act |__| Other_____
Grant program: |X| Yes |__| No	
Type of account or fund: |__| Annual |__| Multiple-year _____ (expiration date) |X| No-Year	**Type of budget authority:** |X| Appropriation |__| Contract authority |__| Other_____

Justification: This account funds subsidized housing programs such as section 8 lower income housing, public and Indian housing. Funds were temporarily deferred to preserve the options available to the Administration and the Congress to respond to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985. The President's 1987 Budget request assumes that $2.3 billion of these funds will be used to finance the 1987 housing program.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is the subject of a rescission proposal (R86-52).

380 Deferral No: D86-42

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	New budget authority..... $ (P.L.)
Bureau: Housing Programs	Other budgetary resources 640,533
Appropriation title and symbol: Annual contributions for assisted housing (contract authority) 1/ 86X0164	Total budgetary resources 640,533
	Amount to be deferred: Part of year $ 640,533
	Entire year
OMB identification code: 86-0164-0-1-999	**Legal authority** (in addition to sec. 1013):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[ ] Appropriation
[ ] Multiple-year (expiration date)	[X] Contract authority
[X] No-Year	[ ] Other

Justification: This account funds subsidized housing programs such as section 8 lower income housing, public and Indian housing. Funds were temporarily deferred to preserve the options available to the Administration and the Congress to respond to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is the subject of a rescission proposal (R86-52).

352 Deferral No: D86-43

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	New budget authority..... $75,000,000 (P.L. 99-160)
Bureau: Housing Programs	Other budgetary resources 2,400,000
Appropriation title and symbol: Rental housing development grants 1/ 864/60164 865/60164 866/0164	Total budgetary resources 77,400,000
	Amount to be deferred: Part of year $77,400,000
	Entire year
OMB identification code: 86-0164-0-1-999	**Legal authority** (in addition to sec. 1013):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[X] Multiple-year Sept. 30, 1986 (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: Assistance is provided to states and units of local government to enable the development of rental housing, funds were temporarily deferred to preserve the options available to the Administration and the Congress to respond to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is the subject of a rescission proposal (R86-52).

380 Deferral No: D86-44

380

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $2,670,300 (P.L. 99-160)
Bureau: Housing Programs	**Other budgetary resources** 2,889,961
Appropriation title and symbol: Congregate services program 1/ 86X0178 865/60178 866/70178	**Total budgetary resources** 5,560,261
	Amount to be deferred: Part of year $2,670,300
	Entire year _____
OMB identification code: 86-0178-0-1-604	**Legal authority** (in addition to sec. 1013): |___| Antideficiency Act
Grant program: |___| Yes |X| No	|___| Other_____
Type of account or fund: |___| Annual	**Type of budget authority:** |X| Appropriation
|X| Multiple-year Sept. 30, 1986 Sept. 30, 1987 (expiration date)	|___| Contract authority
|X| No-Year	|___| Other_____

Justification: This demonstration program tested whether contracting directly with local public housing agencies and section 202 Housing for the elderly or handicapped sponsors is more effective than Department of Health and Human Services and other social services programs. It included meal services and other support services. Funds were temporarily deferred to preserve the options available to the Administration and the Congress to respond to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is the subject of a rescission proposal (R86-53).

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $600,962,000 (P.L. 99-160)
Bureau: Housing Programs	**Other budgetary resources** 558,905,000
Appropriation title and symbol: Housing for the elderly and handicapped 86X4115	**Total budgetary resources** 1,159,867,000
	Amount to be deferred: Part of year $ 599,801,000
	Entire year _____
OMB identification code: 86-4115-0-3-371	**Legal authority** (in addition to sec. 1013): |___| Antideficiency Act
Grant program: |___| Yes |X| No	|___| Other_____
Type of account or fund: |___| Annual	**Type of budget authority:** |___| Appropriation
|___| Multiple-year _____ (expiration date)	|___| Contract authority
|X| No-Year	|X| Other Borrowing Authority

Justification: This fund provides direct loans to nonprofit organizations building and managing housing projects for lower income persons who are elderly or handicapped. Funds were temporarily deferred to preserve the options available to the Administration and the Congress to respond to the enactment of the Balanced Budget and Emergency Defict Control Act of 1985. The President's Budget includes a supplemental request to lower the direct loan limitation to $54.6 million in 1986.

Estimated Program Effect: None

Outlay Effect: None

380

Deferral No: D86-46

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	New budget authority..... $ (P.L.)
Bureau: Housing Programs	Other budgetary resources 6,824,887
Appropriation title and symbol: Non-profit sponsor assistance 86X4042	Total budgetary resources 6,824,887
	Amount to be deferred: Part of year $ 1,000,000
	Entire year
OMB identification code: 86-4042-0-3-604	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-Year	☐ Other

Justification: This program funds interest-free loans to nonprofit organizations to cover initial start-up costs for housing projects financed under the section 202 housing for the elderly and handicapped program. Funds deferred to preserve the options available to the Administration and the Congress to respond to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985. The President's Budget includes a proposed supplemental to lower the non-profit sponsor assistance direct loan limitation to $500 thousand -- funding sufficient to cover expected needs for section 202 projects reserved prior to 1986. No new section 202 loans are proposed for 1986 or 1987.

Estimated Program Effect: None

Outlay Effect: None

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Deferral No: D86-47

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	New budget authority..... $75,000,000 (P.L. 99-160)
Bureau: Community Planning and Development	Other budgetary resources 4,471,360
Appropriation title and symbol: Rental rehabilitation grants program 865/60164 866/60164 866/60164	Total budgetary resources 79,471,360
	Amount to be deferred: Part of year $77,000,000
	Entire year
OMB identification code: 86-0164-0-1-999	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual	Type of budget authority: ☒ Appropriation
☒ Multiple-year Sept. 30, 1986 (expiration date)	☐ Contract authority
☐ No-Year	☐ Other

Justification: The Rental Rehabilitation Grants Program appropriation is devoted to increasing the supply of standard rental housing available to lower-income families in areas experiencing a shortage of decent rental housing units. Rehabilitation subsidies are provided through a one-time front-end mechanism such as a grant, a deferred payment loan, or a below market-rate interest loan. Funds were temporarily deferred to preserve the discretion of the Administration and Congress to decide on how to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is the subject of a rescission proposal (R86-52).

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Deferral No: D86-48

Deferral No: D86-48

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $3,124,800,000 (P.L. 99-160)
Bureau: Community Planning and Development	**Other budgetary resources** 106,651,365
Appropriation title and symbol: Community development grants 866/80162	**Total budgetary resources** 3,231,451,365
	Amount to be deferred: Part of year $ ____ Entire year 500,000,000
OMB identification code: 86-0162-0-1-451	**Legal authority** (in addition to sec. 1013): |___| Antideficiency Act |___| Other____
Grant program: |_X_| Yes |___| No	**Type of budget authority:** |_X_| Appropriation |___| Contract authority |___| Other____
Type of account or fund: |___| Annual |_X_| Multiple-year Sept. 30, 1988 (expiration date) |___| No-Year	

Justification: This appropriation is devoted to making grants to units of general local government and States for the funding of local community development programs. The program's overall objective is to provide decent housing and a suitable living environment and expand economic opportunities, principally for persons of low- and moderate- income. Supplemental language has been proposed to reduce the limitation on loans guaranteed under the Community Development Grants loan guarantee program that are disbursed by the Federal Financing Bank to $50,000,000. Funds are deferred to preserve the discretion of the Administration and Congress to comply with the Balanced Budget and Emergency Deficit Control Act of 1985. Most communities may be able to absorb this deferral through tighter budgeting and drawing down available balances.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Changes					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
3,577,400	3,567,400	-10,000	-9,000	-7,500	23,000	3,500	---

Deferral No: D86-49

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $330,000,000 (P.L. 99-160)
Bureau: Community Planning and Development	**Other budgetary resources** 163,998,675
Appropriation title and symbol: Urban development action grants 1/ 866/80170	**Total budgetary resources** 493,998,675
	Amount to be deferred: Part of year $251,000,000 Entire year ____
OMB identification code: 86-0170-0-1-451	**Legal authority** (in addition to sec. 1013): |___| Antideficiency Act |___| Other____
Grant program: |_X_| Yes |___| No	**Type of budget authority:** |_X_| Appropriation |___| Contract authority |___| Other____
Type of account or fund: |___| Annual |_X_| Multiple-year Sept. 30, 1988 (expiration date) |___| No-Year	

Justification: This appropriation provides grants to cities and urban counties which are experiencing severe distress to help stimulate economic development activity needed to aid in economic recovery. Funds were temporarily deferred to preserve the discretion of the Administration and Congress to comply with the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is the subject of a rescission proposal (R86-55).

Deferral No: D86-50

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	**New budget authority.....** $ (P.L.)
Bureau: Community Planning and Development	**Other budgetary resources** 166,234,949
Appropriation title and symbol: Rehabilitation loan fund 86X4036	**Total budgetary resources** 166,234,949
	Amount to be deferred: Part of year $
	Entire year 135,534,949
OMB identification code: 86-4036-0-3-451	**Legal authority (in addition to sec. 1013):** [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: The Rehabilitation Loan Fund makes rehabilitation loans for single family and multifamily residential properties and non-residential properties (section 312 loans). Loans may only be made if the rehabilitation is: (1) necessary for the execution of an approved community development program; or (2) is in support of an approved Urban Homesteading program. In making Section 312 loans, priority generally is given to applications submitted by low- and moderate- income persons who own property and will occupy it upon completion of rehabilitation. The purposes of this program can and should be met by a combination of other federal programs, state and local government support, and private enterprise.

This deferral preserves the discretion for the Administration and Congress to reconsider the expenditure of 1986 funds on this program in light of the current deficit and the Balanced Budget and Emergency Deficit Control Act of 1985. The President's Budget includes supplemental appropriation language that would transfer the unobligated and obligated balances in this account to the Revolving fund (liquidating programs). This language would also limit the direct loan activity in this account to $11 million in 1986.

Estimated Program Effect: Section 312 loans will be temporarily delayed.

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Changes					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
77,000	-5,000	-82,000	29,000	53,000	---	---	---

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-17 transmitted to Congress on October 1, 1985.

This increases by $10,730,000 the previous deferral of $20,000,000 for the Department of Justice-Federal Prison System, Building and facilities, resulting in a total deferral of $30,730,000. The increase in the amount deferred is attributable to delays in several projects.

Deferral No: D86-17A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Justice	**New budget authority.....** (P.L. 99-180) $*46,063,000
Bureau: *Federal Prison System	**Other budgetary resources** *122,301,259
Appropriation title and symbol: Buildings and facilities 1/ 15X1003	**Total budgetary resources** *168,364,259
	Amount to be deferred: Part of year $____ Entire year *30,730,000
OMB identification code: 15-1003-0-1-753	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other____

Justification: *This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries and provide a safe and humane environment for staff and inmates. The deferral contains $24,330,000 for the Northeast facility, $53,000 for the new housing unit at Montgomery, $1,674,000 for buildings 8 and 9 at Springfield, $25,000 for Cellhouse A at El Reno, $51,000 to renovate inmate housing at Texarkana, $4,414,000 for the Englewood Detention Unit and $183,000 for the Tucson Core Building. Due to the time required for these projects, it will be impossible to complete them during 1986. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-19).

* Revised from previous report.

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-18 transmitted to Congress on October 1, 1985.

This increases by $3,395,535 the previous deferral of $100,000,000 for the Department of Justice's Crime victims fund account, resulting in a total deferral of $103,395,535. The increase in the amount deferred is attributable to a proposal to establish a 1986 obligation limitation of $64,917,420.

Deferral No: D86-18A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Justice	**New budget authority.....** (P.L. 98-473) $100,000,000
Bureau: Office of Justice Programs	**Other budgetary resources** *68,312,955
Appropriation title and symbol: Crime victims fund 15X5041	**Total budgetary resources** *168,312,955
	Amount to be deferred: Part of year ____ Entire year *103,395,535
OMB identification code: 15-5041-0-2-754	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: *This appropriation is a special fund which is credited with Federal criminal fines, forfeited appearance bonds, and penalties not to exceed $100,000,000 each fiscal year. It is used to provide grants to states for crime victim compensation and assistance programs. Since FY 1985 funds will be obligated in early 1986, $100,000,000, which is estimated to be collected during 1986, is deferred until 1987. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512). In addition, an obligation limitation of $64,917,420 is proposed for 1986, with the balance of the collections ($3,395,536) deferred until 1987. It will only affect the amount that is spent by Federal agencies for victims activites; no grant funds targeted for the States would be affected.

Estimated Program Effect: None

Outlay Effect: None

* Revised from previous report.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: U.S. Department of Labor	**New budget authority.....** $ 22,700,000 (P.L. 98-619)
Bureau: Employment and Training Admin.	**Other budgetary resources** 769,500,000
Appropriation title and symbol: State Unemployment Insurance and Employment Service Operations 1/ 166/70179	**Total budgetary resources** 792,200,000
	Amount to be deferred:
	Part of year $
	Entire year 37,000,000
OMB identification code: 16-0179-0-1-999	**Legal authority** (in addition to sec. 1013):
Grant program: [X] Yes [ ] No	[ ] Antideficiency Act
	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[X] Multiple-year June 30, 1987 (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: The State Unemployment Insurance and Employment Service Operations appropriation provides for State grants for payment of salaries and expenses of State Unemployment Insurance and Employment Services staff and for related operations. The Wagner-Peyser Act, as amended, gives States great flexibility in the use of these grants to provide employment services, particularly in comparison to the relative inflexibility that characterized the grants prior to 1985. The amount deferred was provided from the Unemployment Trust Fund for the Employment Service for the 1986 program year beginning July 1, 1986. The reduction, part of overall efforts to constrain expenditures in order to meet deficit reduction goals, would reduce these grants three percent below the level of such grants for the program year that began July 1, 1985. The amount is deferred pending Congressional action on the Administration proposal to delete this funding.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Changes					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
2/	2/	-7,400	-29,600	---	---	---	---

1/ This account was the subject of a similar deferral in 1985 (D85-62).
2/ Outlays are included within the totals for the Unemployment trust fund.

Note - $33,089 thousand of the amount previously deferred is sequestered pursuant to P.L. 99-177. The current deferral is $3,911 thousand.

Deferral No: D86-52

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Transportation	New budget authority..... $ (P.L.)
Bureau: Federal Railroad Administration	Other budgetary resources 7,213,697
Appropriation title and symbol: Conrail labor protection 69X0710	Total budgetary resources 7,213,697
	Amount to be deferred: Part of year $
	Entire year $ 4,565,000
OMB identification code: 69-0707-0-1-603	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other

Justification: Unobligated balances that were carried over from 1985 totalled $35,713,697. As specified in P. L. 99-190, $28,500,000 of these funds are being transferred to Amtrak, leaving a balance of $7,213,697. The House and Senate Appropriations Committee have directed the Department of Transportation to initiate discussions with Conrail regarding the Railroad assuming full financial responsibility for labor protection costs. It is anticipated that approximately $2.6 million will be obligated in 1986 and no further funds will be required after that. The 1987 Budget proposes transfer of $4,565,000, the remaining unobligated funds, to the Office of the Administrator to offset a reduction in budget authority for that year in support of deficit reduction efforts. Funds are deferred to permit Congressional consideration of this proposal.

Estimated Program Effect: None

Outlay Effect: None

D86-29A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-29 transmitted to Congress on November 25, 1985.

This increases by $681,723,252 the previous deferral of $686,438,312 in the Department of Transportation's Facilities and equipment, FAA trust fund account, resulting in a total deferral of $1,368,161,564. The increase results from projects and equipment funded in the Department of Transportation Appropriation Act, 1986, that cannot be constructed or contracted for this year.

Deferral No: D86-29A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Transportation	New budget authority..... *$ 993,000,000 (P.L. 99-190)
Bureau: Federal Aviation Administration	Other budgetary resources *1,266,161,564
Appropriation title and symbol: Facilities and equipment (Airport and airway trust fund) 1/ 69X8107 893/78107 695/98107 692/68107 694/88107 *696/08107	Total budgetary resources *$2,259,161,564
	Amount to be deferred: Part of year $ ____
	Entire year $1,368,161,564
OMB identification code: 69-8107-0-7-402	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund:	Type of budget authority:
[ ] Annual 692/68107 9/30/86 693/78107 9/30/87 694/88107 9/30/88	[X] Appropriation
[X] Multiple-year 695/98107 9/30/89 (expiration date)	[ ] Contract authority
[X] No-Year *696/08107 9/30/90	[ ] Other ____

Justification: Funds from this account are used to continue to procure specific Congressionally-approved facilities and equipment for the expansion and modernization of the National Airspace System. The projects financed from this account include construction of buildings and the purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system, and expansion and improvement in the navigational and landing aid systems. These activities were justified and provided for in the Department's regular budget submissions and were appropriated by Congress for the year in which requested. Due to the lengthy procurement and construction time for interrelated facilities and complex equipment systems, it is not possible to obligate all the funds necessary to complete each project in the year funds were appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This action is consistent with FAA's full funding approach and Congressional intent to provide multi-year funding for the total costs of projects. This action is taken under provisions of the Antideficiency Act (31 U.S.C. 1512), which authorizes the establishment of reserves for contingencies.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-11B).

* Revised from previous report.

Deferral No: D86-53

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Transportation	New budget authority..... $ 69,700,000 (P.L. 99-180)
Bureau: Maritime Administration	Other budgetary resources 32,847,935
Appropriation title and symbol: Operations and training 1/ 69X1750	Total budgetary resources 102,547,935
	Amount to be deferred: Part of year $ ____
	Entire year 9,350,000
OMB identification code: 69-1750-0-1-403	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund:	Type of budget authority:
[ ] Annual	[X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: The Operations and training appropriation funds all the administrative expenses and most program expenses of the Maritime Administration. Included are three programs of Federal financial support to state maritime schools: (1) direct payments to the schools, (2) student incentive payments, and (3) maintenance and repair of training ships. Operations and training has $9,350,000 of unobligated balances that are no longer needed for the originally intended purposes of replacing the training vessel for the State University of New York Maritime College ($8,500,000) and fuel for operating training vessels at five State maritime schools ($850,000). The $8,500,000 was proposed for deferral and reprogramming in the 1986 budget on the basis that the existing training vessel for the New York State maritime school is adequate. Congress denied the deferral. The 1987 budget proposes to discontinue all financial support for State maritime schools, except for honoring student incentive payments already awarded to enrolled students. Accordingly, the $8,500,000 for the replacement training vessel for the New York maritime school is deferred. The $850,000 is left-over from

$3,000,000 of fuel funds added by Congress in 1984. In that year, the State maritime schools consumed only $2,150,000 of fuel and the residual $850,000 has not been obligated since. The deferral will be used to offset 1987 appropriation requirements. The necessary supplemental language permitting the use of the $8,500,000 is pending.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Change					
Without Deferral	With Deferral	1986	1987	1988	1989	1990	1991
89,140	80,640	-8,500	8,500	---	---	---	---

1/ This account was the subject of a similar deferral (D85-54) and a rescission proposal (R85-193) in 1985.

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D86-30 transmitted to Congress on November 25, 1985.

This increases by $97,483,234 the previous deferral of $7,742,617 in the Department of the Treasury's Local government fiscal assistance trust fund account, resulting in a total deferral of $105,225,851. The funds are payments withheld for local governments due to reorganization or for noncompliance with General Revenue Sharing requirements.

Deferral No: D86-30A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of the Treasury **Bureau:** *Office of Revenue Sharing	**New budget authority.....** $3,425,025,000 (P.L. 99-103) **Other budgetary resources** 54,000,000
Appropriation title and symbol: Local Government Fiscal Assistance Trust Fund 1/ 20X8111	**Total budgetary resources** 3,479,025,000 **Amount to be deferred:** 2/ **Part of year** $ *105,225,851 **Entire year**
OMB identification code: 20-8111-0-7-851	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act P.L. 98-371; [X] Other P.L. 94-488, P.L. 96-604, P.L. 92-512, P.L. 98-185
Grant program: [X] Yes [ ] No	**Type of budget authority:** [X] Appropriation; [ ] Contract authority; [ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-Year	

Justification: The Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of General Revenue Sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of non-compliance with the requirements of the Local Government Fiscal Assistance Amendments of 1983.

Estimated Program Effect: None

Outlay Effect: None

1/ This account is subject to another deferral (D86-31) and was the subject of a similar deferral in 1985 (D85-12).

2/ Deferral of outlays only.

* Revised from previous report.

Deferral No: D86-54

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Commission on the Ukraine Famine **Bureau:**	**New budget authority.....** $400,000 (P.L. 99-180) **Other budgetary resources**
Appropriation title and symbol: Salaries and expenses 48X0050	**Total budgetary resources** 400,000 **Amount to be deferred:** **Part of year** $ **Entire year** 233,000
OMB identification code: 48-0050-0-1-153	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	**Type of budget authority:** [X] Appropriation; [ ] Contract authority; [ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year (expiration date); [X] No-Year	

Justification: This appropriation funds the expenses of the Commission on the Ukraine Famine established pursuant to Public Law 99-180. The Commission will not hold its first organizational meeting until February 1986, and the work of the Commission is expected to extend into 1987. These funds are being deferred to ensure that sufficient resources will be available in the next fiscal year to carry out the commission's responsibilities.

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D86-55

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Railroad Retirement Board	**New budget authority.....** $392,000,000 (P.L. 99-178)
Bureau:	**Other budgetary resources** 201,280
Appropriation title and symbol: Dual benefits payments account 6060111	**Total budgetary resources** 392,201,280
	Amount to be deferred: Part of year $ 2,201,280
	Entire year ____
OMB identification code: 60-0111-0-1-601	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other____
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other____

Justification: This is a Federal subsidy for costs not financed by the railroad sector. Not all funds appropriated are needed to fully fund benefits payable to eligible beneficiaries for the year. The transfer of reimbursement for uncashed checks ($201,280) under the Railroad Retirement Solvency Act (P.L. 98-76) is being deferred as it is not needed to fully fund benefits in the fiscal year. Also, $2 million of the 1986 appropriation is being deferred as it is not needed to fully fund benefits. The amount deferred is being reserved for contingencies under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D86-56

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: U.S. Information Agency	**New budget authority.....** $114,000,000 (P.L. 99-180)
Bureau:	**Other budgetary resources** 80,545,332
Appropriation title and symbol: Acquisition and construction of radio facilities 1/ 67X0204	**Total budgetary resources** 194,545,332
	Amount to be deferred: Part of year $____
	Entire year 66,545,364
OMB identification code: 67-0204-0-1-154	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other____

Justification: The United States Information Agency (USIA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431, et. seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451, et. seq.), Executive Order 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977 to carry out international communication, cultural, and education exchange programs. The Appropriations Act for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the fiscal year ending September 30, 1986 appropriated $114,000,000 to remain available until expended for the "Acquisition and construction of radio facilities" account, primarily to enhance the Voice of America's world-wide broadcasting system. It is estimated that $66,545,364 will not be obligated during 1986. Several major procurement actions, particularly those for high-powered transmitters and generators for a number of new stations, will get underway in 1986, but award of the contracts will not occur until 1987. Funds for these purposes had to be appropriated in FY 1986 so that these major procurements could be launched. Accordingly, these funds are reserved for use in succeeding years. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1985 (D85-75).

[FR Doc. 86-3001 Filed 2-14-86; 8:45 am]
BILLING CODE 3110-01-C

Federal Register

Tuesday
February 18, 1986

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 106, 107, 171, 172, 173, 174, 175, 176, 177, and 178

Transportation of Hazardous Materials; Miscellaneous Amendments; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 106, 107, 171, 172, 173, 174, 175, 176, 177, and 178

[Docket No. HM-166T; Amdt. Nos. 106-5, 107-14, 171-86, 172-103, 173-196, 174-59, 175-37. 176-24, 177-68, and 178-85]

Transportation of Hazardous Materials; Miscellaneous Amendments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on petitions from industry and initiation within the Department. This action is necessary to update the regulations, to eliminate the need for a DOT approval, and to reduce RSPA's backlog of rulemaking petitions.

The amendments in this rulemaking are intended primarily to reduce government regulation and paperwork, and to clarify existing regulations.

EFFECTIVE DATE: This amendment is effective March 20, 1986. However, compliance with the regulations as amended herein, is authorized as of February 5, 1986. The incorporation by reference of certain publications in the regulations is approved by the Director of the Federal Register as of March 20, 1986.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Washington, DC 20590, (202)-426-2075.

SUPPLEMENTARY INFORMATION: On January 3, 1985, the RSPA published a Notice of Proposed Rulemaking, Docket No. HM-166T; Notice No. 84-14 (50 FR 288), which proposed a number of miscellaneous amendments to the Hazardous Materials Regulations. Notice 84-14 included a brief statement regarding each proposal and invited public comment prior to the closing date of March 7, 1985.

The RSPA received twenty-four comments regarding Notice 84-14. Ten of the comments received were to express their support of the proposed amendments.

One commenter pointed out that the proposed change to § 173.427, among other things, exempts empty packaging from certification requirements whereas § 173.421-1(a) would be amended by requiring the certification described therein to be applied to empty packaging. The RSPA agrees that these charges are contradictory and the introductory text of § 173.427 has been editorially revised to eliminate the contradiction.

One commenter pointed out that the proposed maximum net quantity of 1 quart for passenger carrying aircraft and 10 gallons for cargo aircraft for Nitroethane and Nitropropane would be in conflict with International Civil Aviation Organization and International Air Transport Association. The RSPA agrees with the commenter and has increased the maximum net quantity to 15 gallons for passenger carrying aircraft and 55 gallons for cargo aircraft.

The notice proposed to allow Class B poisons to be transported on the same vehicle with materials that are marked or known to be foodstuffs, feed or any edible material intended for consumption by humans or animals when overpacked in a steel drum under specified conditions. Seven commenters supported this proposed amendment as written. One recommended that the maximum rated capacity of the drum be 83 gallons because this size drum is stocked by most carriers and experience has shown that some drums with external head fastening devices will not fit inside a 65 gallon recovery drum. Two commenters expressed concern about the proposed amendment but no comments were received on how to improve the proposed wording.

The use of the steel drum overpacks specified in § 173.25(c) is considered to be adequate to prevent damage to the inside packaging during transportation and to provide the required levels of safety. The outside packaging must be marked and labeled. Except for an increase in size to 85 gallons, § 173.25(c) and § 177.841(e) are amended as proposed.

A proposed change recommended by one commenter to add an additional paragraph in § 176.410 will be considered in a separate rulemaking.

One commenter stated that he felt that the exception proposed in § 172.507 pertaining to the marking and placarding of nurse tanks on only three sides under specified conditions is unwarranted and could set an unfavorable precedent. This commenter also stated that it appears inappropriate to address marking exceptions in Subpart F rather than in Subpart D. Reference to marking has been moved from § 172.507 to § 172.328(c). RSPA disagrees that by waiving the marking-placarding requirements on the end of a nurse tank that has valves, fittings, regulators, and gauges would set an unfavorable precedent. Photographs of some of the nurse tanks in question clearly indicate they do not have enough space on the end to affix the required marking and placard. In view of the manner in which these nurse tanks are operated and the fact that there is no practical way to comply with the present requirements, § 172.507 is amended as proposed.

Two commenters objected to the proposed removal of paragraph (a)(7) of § 175.45 which pertains to reporting hazardous materials incidents. Because of these two objections and after further consideration, paragraph (a)(7) of § 175.45 has not been changed by this rulemaking.

One commenter suggested that the proposed change in § 173.115(d)(2) be reworded. The RSPA believes that the commenter's proposed change and the wording in the notice are essentially the same. Therefore, § 173.115(d)(2) is amended as proposed.

One commenter agreed that paragraph (f) in § 173.260 is redundant. However, this commenter recommended that § 173.260(a)(3) be amended by adding a sentence at the end to clarify the marking and labeling of skids or pallets of electric storage batteries. The RSPA agrees with this commenter that this revision will reduce vagueness and add clarity to marking and labeling of batteries which are exempt from specification packaging requirements. However, they are not exempt from the marking and labeling requirements. A sentence has been added to § 173.260(a)(3) to read "Unless specifically exempt from marking and labeling, each pallet or skid must be marked and labeled as required by Part 172."

Included in this rulemaking, but not included in the notice are twelve additional changes which the RSPA believes are necessary. These changes are not considered to be controversial and they do not impose any additional cost or record keeping. These twelve changes revise (1) § 172.101 Table, (2) § 172.512(a), (3) § 172.12(b), (4) § 173.304, (5) § 173.465(d)(2), (6) § 174.81(f) and § 177.848(f), (7) § 175.30, (8) § 178.92-12(a), (9) § 178.98-9, § 178.99-9, § 178.131-9 and § 178.132-9, (10) § 178.102-4(a), (11) § 178.205-16, and (12) § 178.337-17(a), § 178.338-18 (a) and (b), and § 178.340-10(b).

An editorial correction has been made in column (5)(a) of the § 172.101 Table for the entry Diisooctyl acid phosphate.

The revision to § 172.512 (a)(1) and (a)(2) removes the reference to obsolete subparagraphs (c)(1) and (c)(2) of § 172.504.

In § 173.12, paragraph (b) has been revised to authorize the compression

test for the polyethylene drum to be the same as specified in § 178.19–7(c)(2), as applicable. At the present time, the polyethylene drum must withstand a compression test of 2400 pounds regardless of the size.

In § 173.304, the table in paragraph (a)(2) for the entry "Bromotrifluoromethane" has been amended by adding "DOT–4BA400" in the third column. This specification cylinder was inadvertently omitted from the list of authorized cylinders in Docket HM–176 (47 FR 13816) on April 1, 1982.

In § 173.465, paragraph (d)(2) has been amended by changing the word "horizontally" to read "vertically". The specification of the surface area of a Type A package which must be used in determining the compression test requirements of § 173.465(d)(2) has caused some confusion. The term used in the International Atomic Energy Agency and Nuclear Regulatory Commission transport regulations to specify a horizontal surface area is "vertically projected area". RSPA wishes to be consistent in this specification and consequently the word "horizontally" is hereby changed to read "vertically".

In § 174.81(f) and § 177.848(f) the Segregation and Separation Chart of Hazardous Materials has been changed by removing the reference to footnote "2" at the intersection of column "e" and line "13". The "2" was inadvertently added when the two charts were revised under Docket No. HM–191.

In § 175.30, paragraph (e)(1) has been revised because the present wording is confusing and shipments of industrial gauges containing sealed source (special form) radioactive materials in Type A quantities have been delayed or refused because the outside package does not provide clear visibility without cutting windows in the overpack. Paragraph (c)(1) of § 175.85 authorizes this type of material to be stowed inaccessible to the crew.

In § 178.92–12, the introductory text of paragraph (a) has been revised to authorize DOT Specification 5P lagged steel drums to be marked by steel stamping. Recent amendment under Docket No. HM–166R inadvertently removed this method of marking.

In § 178.98–9, § 178.99–9, § 178.131–9, and § 178.132–9 paragraph (a)(1) in each section has been revised to specifically require the authorized gross weight to be included as part of the marking requirements.

In § 178.102–4, the introductory text of paragraph (a) has been revised to authorize a tered DOT Specification 6D steel overpacks to be embossed on the body of the drum, no more than six inches from the top curl. This proposed change was included in Notice No. 84–3 [49 FR 10780] on March 22, 1984, but was omitted in the final rule.

In § 178.205–16, the Table in paragraph (a) is reprinted to correct an error in columns 4, 5, and 6 for an authorized gross weight of 40 pounds which appeared in Docket No. HM–189C on October 11, 1985 (50 FR 41523).

On March 19, 1985, Docket No. HM–166R [50 FR 11048] revised parts of § 178.337–17(a), § 178.338–18 (a) and (b), and § 178.340–10(b) to require the metal certification plate to be on the left side on all new DOT Specification MC 306, MC 307, MC 312, MC 331, and MC 338 cargo tanks. Inquiries were received regarding the effective date for which the new tanks must have the "plate" on the left side. Since HM–166R had an effective date of July 1, 1985, cargo tanks built after that date must have the "plate" on the left side instead of the right side. RSPA is adding this date to the regulation for purposes of clarification.

Based on limited information available concerning size and nature of entities likely to be affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Also, in view of the type of changes, the RSPA has further determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) will not affect not-for-profit enterprises, or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is considered unnecessary because the anticipated impact is minimal.

List of Subjects

49 CFR Part 106

Hazardous materials transportation, Administrative practice and procedures.

49 CFR Part 107

Hazardous materials transportation, Programs procedures, penalties.

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Labeling, packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 174

Hazardous materials transportation, Railroad safety.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers.

49 CFR Part 177

Hazardous materials transportation, Motor carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 106, 107, 171, 172, 173, 174, 175, 176, 177, and 178 are amended as follows:

PART 106—RULEMAKING PROCEDURES

1. The authority citation for Part 106 is revised to read as follows:

Authority: Sec. 902(h)(1), Pub. L. 85–726, 72 Stat. 784 (49 U.S.C. 1472(h)(1)); sec. 3, Pub. L. 90–481, 82 Stat. 720 (49 U.S.C. 1672); 105, Pub. L. 93–633, 88 Stat. 2157, (49 U.S.C. 1804); sec. 21(a), Pub. L. 93–627, 88 Stat. 2146 (33 U.S.C. 1520); (49 CFR 1.45 and 153 and App. A of Part 1); Pub. L. 89–670 (49 U.S.C. 1653); sec. 203, Pub. L. 96–126, 93 Stat. 1004 (49 U.S.C. 2002).

2. In Part 106, Appendix A to Part 106 is amended by removing and reserving paragraph (a)(1).

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

3. and 4. The authority citation for Part 107 is revised to read as follows:

Authority: 49 U.S.C. 1421(c); 49 U.S.C. 1802, 1806, 1808–1811; 49 CFR 1.45 and 1.53 and App. A of Part 1, Pub. L. 89–670 (49 U.S.C. 1653(d), 1655).

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

5. The authority citation for Part 171 continues to read as follows:

Authority: 49 U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

6. In § 171.7, paragraph (d)(4)(iii) and (d)(23) are revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(4) * * *

(iii) American National Standard N14.1 is titled, "Packaging of Uranium Hexafluoride for Transport," 1982 edition.

* * * * *

(23) USDOT, "Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials."

* * * * *

7. In § 171.8, the definitions of "Hazardous waste", "State designated route", and "Transport vehicle" are revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Hazardous waste", for the purposes of this chapter, means any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR Part 262.

* * * * *

"State-designated route" means a preferred route selected in accordance with U.S. DOT "Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials" or an equivalent routing analysis which adequately considers overall risk to the public. Designation must have been preceded by substantive consultation with affected local jurisdictions and with any other affected States to ensure consideration of all impacts and continuity of designated routes.

* * * * *

"Transport vehicle" means a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

8. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR Part 1, unless otherwise noted.

9. In § 172.101, the Hazardous Materials Table is amended to read as follows:

§ 172.101 Hazardous Materials Table

+EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other requirements
(1)	(2)	(3)	(3a)	(4)	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
	(ADD)										
	* * * * *										
	Nitroethane	Flammable liquid	UN2842	Flammable liquid	173.118	173.119	15 gallon	55 gallons	1, 2	1	
	Nitropropane	Flammable liquid	UN2608	Flammable liquid	173.118	173.119	15 gallon	55 gallons	1, 2	1	
	(REVISE)										
	Diisooctyl acid phosphate	Corrosive material	UN1902	Corrosive	173.244	173.296	1 quart	1 quart	1, 2	1, 2	Glass carboys in hampers not permitted under deck.
	Radioactive material, empty packages	Radioactive material	UN2908	Empty	173.421-1 173.427	173.421-1 173.427			1, 2	1, 2	
	* * * * *										

10. In § 172.202, paragraph (e) is revised to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

* * * * *

(e) Except for those materials in the UN Recommendations, the ICAO Technical Instructions, or the IMDG Code, a material that is not a hazardous material according to this subchapter may not be offered for transportation or transported when its description on a shipping paper includes a hazard class or an identification number specified in § 172.101.

* * * * *

11. In § 172.203, paragraph (h) is revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(h) *Transportation by highway.* Following the basic description for a hazardous material in a Specification MC 330 or MC 331 cargo tank, there must be entered for—

(1) *Anhydrous ammonia.* (i) The words "0.2 PERCENT WATER" to indicate the suitability for shipping anhydrous ammonia in a cargo tank made of quenched and tempered steel as authorized by § 173.315(a)(1), Note 14 of this subchapter, or

(ii) The words "NOT FOR Q and T TANKS" when the anhydrous ammonia does not contain 0.2 percent or more water by weight.

(2) *Liquefied petroleum gas.* (i) The word "NONCORROSIVE" or "NONCOR" to indicate the suitability for shipping "Noncorrosive" liquefied petroleum gas in a cargo tank made of quenched and tempered steel as authorized by § 173.315(a)(1), Note 15 to this subchapter, or

(ii) The words "NOT FOR Q and T TANKS" for grades of liquefied petroleum gas other than "Noncorrosive".

* * * * *

12. In § 172.328, the introductory text of paragraph (c) is revised to read as follows:

§ 172.328 Cargo tanks.

* * * * *

(c) *Required markings: Gases.* Except for certain nurse tanks which must be marked as specified in § 173.315(m) of this subchapter, each cargo tank transporting flammable or nonflammable gas (including a cryogenic liquid) subject to this subchapter must be marked as specified in this part on each end and each side with—

* * * * *

13. In § 172.502, the introductory text of paragraph (a), paragraph (b), and the introductory text of paragraph (c) are revised to read as follows:

§ 172.502 Prohibited placarding.

(a) Except as provided in paragraph (c) of this section, no person may affix or display on a transport vehicle, portable tank or freight container any placard described in this subpart unless:

* * * * *

(b) No person may affix or display any sign or other device on a transport

vehicle, portable tank, or freight container, that by its color, design, shape, or content could be confused with any placard prescribed in this subpart.

(c) The restrictions in paragraphs (a) and (b) of this section do not apply to transport vehicles, portable tanks, or freight containers which—

* * * * *

14. In § 172.504, paragraphs (a), (b), and (c), the heading in columns 1 and 2 of Table 1 and Table 2, footnotes 2 and 5 of Table 1, and footnote 9 of Table 2, are revised to read as follows:

§ 172.504 General placarding requirements.

(a) Except as otherwise provided in this subchapter, each transport vehicle and freight container containing any quantity of a hazardous material must be placarded on each end and each side with the type of placards specified in the following tables and other placarding requirements of this subpart, including the specifications for the placards named in the tables and described in detail in §§ 172.519 through 172.558.

(b) A transport vehicle or freight container containing two or more classes of materials requiring different placards specified in Table 2 may be placarded DANGEROUS in place of the separate placarding specified for each of those classes of material specified in Table 2. However, when 5,000 pounds or more of one class of material is loaded therein at one loading facility, the placard specified for that class in Table 2 must be applied. This paragraph does not apply to a portable tank, cargo tank, or tank car.

(c) When the gross weight of all hazardous materials covered by Table 2 is less than 1000 pounds, no placard is required on a transport vehicle, or freight container for the Table 2 materials. A Table 1 material must be placarded as specified in Table 1. This paragraph does not apply to portable tanks, cargo tanks, tank cars, transportation by air or water, or transport vehicles and freight containers subject to § 172.505.

(d) * * *

TABLE 1

If the transport vehicle, or freight container contains a material classed (described) as—.	The transport vehicle or freight container must be placarded on each side and each end—

* * * * *

[2] EXPLOSIVES B placard not required if the transport vehicle or freight container contains class A explosives and is placarded EXPLOSIVES A as required.

[5] For exclusive use shipments (see § 173.403) of low specific activity radioactive materials transported in accordance with § 173.425 (b) or (c).

* * * * *

TABLE 2

If the transport vehicle, or freight container contains a material classed (described) as—.	The transport vehicle or freight container must be placarded on each side and each end—

* * * * *

[9] BLASTING AGENTS, OXIDIZER and DANGEROUS placards need not be displayed if a transport vehicle or freight container also contains Class A or Class B explosives and is placarded EXPLOSIVES A or EXPLOSIVES B as required.

* * * * *

15. Section 172.507 is revised to read as follows:

§ 172.507 Special placarding provisions: Highway.

(a) Each motor vehicle used to transport a package of highway route controlled quantity radioactive materials (see § 173.403(1) of this subchapter) must have the required RADIOACTIVE warning placard placed on a square background as described in § 172.527.

(b) A nurse tank, meeting the provisions of § 173.315(m) of this subchapter, is not required to be placarded on an end containing valves, fittings, regulators or gauges when those appurtenances prevent the markings and placard from being properly placed and visible.

16. In § 172.510, paragraph (d) is revised to read as follows:

§ 172.510 Special placarding provisions: Rail.

* * * * *

(d) *FUMIGATION placard.* Each transport vehicle and freight container containing lading that has been fumigated or treated with poisonous liquid, solid, or gas, and that is offered for transportation by rail must have the placard specified in § 173.9 of this subchapter affixed on or near each door.

17. In § 172.512, paragraph (a)(2) is revised to read as follows:

§ 172.512 Freight containers and aircraft unit load devices.

* * * * *

(2) The placarding exception provided in § 172.504(c) applies to each freight container and aircraft unit load device being transported for delivery to a consignee immediately following an air or water shipment, and,

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

18. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

19. To add § 173.5a to read as follows:

§ 173.5a Oilfield service vehicles.

Notwithstanding § 173.29 of this subchapter, a cargo tank mounted on a transport vehicle used in oilfield servicing operations is not subject to the specification requirements of this subchapter if—

(a) The cargo tank and equipment contains only residual amounts (i.e., it is emptied so far as practicable) of a flammable liquid alone or in combination with water,

(b) No flame producing device is operated during transportation, and

(c) The proper shipping name is preceded by "Residual" on the shipping paper for each movement on a public highway.

20. In § 173.12, paragraph (b) is revised to read as follows:

§ 173.12 Exceptions for shipment of waste material.

* * * * *

(b) *Outside packaging.* The outside packaging must be a DOT specification metal or fiber drum. It may also be a polyethylene drum capable of withstanding:

(1) The vibration and compression tests specified in § 178.19–7(c)(1) and (2), and

(2) A four-foot drop test as specified in § 178.19–7(a)(1).

* * * * *

21. In § 173.25, paragraph (c) is added to read as follows:

§ 173.25 Authorized packages and overpacks.

* * * * *

(c) Hazardous materials classed Poison B, may be transported in the same motor vehicle with material that is marked or known to be foodstuffs, feed or any edible material intended for consumption by humans or animals provided the Poision B material is marked, labeled, and packaged in accordance with this subchapter, conforms to the requirements of paragraph (a) of this section and is overpacked as specified in § 177.841(e), or is in an overpack meeting the following requirements:

(1) The overpack conforms to Specification 5C (§ 178.83 of this subchapter), or

(2) The overpack is a salvage drum as prescribed in § 173.3(c) of this subchapter, and—

(i) Has a maximum rated capacity of 85 gallons;

(ii) Is constructed of steel with a minimum thickness of 16 gauge; and

(iii) It meets the requirements of Specification 17C (§ 178.115 of this subchapter) except for size and marking.

22. In § 173.31, paragraph (b)(4) is removed and reserved as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

* * * * *

(b) * * *

(4) [Reserved]

* * * * *

§ 173.32 [Amended]

23. In § 173.32, paragraph (b)(3) is removed and paragraph (b)(4) is redesignated paragraph (b)(3).

24. In § 173.34, paragraph (c)(3) is amended by adding a sentence at the end, and paragraph (g)(4)(ii) is revised to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(c) * * *

(3) * * *. A service pressure change is not authorized for a cylinder which fails to pass the prescribed periodic hydrostatic retest, unless it is reheat treated and requalified in accordance with this section.

* * * * *

(g) * * *

(4) * * *

(ii) The permanent expansion shall not be less than 3 percent nor more than 10 percent of the total expansion in the hydrostatic retest, in which case the flattening and physical tests are not required. For this alternative method the hydrostatic retest pressure may not exceed 115 percent of the minimum prescribed test pressure.

* * * * *

25. In § 173.112, paragraph (a)(2) is revised to read as follows:

§ 173.112 Oil well cartridges.

(a) * * *

(2) Specification 12B, 12H, 23F or 23H (§§ 178.205, 178.209, 178.214, 178.219 of this subchapter). Fiberboard boxes. Gross weight not to exceed 65 pounds. Hand holes are not authorized.

* * * * *

26. In § 173.114a, paragraph (h)(3) is removed, paragraph (i) is redesignated paragraph (j) and a new paragraph (i) is added to read as follows:

§ 173.114a Blasting agents.

* * * * *

(i) Blasting agents may not be transported in bulk packagings except in accordance with the terms of specific exemptions issued pursuant to Part 107 of this chapter.

* * * * *

27. In § 173.115, paragraph (d)(2) is revised to read as follows:

§ 173.115 Flammable, combustible, and pyrophoric liquids; definitions.

* * * * *

(d) * * *

(2) For a liquid that is a mixture of compounds that have different volatility and flash points, its flash point shall be determined as specified in paragraph (d)(1) of this section, on the material in the form in which it is to be shipped. If it is determined by this test that the flash point is higher than 20 °F (−6.67 °C), a second test shall be made as follows: a portion of the mixture shall be placed in an open beaker (or similar container) of such dimensions that the height of the liquid can be adjusted so that the ratio of the volume of the liquid to the exposed surface area is 6 to one. The liquid shall be allowed to evaporate under ambient pressure and temperature (20 to 25 °C) for a period of 4 hours, or until 10 percent by volume has evaporated, whichever comes first. A flash point is then run on a portion of the liquid remaining in the evaporation container and the lower of the two flash points shall be the flash point of the material.

* * * * *

28. In § 173.118a, paragraph (b)(5) is amended by removing the word "and" the second time it appears and the comma; paragraph (b)(6) is amended by removing the period and inserting in its place a semicolon followed by the word "and"; paragraph (b)(7) is added to read as follows:

§ 173.118a Exceptions for combustible liquids.

* * * * *

(b) * * *

(7) The requirements of §§ 173.1, 173.24, 174.1 and 177.804 of this subchapter.

29. In § 173.120, paragraph (c) is revised to read as follows:

§ 173.120 Automobiles, motorcycles, tractors, or other self-propelled vehicles.

* * * * *

(c) *Truck bodies or trailers on flat cars.* Except as specified in § 173.21, truck bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or not operating, when used for the transportation of other freight and loaded on flat cars as part of a joint rail highway movement. The heating or refrigerating equipment is considered to be a part of the truck body or trailer, and is not subject to any other requirements of this subchapter.

* * * * *

30. In § 173.131, the introductory text of paragraph (a) is revised to read as follows:

§ 173.131 Road asphalt, or tar, liquid.

(a) Road asphalt, or tar, liquid, must be packaged as follows:

* * * * *

31. In § 173.245, paragraph (a)(38) is revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(38) Specification 57 (§ 178.253 of this subchapter). Steel portable tank. Authorized for transportation by water when having a minimum design pressure of 9 psig and equipped in accordance with § 178.253–4, except that frangible devices are not authorized. Also, for water transportation, no pressure relief device may open at less than 5 psig.

* * * * *

32. In § 173.260, paragraph (a)(3) is amended by adding a sentence at the end and paragraph (f) is removed and reserved as follows:

§ 173.260 Electric storage batteries, wet.

(a) * * *

(3) * * * Unless specifically exempt from marking and labeling, each pallet or skid must be marked and labeled as required by Part 172.

* * * * *

(f) [Reserved]

* * * * *

33. In § 173.272, paragraph (i)(18) is revised to read as follows:

§ 173.272 Sulfuric acid.

* * * * *

(i) * * *

(18) Specification 17F (§ 178.117 of this subchapter). Metal barrels or drums (single-trip only). Authorized for sulfuric acid of 77.5 percent to 98 percent concentrations with or without an inhibitor, provided the acid has a corrosive effect on steel no greater than 93.2 percent sulfuric acid, measured at 100 °F.

* * * * *

34. In § 173.304, the table in paragraph (a)(2) is amended and paragraph (a)(3) is revised to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (percent) (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b). § 173.301(i) (see notes following table)
*	*	* * *
(Revise) Bromotrifluoromethane (R-13B1 or H-1301).	124	DOT-3A400; DOT-3AA400; DOT-3B400; DOT-4A400; DOT-4AA480; DOT-4B400; DOT-4BA400; DOT-4BW400; DOT-3E1800; DOT-39; DOT-3AL400.
*	*	* * *

(3) Specification 3AL (§ 178.46 of this subchapter) cylinders are authorized for the following liquefied gases: cyclobutane, hydrogen selenide, propylene, silane, carbonyl sulfide, vinyl bromide, and dimethyl ether. Shipments of flammable gases are authorized only when transported by highway, rail and cargo aircraft only.

* * * * *

35. In § 173.306, paragraph (d)(1) is revised to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(d) * * *

(1) Except as specified in § 173.21, truck bodies or trailers with automatic heating or refrigerating equipment of the gas burning type may be shipped with tanks containing fuel and equipment operating or not operating, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement. The heating or refrigerating equipment is considered to be a part of the truck body or trailer and is not subject to any other requirements of this subchapter.

* * * * *

36. In § 173.315, Note 2, following the Table in paragraph (a)(1) is amended by adding the following sentence at the end; paragraph (m)(7) is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

Note 2: * * *. Specification MC 330 cargo tanks may be painted as specified for MC 331 cargo tanks.

* * * * *

(m) * * *

(7) Is in conformance with the requirements of Part 172 of this subchapter except that shipping papers are not required; and it need not be marked or placarded on one end if that end contains valves, fittings, regulators or gauges when those appurtenances prevent the markings and placard from being properly placed and visible.

37. In § 173.346, paragraph (a)(10) is revised to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(10) Specification 103,[1] 103W, 103A,[1] 103ALW, 103AW, 103BW, 104,[1] 104W, 105A100,[1] 105A 100W, 105A200ALW, 109A300ALW, 111A60ALW1, 111A60F1, 111A60W1, 111A60W2, 111A100F2, 111A100W4, 112A400W, 114A400W, or 115A60W6 (§§ 179.100, 179.101, 179.200, 179.201, 179.220, 178.221 of this subchapter). Tank cars. Specification 103BW tank cars must be rubberlined and are authorized only for arsenic acid as prescribed in § 173.348 of this subchapter.

* * * * *

§ 173.366 [Amended]

38. In § 173.366, paragraph (a)(3) is removed.

39. In § 173.417, Table 5, footnote 8, following paragaph (b)(2)(ii) is revised and in paragraph (b)(5) the second sentence is revised to read as follows:

§ 173.417 Authorized packaging-fissile materials.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

Table 5—Authorized Contents for Specifications 6M Packages[1]

* * * * *

[8] H/X is the ratio of hydrogen to fissile atoms in the inner containment.

* * * * *

(5) * * *. Handling procedures and packaging criteria shall be in accordance with U.S. Department of Energy Report No. ORO-651 or ANSI Standard N-14.1-1982. * * *.

* * * * *

40. In § 173.421-1, the section title, paragraph (a), and the introductory text of paragraph (b) are revised to read as follows:

§ 173.421-1 Additional requirements for excepted radioactive materials.

(a) Excepted radioactive materials prepared for shipment under the provisions of § 173.421, § 173.422, § 173.425, or § 173.427 must be certified as being acceptable for transportation by having a notice enclosed in or on the package, included with the packing list, or otherwise forwarded with the package. This notice must include the name of the consignor or consignee and the statement "This package conforms to the conditions and limitations specified in 49 CFR 173.421 for excepted radioactive material, limited quantity, n.o.s., UN2910; 49 CFR 173.422 for excepted radioactive material, instruments and articles, UN2911; 49 CFR 173.424 for excepted radioactive material, articles manufactured from natural *or* depleted uranium *or* natural thorium, UN2909; or 49 CFR 173.427 for excepted radioactive material, empty packages, UN2908", as appropriate.

(b) An excepted radioactive material classed radioactive material and prepared for shipment under the provisions of § 173.421, § 173.422, § 173.424, § 173.427 or § 173.421-2 is not subject to the requirements of this subchapter, except for: * * *.

41. In § 173.427, the introductory text and paragraphs (c) and (d) are revised, paragraph (e) is added to read as follows:

§ 173.427 Empty radioactive materials packaging.

A packaging which previously contained radioactive materials and has been emptied of contents as far as practical, is excepted from the shipping paper and certification, marking and labeling requirements of this subchapter, and from requirements of this subpart, provided that:

* * * * *

(c) Internal contamination does not exceed 100 times the limits in § 173.443;

(d) Any labels previously applied in conformance with Subpart E of Part 172 of this subchapter are removed, obliterated or covered and the "Empty" label prescribed in § 172.450 is affixed to the packaging; and

(e) The packaging is prepared for shipment as specified in § 173.421-1.

§ 173.465 [Amended]

42. In § 173.465, paragraph (d)(2) is amended by removing the word "horizontally" and inserting in its place the word "vertically".

43. In addition to the amendments set forth above, Part 173 is amended by removing the words "tank motor vehicles" or "tank motor vehicle", as

appropriate, and inserting, in their place, the words "cargo tanks" in the following sections:

§ 173.6(b)(7)
§ 173.33(f)(5)
§ 173.119 (m)(10), (m)(11), (m)(12)
§ 173.123(a)(6)
§ 173.134(a)(6)
§ 173.135(a)(9)
§ 173.136(a)(8)
§ 173.141(a)(8)
§ 173.145(a)(7)
§ 173.148(a)(5)
§ 173.154 (a)(4), (a)(18)
§ 173.190(b)(4)
§ 173.206(c)(3)
§ 173.224(a)(4)
§ 173.245 (a)(29), (a)(30), (a)(31)
§ 173.247(a)(12)
§ 173.247a(a)(3)
§ 173.248(a)(6)
§ 173.249(a)(6)
§ 173.252(a)(4)
§ 173.253(a)(6)
§ 173.254(a)(5)
§ 173.255(a)(5)
§ 173.263(a)(10)
§ 173.264 (a)(14), (b)(3)
§ 173.266(e)
§ 173.267(a)(7)
§ 173.268(b)(3)
§ 173.271 (a)(8), (a)(8)(iv)
§ 173.272(i)(21)
§ 173.273(a)(5)
§ 173.274(a)(4)
§ 173.276(a)(6)
§ 173.277(a)(9)
§ 173.280(a)(8)
§ 173.287(a)(8)
§ 173.289(a)(4)
§ 173.292(a)(2)
§ 173.294(a)(3)
§ 173.295(a)(9)
§ 173.296(a)(2)
§ 173.297(a)(1)
§ 173.315(h)(13)
§ 173.346(a)(12)
§ 173.347(a)(3)
§ 173.348(a)(1)
§ 173.352(a)(5)
§ 173.353(e)
§ 173.354, Note 1
§ 173.358(a)(14)
§ 173.359(a)(16)
§ 173.369(a)(14)
§ 173.373(a)(6)

PART 174—CARRIAGE BY RAIL

44. The authority citation for Part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, unless otherwise noted.

45. In § 174.61, paragraph (b) is revised to read as follows:

§ 174.61 Truck bodies, trailers or freight containers on flatcars.

* * * * *

(b) Except as specified in § 173.21, a truck body, trailer, or freight container equipped with heating or refrigerating equipment which has fuel or any article classed as a hazardous material may be loaded and transported on a flat car as part of a joint rail highway movement. The heating or refrigerating equipment is considered to be a part of the truck body or trailer and is not subject to any other requirements of this subchapter. The truck body, trailer, or freight container must be secured on the flatcar so that it cannot change position during transit.

* * * * *

§ 174.81 [Amended]

46. In § 174.81, the Segregation and Separation Chart of Hazardous Materials is amended by removing the reference to footnote "2" at the intersection of column "e" and line "13".

47. In § 174.101, the introductory text of paragraphs (n) and (o) are revised to read as follows:

§ 174.101 Loading explosives.

* * * * *

(n) A container car or freight container on a flatcar or a gondola car other than a drop-bottom car, when properly loaded, blocked, and braced to prevent change of position under conditions normally incident to transportation, may be used to transport any Class A explosive except black powder packed in metal containers. A freight container must be designed, constructed, and maintained so as to be weather tight and capable of preventing the entrance of sparks. In addition:

* * * * *

(o) Class A or Class B explosives may be loaded and transported in a tight closed truck body or trailer on a flatcar car. Wooden boxed bombs, rocket ammunition, and rocket motors, Class A or Class B explosives, which due to their size cannot be loaded in tight, closed truck bodies or trailers, may be loaded in or on open-top truck bodies or trailers. However, they must be protected against accidental ignition. In addition:

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

48. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

49. In § 175.30 paragraph (e)(1) is revised to read as follows:

§ 175.30 Accepting and inspecting shipments.

* * * * *

(e) * * *

(1) The overpack does not contain a package bearing the "CARGO AIRCRAFT ONLY" label unless—

(i) The overpack affords clear visibility of and easy access to the package; or

(ii) The package contains a material which may be carried inaccessibly under the provisions of § 175.85(c)(1).

* * * * *

PART 176—CARRIAGE BY VESSEL

50. The authority citation for Part 176 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806(b), 1808; 49 CFR Part 1, unless otherwise noted.

51. In § 176.5, paragraph (c) is removed and reserved as follows:

§ 176.5 Application to vessels.

* * * * *

(c) [Reserved]

* * * * *

§ 176.15 [Amended]

52. In § 176.15, paragraph (b) is removed.

§ 176.18 [Amended]

53. In § 176.18, paragraph (a)(4) and (b) are amended by removing the reference to "46 U.S.C. 170 and".

§ 176.48 [Amended]

54. In § 176.48, paragraph (c) is amended by removing the words "and the Commandant (GMHM)".

55. Section 176.96 is revised to read as follows:

§ 176.96 Materials of construction.

Only barges constructed of steel may be used to transport hazardous materials.

56. In § 176.135, the third and fourth sentences of paragraph (c) are revised to read as follows:

§ 176.135 Location of magazines.

* * * * *

(c) * * *. 'Tween deck hatch covers of wood forming the base of a magazine must be completely covered with bulkhead panels approved by the Coast Guard under 46 CFR 164.008, or an equivalent thermal insulative material acceptable to the Captain of the Port. The joints of the panels must be staggered midway between the joints formed by the wooden hatch covers and the magazine must be constructed in accordance with the applicable provisions of § 176.138, except that the panels must be completely covered with wood dunnage. * * *.

* * * * *

§ 176.163 [Amended]

57. In § 176.163, paragraph (c) is removed and reserved.

* * * * *

58. In § 176.410, paragraph (e)(2) is revised to read as follows:

§ 176.410 Blasting agents, ammonium nitrate, and ammonium nitrate-mixtures.

* * * * *

(e) * * *

(2) In proximity to the explosives, if the two are separated by a steel deck or bulkhead, or a fire retardant wooden bulkhead built to the specifications of §-176.138(b)(3). The deck or bulkhead must be sheathed on the oxidizing materials stowage side with an appropriate fire-resistant insulation.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

59. The authority citation for Part 177 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 49 CFR Part 1, unless otherwise noted.

60. In § 177.825, paragraph (b)(1)(ii) is revised to read as follows:

§ 177.825 Routing and training requirements for radioactive materials.

(b) * * *

(1) * * *

(ii) A State-designated route selected by a State routing agency (see § 171.8 of this subchapter) in accordance with the DOT "Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials".

* * * * *

§ 177.841 [Amended]

61. In § 177.841, paragraph (e) is amended by removing the period at the end of the paragraph and adding the words "or when overpacked in a metal drum as specified in § 173.25(c) of this subchapter".

§ 177.848 [Amended]

62. In § 177.848, the Segregation and Separation Chart of Hazardous Materials is amended by removing the reference to footnote "2" at the intersection of column "e" and line "13".

63. In addition to the amendments set forth above, Part 177 is amended by removing the words "tank motor vehicles" or "tank motor vehicle", as appropriate, and inserting, in their place, the words "cargo tanks" (except in § 177.854 (f)(1) and (f)(2) only the word "tanks" need to be inserted) in the following sections:

§ 177.835(c)(3)
§ 177.837(e)
§ 177.839(d)
§ 177.840 (d), (f)
§ 177.841(d)
§ 177.854 (f)(1), (f)(2)
§ 177.859(b)

PART 178—SHIPPING CONTAINER SPECIFICATIONS

64. The authority citation for Part 178 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1, unless otherwise noted.

65. In § 178.50, § 178.50–19 is revised to read as follows:

* * * * *

§ 178.50–19 Marking.

(a) Marking on each cylinder by stamping as follows:

(1) DOT–4B followed by the service pressure (for example, DOT–4B300, etc.).

(2) A serial number and an identifying symbol of the maker. The symbol must be registered with the Director, OHMT. Duplications are not authorized. Lot numbers, not over 500 cylinders in each lot, in place of serial numbers authorized for cylinders not over 2 inches outside diameter or for cylinders with volumetric capacity not exceeding 60 cubic inches.

(3) Inspector's official mark.

(4) Date of test (such as 8–80 for April 1980).

(5) Additional markings are permitted.

(b) *Sequence of marks.* Serial number shall be just below or immediately following the DOT mark; identifying symbol shall be just below or immediately following the serial number; inspector's official mark shall be near the serial number. Date of test shall be so placed that dates of subsequent test can easily be added. Symbol in front of or following the serial number, with space between, or symbol and serial number stamped into welded or brazed-on valve spud directly above the DOT mark located on head of cylinder are also authorized. Other variations in sequence of marks authorized only when necessitated by lack of space.

(c) *Location of markings.* Markings may be stamped plainly and permanently in the following locations on the cylinder:

(1) On shoulders and top heads when they are not less than 0.087-inch thick.

(2) On side wall adjacent to top head for side walls which are not less than 0.090 inch thick.

(3) On a cylindrical portion of the shell which extends beyond the recessed bottom of the cylinder, constituting an integral and non-pressure part of the cylinder.

(4) On a metal plate attached to the top of the cylinder or permanent part thereof; sufficient space must be left on the plate to provide for stamping at least six retest dates; the plate must be at least 1/16-inch thick and must be attached by welding, or by brazing. The brazing rod is to melt at a temperature of 1100 °F. Welding or brazing must be along all the edges of the plate.

(5) On the neck, neckring, valve boss, valve protection sleeve; or similar part permanently attached to the top of the cylinder.

(6) On the footring permanently attached to the cylinder, provided the water capacity of the cylinder does not exceed 25 pounds.

66. In § 178.51, § 178.51–19, paragraph (c) is amended by revising paragraph (5) and adding paragraph (6) to read as follows:

§ 178.51 and § 178.51–19 [Amended]

* * * * *

(c) * * *

(5) On the neck, neckring, valve boss, valve protection sleeve, or similar part permanently attached to the top of the cylinder.

(6) On the footring permanently attached to the cylinder, provided the water capacity of the cylinder does not exceed 25 pounds.

* * * * *

67. In § 178.61, § 178.61–20, paragraphs (a)(2), (b), and (c) are revised to read as follows:

* * * * *

§ 178.61 and § 178.61–20 [Amended]

(a) * * *

(2) A serial number and an identifying symbol of the maker. The symbol must be registered with the Director, OHMT; duplications unauthorized. Lot numbers, not over 500 cylinders in each lot, in place of serial numbers authorized for cylinders not over 2 inches outside diameter or for cylinders with volumetric capacity not exceeding 60 cubic inches.

* * * * *

(b) *Sequence of marks.* Serial number shall be just below or immediately following the DOT mark; identifying symbol shall be just below or immediately following the serial number; inspector's official mark shall be near the serial number. Date of test shall be so placed that dates of subsequent test can easily be added. Symbol in front of or following the serial number, with space between, or symbol and serial number stamped into welded or brazed-on valve spud directly above the DOT mark located on head of cylinder are also authorized. Other variations in sequence of marks authorized only when necessitate by lack of space.

(c) *Location of markings.* Markings may be stamped plainly and permanently in the following locations on the cylinder:

(1) On shoulders and top heads when they are not less than 0.087-inch thick.

(2) On a metal plate attached to the top of the cylinder or permanent part thereof; sufficient space must be left on the plate to provide for stamping at least six retest dates; the plate must be at least 1/16-inch thick and must be attached by welding, or by brazing. The brazing rod is to melt at a temperature of 1100 °F. Welding or brazing must be along all the edges of the plate.

(3) On the neck, valve boss, valve protection sleeve, or similar part permanently attached to the top of the cylinder.

(4) On the footring permanently attached to the cylinder, provided the water capacity of the cylinder does not exceed 25 pounds.

* * * * *

68. In § 178.92, § 178.92–12, the introductory text of paragraph (a) is revised to read as follows:

§ 178.92 and § 178.92–12 [Amended]

(a) Each drum must be marked by embossing on a permanent head or by steel stamping on the top head of the outside shell or on a permanently attached head protection ring with clearly legible raised characters as follows:

* * * * *

69. In § 178.98, § 178.98–9 is amended by revising paragraph (a)(1) to read as follows:

§ 178.98 and § 178.98–9 [Amended]

(a) * * *

(1) DOT–6B * * *; stars to be replaced by the authorized gross weight (for example, DOT–6B880, etc.).

* * * * *

70. In § 178.99, § 178.99–9 is amended by revising paragraph (a)(1) to read as follows:

§ 178.99 and § 178.99–9 [Amended]

(a) * * *

(1) DOT–6C * * *; stars to be replaced by the authorized gross weight (for example DOT–6C880, etc.).

* * * * *

71. In § 178.100, § 178.100–9 is amended by revising paragraph (a)(1) to read as follows:

§ 178.100 and § 178.100–9 [Amended]

(a) * * *

(1) DOT–6J * * *; stars to be replaced by the authorized gross weight (for example, DOT–6J880, etc.).

* * * * *

72. In § 178.102, § 178.102–4, the introductory text of paragraph (a) is revised to read as follows:

§ 178.102 and § 178.102–4 [Amended]

(a) Each new steel overpack must be marked by embossing on a permanent head. *Altered drums.* Drums which have been altered to Specification 6D from an all 18-gauge tight head drum may be embossed on the body of the drum, no more than six inches from the top curl. Embossment must be with clearly legible raised characters as follows:

* * * * *

73. In § 178.131, § 178.131–9 is amended by revising paragraph (a)(1) to read as follows:

§ 178.131 and § 178.131–9 [Amended]

(a) * * *

(1) DOT–37A * * *. Stars to be replaced by the authorized gross weight, or less, at which the drum was type tested (for example, DOT-37A150, etc.) and the letters STC located near the DOT mark to indicate a single-trip drum.

* * * * *

74. In § 178.132, § 178.132–9 is amended by revising paragraph (a)(1) to read as follows:

§ 178.132 and § 178.132–9 [Amended]

(a) * * *

(1) DOT–37B * * *. Stars to be replaced by the authorized gross weight, or less, at which the drum was type tested (for example, DOT–37B450, etc.) and the letters STC located near the DOT mark to indicate a single-trip drum.

* * * * *

75. In § 178.150, § 178.150–3, paragraph (a)(2) is revised to read as follows:

§ 178.150 and § 178.150–3 [Amended]

(a) * * *

(2) Single bottle cases:

Authorized gross weight (pounds)	Strength of fiberboard (minimum) Mullen or Cady test						
	Solid board			Doublefaced corrugated		Doublewall corrugated	
	Box	Lining [2]	Heads [1]	Box	Lining [2]	Box	Lining [2]
15	175		([3])	175		200	
30	200		275	200		200	
40	275		350	275		200	
				200	175		
55	325		([3])	325		275	
65 [4]	375		([3])	375			
				275	175	275	
	275	175	350	200	200		

[1] For recessed heads when used. In other cases same as for the box.
[2] As prescribed in § 178.205–15. A complete box is acceptable in place of the lining.
[3] Recessed heads are not authorized.
[4] Except as otherwise authorized herein or by Part 173 of this chapter.

* * * * *

77. In § 178.209, § 178.209–8, paragraph (a)(2) and Note 1 are revised to read as follows:

§ 178.209 and 178.209–8 [Amended]

(a) * * *

(2) Box is to consist of full depth top and bottom sections completely telescoping. No inner lining tube is required. Four variations are authorized: the first is with the bottom slotted on the ends and the cover slotted on the sides; the second, with both the cover and bottom slotted on the sides; the third, with the bottom slotted on the sides and the cover slotted on the ends; and the fourth, with the sides and ends (both covers and bottom) not slotted, manufacturer's joint a side lap glued or stapled to end, closing flaps to form top and bottom of box with side closing flaps out and overlapping.

Note 1.—Hand-holes, oval in shape, not more than 1 inch in width by 3 inches in length, and horizontal with top score line, are authorized in the ends of the top section of the boxes.

* * * * *

	Nominal capacity of inside containers			
	Pint	Quart	5 pts.	Gallon
Side wall, inches	⅝	⅝	¾	1½
Top wall, inches (See Note 1)	¾	¾	¾	1
Bottom wall, inches	1	1	¾	1½

Note 1.—In the recess for the closure cap for the inside container, ¼-inch thickness is permissible: the closure cap shall not be in contact with the inside of the top wall.

76. In § 178.205–16, paragraph (a), is revised as follows:

§ 178.205–16 Authorized gross weight and parts required.

(a) The authorized gross weight (when packed) and the parts required are as follows:

78. In § 178.337, § 178.337–17 the first sentence in paragraph (a) is revised to read as follows:

§ 178.337 and § 178.337–17 [Amended]

* * * * *

(a) *Metal identification plate.* Each tank built after July 1, 1985 shall have a corrosion resistant metal plate permanently affixed by brazing or welding around its perimeter, on the left side (on the right side prior to July 1, 1985) near the front, in a place readily accessible for inspection. It must be maintained in a legible condition. * * *.

* * * * *

79. In § 178.338, § 178.338–18, the first sentence in paragraphs (a) and (b) is revised to read as follows:

§ 178.338 and § 178.338–18 [Amended]

* * * * *

(a) *Nameplate.* Each tank built after July 1, 1985 shall have a corrosion resistant metal plate permanently affixed by brazing or welding around its perimeter, on the left side (on the right

side prior to July 1, 1985) near the front. * * *.

* * * * *

(b) *Specification plate.* Each tank built after July 1, 1985 shall have an additional plate, in the form specified in paragraph (a) of this section. It must be welded, brazed, or riveted to the jacket on the left side (on the right side prior to July 1, 1985) near the front, or at the control station, in a position readily legible to operating personnel. * * *

* * * * *

80. In § 178.340, § 178.340–10 the first two sentences in paragraph (b) are revised to read as follows:

§ 178.340 and § 178.340–10 [Amended]

* * * * *

(b) *Metal certification plate.* After July 1, 1985, each cargo tank, or tank compartment if constructed to a different specification, must have a metal certification plate attached to its shell or to an integral supporting structure. The certification plate shall not be subject to corrosion, and must be located on the left side (on the right side prior to July 1, 1985) near the front in a place readily accessible for inspection. * * *.

* * * * *

§§ 178.337–1, 178.337–10, 178.337–13 and 178.337–17 [Amended]

81. In addition to the amendments set forth above, Part 178 is amended by removing the words "tank motor vehicle" and inserting, in their place, the words "cargo tank" in the following sections:

§ 178.337–1(d)
§ 178.337–10(d)
§ 178.337–13(b)
§ 178.337–17(b)

Issued in Washington, DC on January 28, 1986 under authority delegated in 49 CFR Section 1.53.

M. Cynthia Douglas,

Administrator, Research and Special Programs Administration.

[FR Doc. 86–2312 Filed 2–14–86; 8:45 am]

BILLING CODE 4910–60–M

federal register

Tuesday
February 18, 1986

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1986.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of February 1, 1986, of 31 deferrals contained in the first two special messages of FY 1986. There were no rescissions proposed. These messages were transmitted to the Congress on October 1 and November 25, 1985.

Rescissions (Table A and Attachment A)

As of February 1, 1986, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of February 1, 1986, $3,168.2 million in 1986 budget authority was being deferred from obligation and $7.7 million in 1986 outlays was being deferred from expenditures. Attachment B shows the history and status of each deferral reported during FY 1986.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985

Vol. 50, FR p. 49498, Monday, December 2, 1985

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1986 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1986 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$3,652.9
Routine Executive releases through February 1, 1986	-253.4
Overturned by the Congress	-223.6
Currently before the Congress	$3,175.9 a/

a/ This amount includes $7.7 million in outlays for a Department of the Treasury deferral (D86-30).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1986

As of February 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
None.								

Attachment B - Status of Deferrals - Fiscal Year 1986

As of February 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Economic support fund.....	D86-24	1,222,216		11-25-85	130,279				1,091,937
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal.....	D86-2	77,913		10-1-85					77,913
Timber salvage sales.....	D86-3	22,854		10-1-85					22,854
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85	32,333				0
Fisheries loan fund.....	D86-25	1,959		11-25-85					1,959
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, all services.....	D86-4	353,079		10-1-85	42,323				310,756
Family Housing									
Family housing, Air Force.....	D86-27	11,800		11-25-85					11,800
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D86-5	1,168		10-1-85	124			106	1,150

Attachment B - Status of Deferrals - Fiscal Year 1986

As of February 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-86
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy research and development.....	D86-6	9,247		10-1-85	6,640				2,607
Fossil energy construction.....	D86-7	7,038		10-1-85	4,964				2,074
Naval petroleum and oil shale reserves.....	D86-8	155,668		10-1-85					155,668
Energy conservation.....	D86-9	9,880		10-1-85	3,080				6,800
SPR petroleum account.....	D86-10	536,958		10-1-85					536,958
Alternative fuels production.....	D86-11	1,149		10-1-85	1,149				0
Power Marketing Administration									
Southeastern Power Administration, Operation and maintenance.....	D86-12	25,344		10-1-85	23,936			681	2,089
Southwestern Power Administration, Operation and maintenance.....	D86-13	5,000		10-1-85					5,000
Western Area Power Administration, Construction, rehabilitation, operation and maintenance.....	D86-14	27,095		10-1-85					27,095
Departmental Administration									
Departmental administration.....	D86-15	8,501		10-1-85	8,501				0
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program).....	D86-16	3,000		10-1-85					3,000
Social Security Administration									
Limitation on administrative expenses (construction).....	D86-28	6,489		11-25-85					6,489
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities.....	D86-17	20,000		10-1-85					20,000
Office of Justice Programs									
Crime victims fund.....	D86-18	100,000		10-1-85					100,000
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D86-19	18,082		10-1-85					18,082
Other									
Assistance for implementation of a Contadora agreement.....	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Urban Mass Transportation Administration									
Discretionary grants.....	D86-21	223,600		10-1-85		223,600			0
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D86-29	686,438		11-25-85					686,438
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund.....	D86-30	7,743		11-25-85	0				7,742
Local government fiscal assistance trust fund.....	D86-31	54,349		11-25-85	0				54,349

Attachment B - Status of Deferrals - Fiscal Year 1986

As of February 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-86
OTHER INDEPENDENT AGENCIES									
Pennsylvania Avenue Development Corporation Land acquisition and development fund.....	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board Milwaukee railroad restructuring, administration.....	D86-23	243		10-1-85	43				200
TOTAL, DEFERRALS.....		3,652,093	0		253,372	223,600		787	3,175,907

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30) of outlays only.

[FR Doc. 86-3463 Filed 2-14-86; 8:45 am]
BILLING CODE 3110-01-C

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CFR CHECKLIST

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3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
1–1199	18.00	Oct. 1, 1985
1200–End, 6 (6 Reserved)	7.50	Jan. 1, 1985
7 Parts:		
0–45	14.00	Jan. 1, 1985
46–51	13.00	Jan. 1, 1985
52	14.00	Jan. 1, 1985
53–209	14.00	Jan. 1, 1985
210–299	13.00	Jan. 1, 1985
300–399	8.00	Jan. 1, 1985
400–699	12.00	Jan. 1, 1985
700–899	14.00	Jan. 1, 1985
900–999	14.00	Jan. 1, 1985
1000–1059	12.00	Jan. 1, 1985
1060–1119	9.50	Jan. 1, 1985
1120–1199	8.00	Jan. 1, 1985
1200–1499	13.00	Jan. 1, 1985
1500–1899	7.50	Jan. 1, 1985
1900–1944	12.00	Jan. 1, 1985
1945–End	13.00	Jan. 1, 1985
8	7.50	Jan. 1, 1985
9 Parts:		
1–199	13.00	Jan. 1, 1985
200–End	9.50	Jan. 1, 1985
10 Parts:		
0–199	17.00	Jan. 1, 1985
200–399	9.50	Jan. 1, 1985
400–499	12.00	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
11	7.50	Jan. 1, 1985
12 Parts:		
1–199	8.00	Jan. 1, 1985
200–299	14.00	Jan. 1, 1985
300–499	9.50	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
13	13.00	Jan. 1, 1985
14 Parts:		
1–59	16.00	Jan. 1, 1985
60–139	13.00	Jan. 1, 1985
140–199	7.50	Jan. 1, 1985
200–1199	15.00	Jan. 1, 1985
1200–End	8.00	Jan. 1, 1985
15 Parts:		
0–299	6.50	Jan. 1, 1985
300–399	13.00	Jan. 1, 1985
400–End	12.00	Jan. 1, 1985
16 Parts:		
0–149	9.00	Jan. 1, 1985
150–999	10.00	Jan. 1, 1985
1000–End	13.00	Jan. 1, 1985
17 Parts:		
1–239	20.00	Apr. 1, 1985
240–End	14.00	Apr. 1, 1985
18 Parts:		
1–149	12.00	Apr. 1, 1985
150–399	19.00	Apr. 1, 1985
400–End	7.00	Apr. 1, 1985
19	21.00	Apr. 1, 1985
20 Parts:		
1–399	8.00	Apr. 1, 1985
400–499	16.00	Apr. 1, 1985
500–End	18.00	Apr. 1, 1985
21 Parts:		
1–99	9.00	Apr. 1, 1985
100–169	11.00	Apr. 1, 1985
170–199	13.00	Apr. 1, 1985
200–299	4.25	Apr. 1, 1985
300–499	20.00	Apr. 1, 1985
500–599	16.00	Apr. 1, 1985
600–799	6.50	Apr. 1, 1985
800–1299	10.00	Apr. 1, 1985
1300–End	5.50	Apr. 1, 1985
22	21.00	Apr. 1, 1985
23	14.00	Apr. 1, 1985
24 Parts:		
0–199	11.00	Apr. 1, 1985
200–499	19.00	Apr. 1, 1985
500–699	6.50	Apr. 1, 1985
700–1699	13.00	Apr. 1, 1985
1700–End	9.00	Apr. 1, 1985
25	18.00	Apr. 1, 1985
26 Parts:		
§§ 1.0–1.169	21.00	Apr. 1, 1985
§§ 1.170–1.300	12.00	Apr. 1, 1985
§§ 1.301–1.400	7.50	Apr. 1, 1985
§§ 1.401–1.500	15.00	Apr. 1, 1985
§§ 1.501–1.640	12.00	[2] Apr. 1, 1984
§§ 1.641–1.850	11.00	Apr. 1, 1985
§§ 1.851–1.1200	22.00	Apr. 1, 1985
§§ 1.1201–End	22.00	Apr. 1, 1985
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600–End	4.75	Apr. 1, 1985
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200–End	13.00	Apr. 1, 1985
28	16.00	July 1, 1985
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1911–1919	5.50	[3] July 1, 1984
1920–End	20.00	July 1, 1985
30 Parts:		
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1000-End	5.50	July 1, 1985
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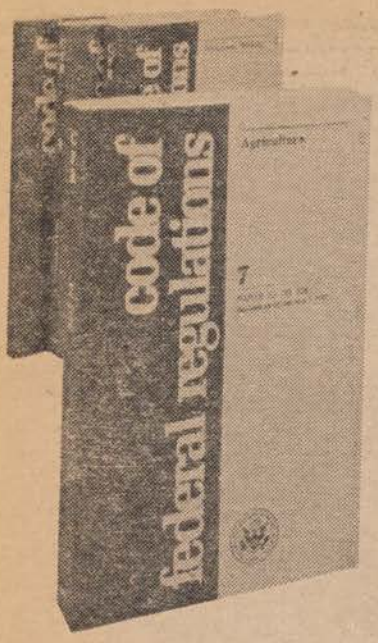
[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



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