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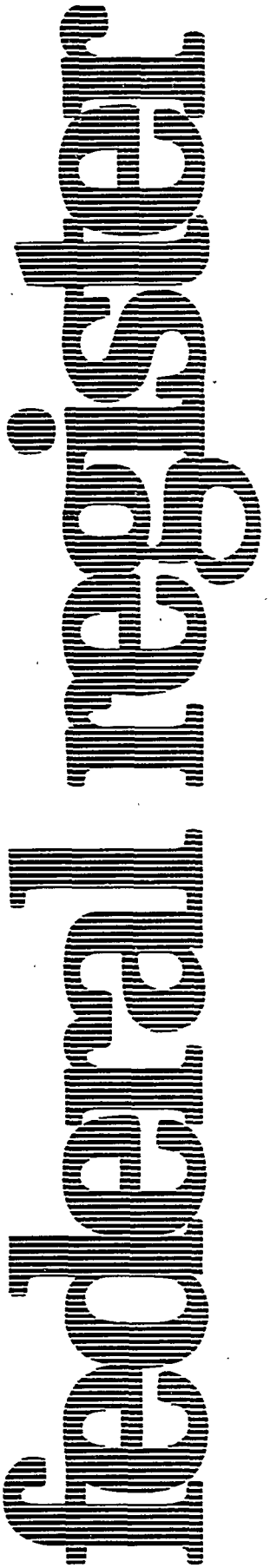

Wednesday
December 19, 1979

NOTE:

Due to a shortage of newsprint, today's Federal Register is printed on a higher quality paper. As supplies become available, the Federal Register will resume the use of newsprint.

Highlights

75091 President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research Executive Order

75093 Conservation of Petroleum and Natural Gas Executive Order

75165 Iranian Students Justice/INS extends reporting period to December 31, 1979 for students from Iran to provide information as to residence and maintenance of nonimmigrant status; effective 12-17-79

75352, 75353 Iranian Assets Treasury/Foreign Assets Control Office amends control regulations (Part VII of this issue) (2 documents)

75332 Community Development Block Grant Plan HUD/CPD proposes to make program flexible and responsive to special needs, cultural traditions and legal circumstances of Indian Tribes; comments by 2-19-80 (Part IV of this issue)

75236 Emergency School Aid HEW/OE invites applications for planning and transitional grants

75237 Emergency School Aid HEW/OE closing date for transmittal of applications for grants to nonprofit organizations is withdrawn

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Area Code 202-523-5240

Highlights

75237 **State Formula Grant Program and State Leadership Program** HEW/OE announces agreement for fiscal year 1980; apply by 1-20-80

75236 **State Student Incentive Grant Program and State Student Financial Assistance Training Program** HEW/OE specifies closing dates for receipt of applications for fiscal year 1980; apply by 1-15-80 for SSIG and 3-17-80 for SSFAT

75344 **Airborne Releases of Radioactivity** EPA recommends Protective Action Guides to President (Part V of this issue)

75143 **Aid To Families With Dependent Children** HEW/SSA issues rules requiring State AFDC agencies request and use wage information to determine eligibility for assistance; effective 12-19-79

75348 **Guaranty of Mortgage-Backed Securities** HUD/GNMA proposes amendment to establish rules covering issuers' securities marketing and trading activities; comments by 2-19-80 (Part VI of this issue)

75306 **Panama Canal** Panama Canal Commission issues rules regarding operation of waterway until termination of the treaty on December 31, 1999; effective 12-31-79 (Part III of this issue)

75183 **Unemployment Compensation** Treasury/IRS proposes regulations relating to taxation; comments by 2-18-80

75185 **Tax Reform** Treasury/IRS proposes regulations relating to time for filing gift tax returns and requesting statement explaining estate or gift valuation; comments by 2-18-80

75137 **Employment Taxes** Treasury/IRS sets forth rules with respect to employees of related corporations; applies to wages paid after 12-31-78

75104 **Emergency Agricultural Credit** USDA/FmHA issues rules to clarify and simplify the existing regulations; effective date 12-19-79

75269 **Sunshine Act Meetings**

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75302 **Part II, Interior/OSM**
75306 **Part III, Panama Canal Commission**
75332 **Part IV, HUD/CPD**
75344 **Part V, EPA**
75348 **Part VI, HUD/GNMA**
75352 **Part VII, Treasury/Foreign Assets Control Office**

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Presidential Documents

Title 3—

The President

Executive Order 12184 of December 17, 1979

Relating to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research

Public Law 95–622 established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. Appropriations to fund the work of the Commission, although authorized, have not been sought or received, but entities within the Department of Health, Education and Welfare have authority and funds which may be available to carry on activities identical to those to be undertaken by the Commission. Therefore, in order to permit these entities to support the conduct of those activities by the Commission, and under the authority vested in me as President by the Constitution of the United States, it is ordered:

1–101. There is established the President's Special Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The Special Commission established by this Order shall be constituted in accordance with and subject to the provisions of Title III of Public Law 95–622, except that it shall receive financial support, to the extent permitted by law and subject to the availability of funds, from the Department of Health, Education and Welfare. The Administrator of General Services shall provide administrative support services to the Special Commission on a reimbursable basis.

1–102. The Special Commission established by this Order shall terminate upon enactment and availability of appropriations for the Commission established by Public Law 95–622, and in any event, unless extended, no later than two years from the date of this Order. No funds transferred by the Department of Health, Education and Welfare pursuant to this Order shall be expended by either Commission following termination of the Special Commission.

Jimmy Carter

THE WHITE HOUSE,
December 17, 1979.

[FR Doc. 79–39099
Filed 12–18–79; 10:39 am]
Billing code 3195–01–M

Presidential Documents

Executive Order 12185 of December 17, 1979

Conservation of Petroleum and Natural Gas

By the authority vested in me as President of the United States of America by Section 403(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3318; Public Law 95-620) and Section 301 of Title 3 of the United States Code, in order to encourage additional conservation of petroleum and natural gas by recipients of Federal financial assistance, it is hereby ordered as follows:

1-101. Each Federal agency, as that term is defined in Section 103(a)(25) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3297), shall effectuate through its financial assistance programs the purposes of that Act relating to the conservation of petroleum and natural gas.

1-102. Each Federal agency which extends financial assistance shall review those programs of financial assistance and identify those which are most likely to offer opportunities for significant conservation of petroleum and natural gas.

1-103. Within two months, and annually thereafter, each agency shall publish for comment a list of those programs which it has identified as likely to offer significant opportunity for conservation. The public shall be given 60 days to submit comments, including suggestions for rules which would effectuate the conservation purposes of the Act.

1-104. After receiving public comment and suggestions, and after consulting with the Director of the Office of Management and Budget; each agency shall publish proposed rules designed to achieve conservation of petroleum and natural gas in connection with the receipt of financial assistance.

Proposed rules should be published within 30 days of the close of the comment period under Section 1-103.

1-105. Final rules shall be adopted by each agency in accordance with the provisions of Sections 102(b), 403(b) and 701(a) of the Powerplant and Industrial Fuel Use Act of 1978, and the provisions of this Order, not later than 180 days from the date of this Order.

1-106. No one shall be awarded any financial assistance unless that award complies with the provisions of the conservation rules adopted by the agency pursuant to this Order.

1-107. To the extent permitted by law and where not inconsistent with the financial assistance program, final rules may provide for the reduction or suspension of financial assistance under any award. Such reduction or suspension shall not be ordered until there has been an opportunity for a hearing on the record, and shall last for such time as the recipient fails to comply with the terms of the conservation rule.

1-108. No conservation rule shall be adopted which is inconsistent with the statutory provisions establishing the financial assistance program.

1-109. No conservation rule shall be used to enforce compliance with any prohibition under the Act against any person or facility which has been specifically determined by the Secretary of Energy as subject to or exempt from a prohibition under the Act. The conservation rules shall be used to enforce other new ways of achieving the purposes of the Act related to the conservation of petroleum and natural gas.

1–110. In order to assess the effectiveness of this program, each agency shall annually prepare a report on its activities in accord with Section 403(b)(1)(B) of the Act. These reports shall be submitted to the President through the Secretary of Energy.

1–111. The Secretary of Energy shall prepare for the President's consideration and transmittal to the Congress the report required by Section 403(c) of the Act.

1–112. The Director of the Office of Management and Budget may issue any rules, regulations, or orders he deems necessary to ensure the implementation of this Order. The Director may exercise any of the authority vested in the President by Section 403(b) of the Act, and may redelegate such of that authority as he deems appropriate to the head of any other agency.

Jimmy Carter

THE WHITE HOUSE,
December 17, 1979.

[FR Doc. 79–39100
Filed 12–18–79; 10:40 am]
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 435

Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule

SUMMARY: This rule prescribes procedures for insuring tobacco under the "Quota Plan" effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring tobacco in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 19, 1979.

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

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the Federal Register on October 25, 1979 (44 FR 61359), outlining prescribed procedures for insuring tobacco under the "Quota Plan" effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 435 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring tobacco under the "Quota Plan" effective with the 1980 crop year to be known as 7 CFR Part 435 Tobacco (Quota Plan) Crop Insurance.

All previous regulations applicable to insuring tobacco crops under the "Quota Plan" as found 7 CFR 401.101–401.111, and 401.148 and 150, will not be applicable to 1980 and succeeding tobacco crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) tobacco insurance policies issued under the "Quota Plan" for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring tobacco crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition 7 CFR Part 435 provides: (1) For a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) That any premium not paid by the termination date will be increased by a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) That the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) That the 60-day time period for filing a claim be eliminated, (5) That three coverage level options be offered in each county, (6) That the cancellation date be changed to December 31 to coincide with all other spring crops in the tobacco area, (7) For an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 435.5 of these regulations, wherein the Manager of the Corporation is authorized to take action to grant relief and (8) That the warehouse charges shall be 6 cents for burley and 4 cents for all other types, which more nearly reflects current warehouse charges.

Under the provisions of Executive Order No. 12044, and the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where tobacco crop insurance is available in accordance with the provisions of 7 CFR 435.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the rulemaking process would be impracticable, unnecessary, and contrary to the public interest.

Therefore, Appendix "B" is issued without compliance with such procedure.

Part 401—Federal Crop Insurance

§§ 401.148 and 401.150 [Reserved]

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 deletes and reserves 7 CFR 401.148 and 401.150, with the provisions contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 435 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 435) to be known as the Tobacco (Quota Plan) Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 435—QUOTA PLAN OF TOBACCO CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

435.1 Availability of the Quota Plan of Tobacco Insurance.
435.2 Premium rates, amounts of insurance, and coverage levels.
435.3 Public notice of indemnities paid.
435.4 Creditors.
435.5 Good faith reliance on misrepresentation.
435.6 The contract.
435.7 The application and policy.
Appendix B—Counties designated for Quota Plan Crop Insurance.

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

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 435.1 Availability of the Quota Plan of Tobacco Insurance.

Insurance shall be offered under the provisions of this subpart on tobacco 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. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which the quota plan of tobacco insurance will be offered.

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

(a) The Manager shall establish premium rates and coverage levels for tobacco which shall be shown on the country actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level from among those levels shown on the actuarial table for the crop year.

§ 435.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 435.4 Creditors.

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

§ 435.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the quota plan of tobacco insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 435.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 435.7 The application and policy.

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

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

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and the Quota Plan of Tobacco Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Quota Plan of Tobacco Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Quota Plan of Tobacco Crop Insurance Contract

(Contract) _____
(Identification Number) _____
Name and Address _____
Zip Code _____
County _____
State _____
Type of Entity _____
Applicant is over 18 Yes——No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the tobacco planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level. THE PREMIUM RATES AND COVERAGE LEVELS SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR. LEVEL ELECTION_____

Example: For the 19— Crop Year Only

Location/ farm No.	Insured poundage quota*	Pounds of quota insured	Amount of insurance	Premium per $100**	Practice

* Subject to the limitations provided in subsection 2(c)(2) of the policy.

** Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED

as provided in the contract. This accepted application, the following quota plan of tobacco insurance policy, the attached appendix, and the provisions of the county actuarial table showing the coverage levels, premium rates, and any uninsurable acreage, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
Code No./Witness To Signature ————

Date ————, 19——
Address of Office for County: ————

Phone ————
Location of Farm Headquarters: ————

Phone ————

Quota Plan of Tobacco Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop, Acreage and Insured Poundage Quota.* (a) The crop insured shall be tobacco of the type shown as insurable on the actuarial table and which is grown on insured acreage and for which the actuarial table shows a premium rate.

(b) The acreage insured for each crop year shall be that acreage planted to an insurable tobacco type in the county and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) on which it is determined by the Corporation that the tobacco was destroyed for the purpose conforming with any other program administered by the United States Department of Agriculture, (3) which is destroyed and after such destruction it was practical to replant to tobacco and such acreage was not replanted, (4) which is designated as noninsurable on the actuarial table, (5) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (6) planted to tobacco of a discount variety under the provisions of the tobacco price support program, (7) planted to a type or variety of tobacco not established as adapted to the area or shown as noninsurable on the actuarial table, or (8) planted for experimental purposes.

(c) The insured poundage quota shall be the effective poundage marketing quota applicable to the unit for the current crop year as provided under ASCS Tobacco Marketing Quota Regulations including any additional quota the insured intends to obtain later for the unit for the current crop year, as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided, however,* That (1) such poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit when such poundage reduction is clearly specified by the insured in filing the acreage and quota report, (2) the insured poundage quota shall never exceed the pounds obtained by multiplying the insured acreage by the applicable farm yield per acre, and (3) unless otherwise provided on the actuarial table, for any crop year in which tobacco poundage marketing quota regulations are not in effect, the insured poundage quota shall be the pounds obtained by multiplying the applicable farm yield per acre times the lower of the reported or insured acreage on the unit.

3. *Responsibility of Insured To Report Acreage, Share and Poundage Quota.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of insurable types of tobacco planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share, (b) the insured's share therein at the time of planting, and (c) the effective poundage marketing quota applicable to the unit for the current crop year as provided under ASCS Tobacco Marketing Quota Regulations including any additional quota the insured intends to obtain later for the unit for the current crop year. Such poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit provided such poundage reduction is clearly specified in filing the acreage and quota report. The quota so reported shall not be subject to change by the insured. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Amounts of Insurance and Coverage Levels.* (a) For each crop year of the contract, the coverage levels shall be as provided on the actuarial table.

(b) The amount of insurance for a unit shall be the dollar amount determined by multiplying the insured poundage quota for the unit by the percentage guarantee for the applicable coverage level shown on the actuarial table for this purpose and multiplying this result (1) by the current year's support price for type 31 (rounded to the nearest cent) less six cents per pound for warehouse charges, or (2) by the previous year's support price for all other types (rounded to the nearest cent) less four cents per pound for warehouse charges.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the dollar amount of insurance for the unit times the applicable premium rate, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach at the time the tobacco is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) weighing-in at the tobacco warehouse, (c) removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), (d) total destruction of the insured tobacco crop, or (e) the applicable date set forth below, according to type of tobacco, immediately following the normal harvest period:

Type of tobacco:	
13	Oct. 31
14	Sept. 30
31	Feb. 28

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the tobacco on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to tobacco. Notice shall also be given when such acreage has been put to another use.

(c) Notice shall be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(d) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice shall be given to allow the Corporation sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(e) For any unit of tobacco of type 13 or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed before such notice would otherwise be required under the contract, notice of loss shall be given the Corporation upon completion of harvest. The tobacco stalks shall not be destroyed until consent is given by the Corporation.

(f) In addition to the notices required in subsections (b), (c), (d), and (e) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date marketing or other disposal of the insured tobacco is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire tobacco crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(g) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(h) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of tobacco on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by subtracting from the amount of insurance for the unit the value of the total production to be counted for the unit and multiplying the remainder by the insured share.

(c) The value of the total production to be counted for a unit shall be determined by the Corporation and shall include the value of all harvested and appraised production.

(1) The value of appraised production to be counted shall include: (i) the value of any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) not less than the average amount of insurance per insured acre for the unit for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) not less than 35 percent of the average amount of insurance per insured acre for the unit for all other unharvested acreage. However, if the Corporation determines that the insured harvested tobacco with a value in excess of the amount of insurance from a unit, and such production is subsequently destroyed or damaged before the end of the insurance period by an insured cause, no appraisals for unharvested production shall be charged as production to count unless the Corporation determines that such production could have been harvested after the loss occurrence.

(2) Production to count shall be valued as follows: (i) the gross returns (less actual warehouse charges) from tobacco sold on the warehouse floor, (ii) the fair market value, as determined by the Corporation, of the tobacco sold other than on the warehouse floor, (iii) the fair market value, as determined by the Corporation, of the tobacco harvested and not sold, (iv) the fair market value, as determined by the Corporation, of any unharvested tobacco as if such tobacco were harvested and cured, and (v) the current year's support price per pound less warehouse charges as provided in section 4(b) for appraisals made by the Corporation for poor farming practices or uninsured causes of loss: *Provided, however,* That if a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year.

(d) To enable the Corporation to determine the fair market value of tobacco not sold through auction warehouses, the Corporation shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of by the insured and, if the best offer received by the insured for any such tobacco is considered by the Corporation to be

inadequate, to obtain additional offers therefor on behalf of the insured.

(e) The stalks on any insured acreage of tobacco types 13 or 14 shall not be destroyed until consent is given by the Corporation. For any such acreage on which the stalks have been destroyed prior to such consent, the Corporation reserves the right to make an appraisal on such acreage of not less than the average amount of insurance per insured acre for the unit.

(f) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of tobacco becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Other Insurance Against Fire.* If the insured has other insurance, whether valid or not, against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of either (a) the amount of indemnity determined pursuant to this contract without regard to any other insurance, or (b) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

10. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

12. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

13. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

States	Cancellation Date	Termination Date of Indebtedness
All States	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additional Terms and Conditions

1. *Meaning of Terms.* For the purposes of the quota plan of tobacco crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the coverage levels, premium rates, and any uninsurable acreage, and related information regarding tobacco insurance in the county.

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

(c) "Carryover tobacco" means any tobacco on hand from a previous year's production.

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

(e) "Crop year" means the period within which the tobacco crop is normally grown and shall be designated by the calendar year in which the tobacco crop is normally harvested.

(f) "Farm yield" means the yield per acre used by ASCS in establishing the basic farm marketing poundage quota for the tobacco farm, unless the Corporation has established a yield for the farm on the county actuarial table.

(g) "Harvest" means cutting or priming of at least 20 percent of the amount of tobacco in pounds per acre obtained by multiplying the applicable insured poundage quota for the unit by the applicable percentage of guarantee shown on the actuarial table for such acreage and dividing this result by the insured acres in the unit.

(h) "Insurable acreage" means that acreage planted to an insurable type of tobacco excluding any acreage designated as noninsurable on the actuarial table.

(i) "Insured" means the person who submitted the application accepted by the Corporation.

(j) "Market price," for a crop year means the average auction price for the applicable type of tobacco (less actual warehouse charges) in the belt or area, as determined by the Corporation. The market price when determined by the Corporation shall be filed in the office for the county with the actuarial table.

(k) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be determined by the Corporation

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

(m) "Planting" means transplanting the tobacco plant from the bed to the field.

(n) "Effective farm marketing quota" means the farm marketing quota as established and recorded by ASCS.

(o) "Rounded" means rounding up for ½ and above and rounding down for less than ½.

(p) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured tobacco crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(q) "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program: *Provided, however,* That for any crop year in which a price support for the insured type is not in effect, the market price for that crop year shall be used in lieu thereof.

(r) "Tenant" means a person who rents land from another person for a share of the tobacco crop or proceeds therefrom.

(s) "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single poundage marketing quota for the insurable type of tobacco is established and at the time of planting (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis: *Provided, however,* That where a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the above words "planted on a farm or farms for which a single poundage marketing quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco crop on such land shall be considered as owned by the lessee. Poundage quotas leased and combined with other quotas under a leasing arrangement providing compensation to the lessor on some other basis than a specified share in the production from a unit shall be considered to be the 100 percent interest of the lessee. Land which would otherwise be one unit may be divided by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of tobacco to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of tobacco.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where acreage is insurable on an irrigated basis, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply: *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured tobacco acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

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

8. *Coverage Level.* (a) if the insured has not elected on the application a coverage level from among those shown on the actuarial table, the coverage level which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13 of the policy.

Appendix "B"

Counties Designated for Quota Plan Crop Insurance—7 CFR Part 435

In accordance with the provisions of 7 CFR Part 435.1, the following counties are designated for Quota Plan tobacco insurance:

State and county	Type(s)
Florida:	
Alachua	14
Columbia	14
Hamilton	14
Madison	14
Suwannee	14

State and county	Type(s)
Indiana:	
Clark	31
Harrison	31
Jennings	31
Spencer	31
Washington	31
Kentucky:	
Adair	31
Allen	31
Anderson	31
Ballard	31
Barren	31
Bath	31
Boone	31
Bourbon	31
Boyle	31
Bracken	31
Breckinridge	31
Caldwell	31
Carroll	31
Casey	31
Christian	31
Clark	31
Daviess	31
Fayette	31
Fleming	31
Franklin	31
Garrard	31
Grant	31
Graves	31
Green	31
Hardin	31
Harrison	31
Hart	31
Henderson	31
Henry	31
Hopkins	31
Jessamine	31
Larue	31
Lewis	31
Lincoln	31
Logan	31
McLean	31
Madison	31
Marion	31
Marshall	31
Mason	31
Meade	31
Mercer	31
Metcalfe	31
Montgomery	31
Muhlenburg	31
Nelson	31
Nicholas	31
Ohio	31
Owen	31
Pendleton	31
Pulaski	31
Robertson	31
Russell	31
Scott	31
Shelby	31
Simpson	31
Spencer	31
Taylor	31
Todd	31
Trigg	31
Warren	31
Washington	31
Wayne	31
Webster	31
Woodford	31
Missouri:	
Buchanan	31
Platte	31
North Carolina:	
Ashe	31
Buncombe	31
Haywood	31
Madison	31
Mitchell	31
Watauga	31
Yancey	31
Ohio:	
Adams	31
Brown	31
Clermont	31
Highland	31
South Carolina:	
Chesterfield	13
Clarendon	13
Darlington	13
Dillon	13
Dorchester	13
Florence	13
Georgetown	13
Horry	13
Kershaw	13
Lee	13
Marion	13
Marlboro	13
Orangeburg	13
Sumter	13
Williamsburg	13
Tennessee:	
Anderson	31
Blount	31
Carter	31
Claiborne	31
Cocke	31
De Kalb	31
Dickson	31
Franklin	31
Giles	31
Grainger	31
Greene	31
Hamblen	31
Hancock	31
Hawkins	31
Jackson	31
Jefferson	31
Johnson	31
Knox	31
Lawrence	31
Lincoln	31
Loudon	31
McMinn	31
Macon	31
Marshall	31
Maury	31
Monroe	31
Montgomery	31
Putnam	31
Robertson	31
Sevier	31
Smith	31
Stewart	31
Sullivan	31
Sumner	31
Trousdale	31
Unicoi	31
Washington	31
White	31
Williamson	31
Wilson	31
Virginia:	
Lee	31
Russell	31
Scott	31
Smyth	31
Washington	31

These regulations have been reviewed under the USDA Criteria established to implement Executive Order No. 12044, "Improving Government Regulations". A determination has been made that this action should not be classified as "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A40.

Date: December 12, 1979.

Approved by:

George F. Vohs,

Acting Manager.

[FR Doc. 79-38881 Filed 12-18-79; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 906

Oranges and Grapefruit Grown in Texas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This final rule amends the rules and regulations governing the exemption of certain special purpose shipments of Texas oranges and grapefruit from assessments, regulations, and inspection and certification requirements prescribed under the marketing order. The amendment is designed to facilitate the handling of fruit for relief, charity, and home use and provide adequate safeguards to assure that the fruit does not enter commercial fresh market channels.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This final rule is issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Texas Valley Citrus Committee, and upon other information. Notice of this proposed amendment was published in the November 23, 1979, issue of the Federal Register (44 FR 67130). No comments were received during the 15 days provided in the notice.

The amended provisions are designed to facilitate the movement of relatively small quantities of fruit for home use, relief, and charity out of the production area, and provide adequate safeguards to assure that the fruit does not enter commercial fresh market outlets.

The amendment would exempt the handling of oranges and grapefruit for home use from the requirements of § 906.34 (assessments), § 906.40 (issuance of regulations), and § 906.45 (inspection and certification) and regulations thereunder. Currently, § 906.120 provides for the exemption of fruit for relief or charity from the requirements provided that the handler notifies the committee of the proposed handling and furnishes a statement that

the fruit will not enter fresh market channels. As amended, § 906.120 would require each person to apply to the committee for a certificate of privilege prior to handling fruit for home use, relief or charity exempt from the specified regulations. The procedure would be similar to that currently prescribed in § 906.120(e) which is applicable to the handling of fruit in certain specified containers. The amended rule would specify the type of information which would be required to be furnished to the committee by each applicant. The committee would consider each application and notify the applicant of the action taken on the application and the basis for denial of any application. The amendment also makes a number of minor revisions in the rule for purposes of clarification.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that this amendment, as hereinafter set forth, is necessary and in accordance with this marketing agreement and order, and will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553), and good cause exists for making the provisions effective as hereinafter set forth, in that (1) 1979–80 season Texas orange and grapefruit shipments are currently underway, and the provision exempting home use shipments is currently needed to permit such shipments; (2) this amendment is based upon recommendations developed by the committee at a public meeting at which all interested persons were given an opportunity to express their views; (3) notice of this proposed amendment was published in the November 23, 1979, issue of the Federal Register (44 FR 67130), and no comments were received during the 15 days provided; (4) these regulatory provisions are the same as those proposed in the notice; and (5) this amendment relieves requirements for fruit handled for home use under exemption provisions.

This final rule has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Telephone: (202) 447–5975.

Accordingly, Subpart—Rules and Regulations (7 CFR 906.100 *et seq.*) is amended by revising paragraphs (a), (c), (d), and (e) and by deleting paragraph (f) of § 906.120, to read as follows:

§ 906.120 Fruit exempt from regulation.

(a) *Minimum quantity.* Any person or the occupants of any one vehicle may ship fruit from the production area during any one day exempt from the requirements of §§ 906.34, 906.40, and 906.45, and regulations issued thereunder: *Provided,* That the shipment does not exceed 400 pounds of fruit (either oranges or grapefruit or a combination of both), it consists solely of fruit not for resale, and it is not part of a shipment of fruit exceeding 400 pounds.

* * * * *

(c) *Special purpose shipments and safeguards.* (1) Fruit may be handled for relief, charity, or home use exempt from the requirements of §§ 906.34, 906.40, and 906.45 and the regulations issued thereunder: *Provided,* That the fruit shall not be offered for resale, and the handler submits, prior to any such handling, an application to the committee on forms provided by the committee. The application shall contain the name and address of the handler and such other information that the committee may require including, but not limited to, the quantity of fruit involved, license number of the conveyance, and supporting documentation. Approval of the application by the committee shall be evidenced by the issuance of a certificate of privilege to the applicant in accordance with paragraph (d).

(2) Gift packages of fruit handled pursuant to § 906.41 shall be in containers stamped or marked with the handler's name and address.

(3) Fruit may be handled exempt from regulations issued pursuant to § 906.40(d), if the following conditions are met:

(i) Each fiscal period the handler submits prior to such handling a written application to the committee on forms provided by the committee. The application shall contain the name and address of the handler, and a description of the container or containers in which such fruit would be handled.

(ii) The fruit grades at least U.S. No. 1.

(iii) The fruit is handled in closed fully telescopic fiberboard cartons with inside dimensions of 16½ x 10¾ x 10½ inches which are packed level full, and the cover and bottom section have a Mullen or Cady test of at least 250 pounds; in six-packs; in 12-packs; in baskets of a capacity of 1 bushel or less; or in any of the containers authorized under § 906.340, provided they are stamped or marked "special purpose shipment".

(iv) Each handler shall file a report with the committee within 1 business day after each shipment handled pursuant to paragraph (c)(3). Such report shall contain the name and address of the handler; date fruit is handled; the number and type of containers and packs in such shipment; the inspection certificate numbers applicable to such shipment; name and address of the purchaser; and the license number of the truck, trailer, or automobile, as the case may be, in which the shipment was loaded.

(d) The committee or its duly authorized agents, shall approve or deny each handler's request to handle fruit under paragraph (c)(1) and (c)(3) of this section and promptly notify such handler in writing of its decision: *Provided,* That if it approves a handler's request, it shall issue a certificate of privilege as provided in § 906.44, but if it denies a request it shall advise the handler why the application was denied. The committee may rescind a certificate of privilege issued to a handler, or deny a certificate of privilege to a handler upon proof satisfactory to the committee that such handler has shipped fruit contrary to the provisions of this part. Such action denying a certificate of privilege shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has had a certificate of privilege rescinded or denied may file a written appeal with the committee for reconsideration.

(e) *Meaning of terms.* When used herein, the term "bushel" means a unit of measure equivalent to 2,150.42 cubic inches; the term "level full" means that the fruit is level with the top edge of the bottom section of the carton; the term "six-pack" means any container with a capacity of one-eighth of a bushel; the term "12-pack" means any container with a capacity of one-fourth of a bushel; the term "basket" means any container made of interwoven material; the term "closed" means closed in accordance with good commercial practices; and the term "U.S. No. 1" means the same as in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.680–712), or the U.S. Standards for Grapefruit (Texas and States other than Flordia, California, and Arizona) (7 CFR 2851.620–653), as applicable.

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

Dated, December 14, 1979, to become effective December 19, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-38838 Filed 12-18-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1945 and 1980

Economic Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning economic emergency (EE) loans. The action is required to insert a requirement inadvertently omitted when the regulation was initially issued and to clarify and simplify the existing regulations in response to comments received when these regulations were originally published. Revisions include minor additions, deletions and editorial changes.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. William Krause, 202-447-6257.

SUPPLEMENTARY INFORMATION: On August 11, 1978, there was published in the Federal Register at page 35648 a notice of final rulemaking involving the addition of new Subparts 1945-C and 1980-F, "Economic Emergency Loans", in Chapter XVIII, Title 7 in the Code of Federal Regulations. This final rule added regulations concerning guaranteed and insured EE loans. This action was taken to implement the Emergency Agricultural Credit Adjustment Act of 1978 (Title II of P.L. 95-334). Comments were received from individuals and organizations and revisions have been made to incorporate a number of the comments. Some of the individuals were FmHA personnel, others were members of the public.

Sections 1945.101, 1945.104, 1945.105, 1945.111, 1945.112, 1945.116, and 1945.119; 1980.501, 1980.504, 1980.511, 1980.512, 1980.514, 1980.516, 1980.517, 1980.518, 1980.520, 1980.548 and 1980.549 were revised as a result of comments received.

Other sections were revised to incorporate working or editorial changes. Sections 1945.112 (d) and 1980.112 (d) were changed to comply with the Emergency Agricultural Credit Adjustment Act of 1978.

The major changes in the EE loan program reflected in Subpart C of Part 1945 and Subpart F of Part 1980 are as follows:

(1) 1945-C and 1980-F. Reword the regulations to make them more clear, in accordance with Executive Order 12044.

(2) Sections 1945.101 and 1980.501. Set forth the existing FmHA policy that qualified applicants will not be denied a loan on the basis of a discriminatory action.

(3) Sections 1945.104 and 1980.504.

Eliminate the requirement that a corporation be created and organized under the laws of the State where the farm is operated, and substitute the requirement that a corporation must be recognized as such under the laws of the State in which the corporation will operate a farm. Require a partnership to be able to own both real and personal property and incur debts in its own name prior to receipt of FmHA financial assistance.

(4) Sections 1945.105 and 1980.512. Require that the applicant's entire equity be considered when determining ability to obtain credit from other sources.

(5) Sections 1945.111 and 1980.511. Require that a statement setting forth the terms and conditions of verbal leases be included in the loan docket.

Rearrange the sequence of and restate the requirements to be completed under the Preliminary Application and the Final Application. Under Completed Application, add "minimum working capital requirements" and require a "minimum debt to net worth ratio".

(6) Sections 1945.112 and 1980.512. Allow individual loan applicant(s), to be determined bona fide farmer(s) "primarily and directly engaged in agricultural production," if the applicant(s) derives more than 50 percent of the gross income from the applicant's own agricultural production *or* more than 50 percent of the time required to operate the farm is provided by the applicant or family members of the applicant.

Specify that an individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to be an eligible farmer for EE loan purposes.

If the applicant chooses to organize the farm as an eligible entity, then the loan may be considered by the agency.

Specify that, in determining eligibility for EE loans, farmers who operate through contract or business arrangements with an integrated processor(s) are considered to be "bona fide" farmers, ranchers or aquaculture operators provided the operation is recognized in the community as a farm, ranch or aquaculture operation and the other eligibility criteria are met.

Specify that integrated livestock, poultry and fish processors who operate primarily and directly as commercial businesses through contracts or business arrangements with farmers, ranchers and aquaculture operators are not considered to be bona fide farmers, ranchers or aquaculture operators and, therefore, are not eligible for EE loans.

Require that an applicant possess the character, industry and ability to carry out the operation. These requirements are imposed by the Emergency Agricultural Credit Adjustment Act of 1978.

(7) Section 1980.514. Sets forth the lender's responsibilities where construction is involved on guaranteed EE loans.

(8) Section 1945.116 and 1980.516. Authorize EE loan funds for operating purposes to be used for payment of "hedging" costs including brokerage fees, margin requirements and margin calls in connection with a futures contract for non-speculative purposes for a specific commodity being produced when it is a customary practice among farmers in the locality. Clarify that it is not intended for EE loan funds to be used for fees charged applicants by agricultural management consultants and other professionals for preparation of EE loan dockets including Farm and Home plans and other FmHA forms used in processing such loans.

Authorizes EE loan funds for payment of loan closing costs. Authorize, under real estate purposes, changing or reorganizing the farming operation so it will be an economically viable operating unit.

(9) Section 1980.517. States that guaranteed EE loan funds will not be used as part of a compensating balance, i.e. required minimum balance.

(10) Section 1945.117 prohibits insured EE loans made to totally refinance intermediate and long-term loans.

(11) Section 1980.517 and 1945.117 prohibit use of loan funds to buy or build or repair a borrower's personal dwelling. Clarify relationship of EE loans with other FmHA insured or guaranteed loans.

(12) Section 1980.518. Eliminates the requirement that variable interest rates on guaranteed EE loans may change no more frequently than quarterly. The change allows variable rates to change according to the practices of the lender for its "best farm customers," as this term is defined in the regulation.

(13) Section 1945.119 and 1980.518. Clarify the regulations on consolidating, rescheduling, reamortizing or deferring EE loans.

(14) Section 1980.520. Provides for the use of "supervised accounts" rather than

"escrow accounts" by lenders in EE guaranteed loan cases involving loan note guarantees.

(15) Section 1980.548. Removes the requirement for quarterly financial statements in guaranteed EE loan cases and now requires only annual financial statements.

(16) 1980.577. Eliminates the partial transfer of debts. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These changes, however, are not published for proposed rulemaking; it is unnecessary to do so, because the purpose is only to enhance the effectiveness and efficiency of the delivery system of insured and guaranteed EE loans. This determination has been made by William K. Krause, Director, Emergency Loan Division. Therefore, Subpart C of Part 1945 and Subpart F of Part 1980 including §§ 1980.501–1980.600 and Appendices A and E are amended as follows:

PART 1945—EMERGENCY

* * * * *

Subpart C—Economic Emergency Loans

Sec.
1945.101 Introduction.
1945.102 Program objectives.
1945.103 [Reserved]
1945.104 Definitions and abbreviations.
1945.105 Credit elsewhere.
1945.106–1945.110 [Reserved]
1945.111 Receiving and processing applications.
1945.112 Eligibility.
1945.113 County Committee review.
1945.114 Planning, development, and appraisals.
1945.115 [Reserved]
1945.116 Loan purposes.
1945.117 Loan limitations and special provisions.
1945.118 Loan rates and terms.
1945.119 Consolidation, rescheduling, reamortization, and deferral.
1945.120 Collateral requirements.
1945.121 [Reserved]
1945.122 Revision of the use of loan funds.
1945.123 General provisions—compliance requirements.
1945.124–125 [Reserved]
1945.126 Cancellation of loan checks and advances.
1945.127 Increase or decrease in amount of loan.
1945.128 Docket preparation.
1945.129 Approval and closing.
1945.130–1945.134 [Reserved]
1945.135 Loan servicing.
1945.136 Graduation.
1945.137–1945.145 [Reserved]
1945.146 Memoranda of Understanding.
1945.147 State supplements.
1945.148 FmHA Forms.
Sec.
1945.149 Additional loans.
1945.150 General provisions.
Exhibit A—Processing Guide—Insured Economic Emergency (EE) Loans.

Subpart C—Economic Emergency Loans

§ 1945.101 Introduction.

(a) *Policy.* This Subpart contains regulations for making and servicing Economic Emergency (EE) loans made after August 11, 1978, and applies to borrowers, Farmers Home Administration (FmHA) personnel, and other parties involved in making, servicing, or liquidating such loans. It is the policy of FmHA to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age or physical/mental handicap providing the applicant can execute a legal contract.

(b) *Program administration.* The County Supervisor is the local contact person for processing and servicing activities.

§ 1945.102 Program objectives.

The objective of EE loans is to make adequate financial assistance available during the period authorized by Title II of Public Law 95–334 (authority expires May 15, 1980) in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit due to national or area wide economic stress such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. *It is the policy of FmHA to consider making insured EE loans only when guaranteed EE loans are not available through a local conventional agricultural lender.*

§ 1945.103 [Reserved]

§ 1945.104 Definitions and abbreviations.

(a) *Definitions.* (1) *Act.* Emergency Agricultrual Credit Adjustment Act of 1978 (Title II of Pub. L. 95–334).

(2) *Applicant.* The person or entity carrying on the farming operation and desiring EE loan assistance from FmHA.

(3) *Approval official.* A FmHA field offical who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA Office (see Subpart A of Part 1901 of this Chapter, Exhibit C).

(4) *Aquaculture.* The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mullusk, crustacean (or other invertebrate), amphibian, reptile, or aquatic plant.

(5) *Borrower.* All parties liable for the loan or any part thereof.

(6) *Consolidate.* To combine and reschedule the rates and terms of two or more EE loans made for operating purposes. This also may include a new EE loan made for operating purposes.

(7) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) where the entity will operate a farm(s).

(8) *Corporation.* A private domestic corporation recognized as a corporation by the laws of the State(s) where the corporation will operate a farm(s).

(9) *Deferment.* To postpone the payment of interest in part and/or principal in whole or in part.

(10) *Economic emergency.* A condition resulting from (i) a general tightening of agricultural credit, or (ii) an unfavorable relationship between production costs and prices received for agricultural commodities, which has resulted in widespread need among farmers for temporary credit.

(11) *Family farm.* A farm which: (i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(ii) Provides enough agricultural income by itself, including rented land, or together with any other dependable income to enable the borrower to:

(A) Pay necessary family and operating expenses.

(B) Maintain essential chattel and real property.

(C) Pay debts.

(iii) Is managed by:

(A) The borrower when a loan is made to an individual.

(B) The member(s), stockholder(s) or partner(s) responsible for operating the farm when a loan is made to a cooperative, corporation or partnership.

(iv) Has a substantial amount of the labor requirements for the farm and nonfarm enterprise provided by:

(A) The borrower and any family of the borrower for a loan made to an individual.

(B) The member(s), stockholder(s) or partner(s) who are responsible for operating a farm and the families of the member(s), stockholder(s) or partner(s),

for a loan made to a cooperative, corporation or partnership.

(v) May require a reasonable amount of full-time hired labor and seasonal labor during peakload periods.

(12) *Farm.* A tract or tracts of land, improvement, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (a)(4) of this section. It will also include a residence which, although physically separate from the farm acreage, is ordinarily considered as part of the farm in the local community.

(13) *Farmer.* An individual, cooperative, corporation or partnership that is a farmer, rancher, or aquaculture operator.

(14) *Farmers Home Administration.* The United States of America, acting through the Farmers Home Administration, an agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, District Director, County Supervisor, or other FmHA office or official should be read as prefaced by "FmHA."

(15) *Farming or farm enterprises.* The business of producing crops, livestock products, and aquatic organisms through the utilization and management of land, water, labor, capital, and basic raw materials including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(16) *Hazard insurance.* Includes coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, vehicles, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

(17) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation or partnership.

(18) *Market value.* The amount which a willing buyer would pay a willing but not forced seller in a completely voluntary sale.

(19) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(20) *Partnership.* An entity consisting of members who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(21) *Principal member, stockholder or partner.* Any member, stockholder or partner owning or controlling a 10 percent interest in a cooperative, corporation or partnership. If no member, stockholder or partner owns or controls at least a 10 percent interest, all members, stockholders or partners will be considered principal members, principal stockholders, or principal partners.

(22) *Reamortize.* To rearrange the installments of an EE loan made for real estate purposes within the remaining years of the original repayment period, or, when the repayment period has been extended to the maximum statutory repayment limit, within those years.

(23) *Reschedule.* To rewrite the rates and/or terms of EE loans made for operating purposes.

(24) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral shall be considered a reference to the term "security."

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animal and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) *Normal income security.* All security planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(iii) *Additional security.* All security not covered by paragraphs (a)(24) (i) or (ii) of this section.

(25) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) *Abbreviations.* The following abbreviations are applicable:

(1) *EL*—Emergency Livestock Loans
(2) *EM*—Emergency Loans
(3) *FMI*—Forms Manual Insert
(4) *FO*—Farm Ownership Loans
(5) *OGC*—Office of the General Counsel
(6) *OL*—Operating Loans
(7) *RH*—Rural Housing Loans
(8) *RL*—Recreation Loans
(9) *SW*—Soil and Water Loans
(10) *USDA*—United States Department of Agriculture.

§ 1945.105 Credit elsewhere.

The applicant shall certify in writing on the application form, and the County Supervisor shall confirm, that the applicant is unable to obtain sufficient credit from its normal agricultural lender(s) including a FmHA guaranteed loan to finance the actual needs at rates and terms that will allow the applicant to continue the farming operation. The applicant's equity in real estate, chattels and other assets will be considered in determining ability to obtain such credit from other sources.

(a) The review of the application must indicate that, based on the County Supervisor's knowledge of the applicant's normal lender's program, there is no possibility for the applicant to obtain needed credit from its normal lender(s). This conclusion and the basis for it will be recorded in the running case record and further checks will not be necessary.

(b) If the County Supervisor questions whether or not the applicant may be able to obtain the needed credit from its normal lender(s), that lender will be contacted and the findings and conclusions recorded in the running case record.

(c) If the County Supervisor receives letters or other written evidence from the applicant's normal lender(s) indicating that the applicant is able or unable to obtain the credit needed at rates and terms that will permit the applicant to maintain a viable operation, this will be included in the loan docket.

§§ 1945.106–1945.110 [Reserved]

§ 1945.111 Receiving and processing applications.

Applications will be received and processed in accordance with Subpart A of Part 1910 of this Chapter. Form FmHA 410–1, "Application for FmHA Services," will be used for this purpose. The application may be processed for other loans when appropriate. An applicant conducting farming operations as an individual, or as a cooperative, corporation, or partnership in different counties or locations will be considered for only one application and will file the application in the county in which the farming operation is conducted unless determined otherwise by the State Director. In cases where the operation is located in more than one State, the State Directors involved will determine which State will process the application and service the loan(s).

(a) *Information required from entities.* If the applicant is a cooperative, corporation, or partnership the following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(2) A current personal financial statement (not over 60 days old at the time of filing the application) from each of the principal members of a cooperative, principal partners of a partnership, or principal stockholders of a corporation. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide a personal financial statement.

(3) A current financial statement (not over 90 days old at the time of filing the application) from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative's or corporation's charter, or the partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative or corporation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the applicant which may be pertinent to a consideration of its application. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

(b) *Federal Land Bank Association stock.* Federal Land Bank (FLB) Association stock is required to be purchased by FLB Association borrowers and has value. It must be assigned to FmHA when it is relied upon as security for the loan. The loan approval official will record the determination of the market value of the security in such a case in the comments section of Form FmHA 422-1, "Appraisal Report—Farm Tract."

§ 1945.112 Eligibility.

To be eligible for an EE loan, an applicant must:

(a) *Citizen.* If an individual, be a *citizen of the United States* (see § 1945.104(a)(25) of this Subpart for the definition of "United States"). If a cooperative, corporation, or partnership, those members, stockholders, or partners who have a majority interest in the entity applying for the loan must be citizens.

(b) *Bona fide farmer.* Be a *bona fide* farmer (owner-operator or tenant-operator), doing business in the United States either as an individual, cooperative, corporation, or partnership, that is recognized in the community as one primarily and directly engaged in agricultural production. *In the case of an individual loan applicant,* the term "primarily and directly engaged in agricultural production" means that the applicant(s) derives more than 50 percent of the gross income from the applicant's own agricultural production *or* more than 50 percent of the time required to operate the farm is provided by the applicant or family members of the applicant. *In the case of a cooperative, corporation, or partnership loan applicant,* the term "primarily and directly engaged in agricultural production" means that the cooperative, corporation, or partnership derives more than 50 percent of its gross income from agricultural production *and* the member(s), shareholder(s), or partner(s) owning or controlling a majority interest in such cooperative, corporation, or partnership either derive more than 50 percent of their gross income from their own or the cooperative's, corporation's, or partnership's agricultural production, *or* devote more than 50 percent of their time to such agricultural production.

(1) A bona fide farmer must be actually engaged in farming operations to be financed by an EE loan. If the applicant is an individual, the applicant must manage such farming operation. If the applicant is a cooperative, corporation, or partnership it must be managed by one or more of the members, stockholders, or partners. One who does not devote full time to the farming enterprise may be considered the manager provided the person visits the farm at sufficiently frequent intervals to exercise control over the farming enterprise, give directions as to how it should be run, and see that the enterprise is being carried on properly. Any enterprise that involves an outside full-time manager or management service does not qualify regardless of the number of visits made. In addition, as between two applications on file at the same time, FmHA will give preference to an applicant who owns and operates not larger than a family farm as defined in § 1945.104(a)(11) of this Subpart. However, for purposes of an EE loan, this does not exclude an applicant who does not own or operate a family farm.

(2) An estate or trust; a corporation owned primarily (more than 50%) by an estate, trust, other corporations, or other partnerships; an individual partnership composed primarily (more than 50%) of an estate, trust, corporation or other partnership is *not* considered to be a bona fide farmer for EE loan purposes.

(3) An individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to be an eligible farmer for EE loan purposes. However, if the individuals engaged in the joint farming operation decide on their own to reorganize their operation to form a cooperative, corporation or partnership, an application from the entity for an EE loan may then be accepted and considered by FmHA in accordance with this Subpart.

(4) For the purpose of determining EE loan eligibility, farmers, ranchers, or aquaculture operators who operate through contract or business arrangements with an integrated processor(s) are considered "bona fide" farm, ranch, or aquaculture operators provided they meet established eligibility criteria and the unit being operated is recognized in the community as a farm, ranch, or aquaculture operation.

(5) Integrated livestock, poultry, and fish processors who operate primarily and directly as commercial businesses through contracts or business arrangements with farmers, ranchers, and aquaculture operators are not considered to be bona fide farmers, ranchers, or aquaculture operators and, therefore, are not eligible for EE loans.

(c) *Legal capacity.* Possess the *legal capacity* to incur the obligations of the loan.

(d) *Character, industry, training or experience and ability.* Possess the character *(as related only to debt repayment ability and reliability),* industry, training and/or experience and ability necessary to carry out the proposed operations and honestly endeavor to carry out the undertakings and obligations in connection with the loan.

(e) *Credit elsewhere.* Be unable to obtain credit elsewhere as outlined in § 1945.105 of this Subpart.

(f) *Need.* Need such credit in order to maintain a viable agricultural production enterprise.

(g) *Registration or authorization.* If a cooperative, corporation, or partnership, be authorized to carry on a farming, ranching, or aquaculture operation in the State(s) in which the farm is located.

§ 1945.113 County Committee review.

The County Committee will review the initial application and any subsequent applications to determine whether the applicant meets EE loan eligibility requirements contained in § 1945.112 of this Subpart.

(a) *Favorable action.* If the County Committee finds the applicant eligible, under § 1945.112 of this Subpart, the members will sign Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file. A new Form FmHA 440–2 will be prepared for any loans(s) resulting from a subsequent application.

(b) *Unfavorable action.* If the County Committee finds that the applicant does not meet all of the requirements set forth in § 1945.12 of this Subpart, the members will complete Form FmHA 440–2 and the County Supervisor will inform the applicant in writing of the reasons for the Committee's unfavorable action as set forth in Subpart A of Part 1910 of this Chapter.

§ 1945.114 Planning, development, and appraisals.

See Parts 1804 and 1809 of this Chapter (FmHA Instructions 424.1 and 422.1, respectively) for the appropriate procedures dealing with planning and appraisals. (See § 1945.120(b)(5) of this Subpart for use of abbreviated appraisals.) All development including construction authorized in § 1945.116(b)(2) of this Subpart and land treatment will be planned and completed in accordance with Part 1804 of this Chapter (FmHA Instruction 424.1).

§ 1945.115 [Reserved]

§ 1945.116 Loan purposes.

EE loans may be made for purposes which are essential to carrying on farming operations. These purposes are:

(a) *Operating purposes.* (1) Purchase of essential livestock, poultry, fur bearing and other farm animals, aquatic organisms, bees, farm equipment, and paying costs incident to reorganizing the farming system for a viable operation.

(2) Consolidating, restructuring, or refinancing of secured or unsecured indebtedness, including the making of installment payments of principal and interest owed on farm real estate or other farm and home debts (including FmHA insured and guaranteed loans), that cannot be paid unless assistance is made available with an EE loan, and other debts necessary to provide rates and terms within the applicant's repayment ability that will assure the continuation of the farm operation.

(3) Purchase of a milk base either with or without cows when such action is necessary to assure the borrower a satisfactory market for the dairy products.

(4) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred.

(5) Augmenting and improving existing water supplies.

(6) Payment of fuel, seed, fertilizer, insecticide, farm supplies, labor, and other annual operating expenses that are essential to continuation of the farming operations, including the operation of any additional acreage which does not substantially expand the farming operation(s).

(7) Payment of customary cash rent or cash charges for the use of essential buildings, pasture, crops, hay, land, and grazing permits or bills for such purposes for the operating or crop year being financed, subject to the following:

(i) The applicant is obligated under a written lease or other agreement to pay such rent or charges in advance of the time income will be available from the operations to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head and the total cost may be used in lieu of a written lease. However, when a relatively small amount of funds are involved, an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the loan docket.

(ii) Arrangements cannot be made for the rent or charges to become due when income will be available from the operation to make such payment.

(iii) The terms of the rental agreement provide the applicant with satisfactory tenure for the crop year being financed.

(iv) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year, funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(8) Payment of real and personal property taxes due or about to become due and water or drainage charges or assessments.

(9) Payment of reasonable expenses incidental to obtaining, planning, making and closing the loan such as fees for legal, architectural, and technical services which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building or land improvements. However, loan funds are not to be used to pay fees charged applicants by agricultural management consultants and other professionals for preparation of EE loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(10) Payment of premiums for insurance on real and personal property including premiums for public liability and property damage insurance on farm and other essential equipment, including farm trucks. When a loan is secured by chattels and the loss of such chattels would jeopardize the interest of the Government, FmHA may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

(11) Meeting family subsistence needs, including premiums on reasonable amount of health and life insurance, and expenses for medical care or for paying bills incurred for any of these purposes during the crop year being financed.

(12) Purchase stock in a cooperative lending or marketing organization that is necessary to maintain a viable farming operation.

(13) Up to $25,000 in a fiscal year for real estate improvements, repairs, or refinancing unsecured debts clearly incurred for such purposes although real estate is NOT available for collateral. The following determinations first must be made:

(i) A loan will not be needed year after year for this purpose.

(ii) The applicant owns the land or has a lease including a compensating agreement adequate to reimburse the tenant for any unexhausted value of the improvement upon termination of the lease.

(iii) It is clearly necessary for the success of the operation.

(14) When it is a customary practice among farmers in the locality, payment of "hedging" costs including brokerage fees, margin requirements and margin calls in connection with a futures contract for nonspeculative purposes for a specific commodity being produced.

(b) *Real estate purposes.* (1) Changing or reorganizing the farming operation so it will be an economically viable operating unit. Such a purpose includes the construction, improvement, alteration, repair, relocation, purchase or moving of essential service buildings, facilities, and structures on the applicant's real estate necessary for reorganization of the operation, including the purchase and/or installation or augmentation and improvement of essential farmstead water and sewage systems, and other equipment or facilities necessary to the

operation (includes equipment which utilizes wind or solar energy).

(2) Providing land and water development, acquiring water supplies, rights, and use, and providing conservation essential to the operation. This includes but is not limited to fencing, land clearing, forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, and development of fish ponds and lakes.

(3) Consolidating, restructuring, or refinancing of secured and unsecured indebtedness, including the making of installment payments of principal and interest owed on farm real estate or other farm and home debts (including FmHA insured and guaranteed loans) that cannot be paid unless assistance is made available with an EE loan, and other debts necessary to provide rates and terms within the applicant's repayment ability that will assure continuation of the farm operation. When refinancing is involved the following conditions must be met:

(i) The limitation found in § 1945.117(a)(5) of this Subpart must also be complied with.

(ii) Preference will be given to paying those debts that will be most helpful to the applicant in carrying on essential farm and home operations.

(iii) Ordinarily, in the case of old unsecured debts or inadequately secured debts, the applicant will be requested to contact the applicant's creditor(s) and attempt to obtain a substantial reduction of such debts prior to the refinancing.

(4) Payment of reasonable expenses incidental to obtaining, planning, making and closing the loan such as fees for legal, architectural, and technical services which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building or land improvements. However, loan funds are not to be used to pay fees charged applicants by agricultural management consultants and other professionals for preparation of EE loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(5) Payment of the first-year premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone will adequately secure the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect the applicant's interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

§ 1945.117 Loan limitations and special provisions.

(a) *Limitations on use of loan funds.* (1) Loan funds *will not* be used to purchase land.

(2) Loan funds *will not* be used to lease additional land which would increase the number of acres of the operation above the highest level being farmed during the year of application or the year preceding application, whichever is greater.

(3) Individual members of a cooperative, partnership, or stockholders of a corporation, will not receive individual loans to finance their interest in the cooperative, corporation, or partnership farming operation.

(4) Loan funds will not be used to buy, build or repair a borrower's personal dwelling(s).

(5) EE loans *will not* be made to totally refinance intermediate and long-term loans. Refinancing of such debts will only cover existing delinquencies plus the next installment that the applicant will be unable to pay. Also, when an applicant requests refinancing of loan(s) owed to the applicant's normal lender, the County Supervisor will obtain in writing as early as possible during the loan processing, such lenders' agreement to furnish the applicant any other credit necessary, within the applicant's ability to pay, to maintain the applicant's operations on a sound basis.

(b) *Total loans to applicants.* The total principal balance outstanding at any time on an EE loan(s) shall not exceed $400,000.

(c) *Applicants involved in more than one operation.* Loans to applicants involved in more than one operation will be considered as follows:

(1) If an applicant who, in addition to the applicant's own farm operation, owns or controls *50 percent or more* of another farm operations(s), and the applicant is actively engaged in both operations, both the applicant and the other farm operation(s) may be considered for separate loans provided the combined total does not exceed the $400,000 limitation.

(2) If an applicant who, in addition to the applicant's own farm operation, owns or controls *less than 50 percent* of another farm operations(s), is actively engaged in *separate* farm operation(s), the applicant and the other farm operation(s) will be considered as separate entities for application of the $400,000 limitation.

(3) If the first applicant described in paragraphs (c) (1) and (2) of this section is deemed to be ineligible, such determination shall not preclude the other operation(s) in which the applicant holds an interest from being considered for an EE loan(s).

(d) *Relationship with other FmHA insured or guaranteed loans.* (1) If an applicant qualifies for an EM loan in an authorized area, the applicant's total credit needs will first be considered under EM loan authorities. An EE loan may be made simultaneously with an EM loan to meet the applicant's total needs.

(2) Applicants applying for FmHA assistance or borrowers already indebted to FmHA and/or FmHA guaranteed lender(s) for FO, OL, RL, or SW, loan(s) may be considered for EE loan(s) provided the total outstanding principal indebtedness to FmHA and/or the lender(s) does not exceed $650,000. Applicants applying for assistance, who are eligible for FO, OL, RL, or SW loans will have their credit needs considered as follows:

(i) If at all possible their *total* credit needs should be met with an FO, OL, RL, or SW loan;

(ii) If their *total* credit needs cannot be met with an FO, OL, RL, or SW loan, they may be made an EE loan to meet their *total* needs;

(iii) If their *total* credit needs are greater than can be met with an EE loan, an EE loan can be made *simultaneously* with an FO, OL, RL, or SW loan to meet the applicant's needs; and

(iv) If FO, OL, RL, or SW loan funds are not available in hardship cases, an EE loan can be made to meet the applicant's immediate credit needs.

(3) The combined total of EM and EL indebtedness will *not* be considered in determining the $400,000 EE loan limitation.

§ 1945.118 Loan rates and terms.

(a) *Interest rates.* See Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B, a copy of which is available at any FmHA office), for the applicable interest rate.

(b) *Terms of loan repayment.* Loans will be scheduled for repayment at such time and periods as the FmHA approval official may determine, consistent with the purpose of and need for the loan, and in accordance with the useful life of the security and the reasonable

repayment ability of the applicant as reflected in the completed Form FmHA 431–2, "Farm and Home Plan." However, there must be at least an annual installment unless a *deferment* of principal and/or interest is authorized in accordance with § 1945.119 (c) and (e) of this Subpart.

(1) Loan terms for items financed under § 1945.116(a) (*Operating purposes*) of this Subpart will be as follows:

(i) Loans will be for a period not exceed 7 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. Such period may be approved as warranted but cannot exceed 20 years. Generally real estate will be needed as security when the longer repayment period is authorized.

(ii) When conditions warrant, installments may vary in amounts. However, the final installment will not be larger than the amount which can then be financed with other agricultural lenders or be repaid within a rescheduled period of not to exceed 7 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the loan term to determine if such rescheduling is warranted.

(iii) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received. *However,* the initial loan for annual recurring operating purposes may be scheduled for repayment for a period up to 7 years, if additional security other than crops can be obtained.

(2) The terms for real estate and items financed under § 1945.116 (b) of this Subpart *(Real estate purposes)* will be for a period not to exceed 40 years. If less than 40-year terms are established for the initial loan, the loan may be reamortized, not to exceed 40 years in accordance with § 1951.40 of Subpart A of Part 1951 of this Chapter.

§ 1945.119 Consolidation, rescheduling, reamortization and deferral.

(a) *General requirements.* When the loan approval official determines that consolidation, rescheduling, reamortization, or deferral will assist in the orderly collection of the EE loan and any existing EE loans, the loan approval official should take such action provided:

(1) Such action will enable the borrower to achieve the objectives of the EE loan and continue farming; and

(2) If the applicant is indebted for an existing EE loan(s), the conditions set out in §§ 1951.33 (EE loans for operating purposes) or 1951.40, (EE loans for real estate purposes) of Subpart A of Part 1951 of this Chapter are met.

(b) *Consolidation and rescheduling.* When a new EE loan is made for operating purposes, it may be consolidated with an existing EE loan(s) or rescheduled later on in accordance with the requirements set out in § 1951.33 (d) of Subpart A of Part 1951 of this Chapter. If the longer repayment period provided for in § 1945.118 (b)(1) of this Subpart is used at the outset, rescheduling is *not authorized.*

(c) *Reamortization.* Existing EE loans made for real estate purposes may be reamortized when a new EE loan is made subject to the conditions in § 1951.40 of Subpart A of Part 1951 of this Chapter.

(d) *Deferral.* Installments on EE loans, including existing EE loans which are consolidated, rescheduled or reamortized, may be deferred. Existing EE loans may be deferred as set out in §§ 1951.33 (EE loans for operating purposes) and 1951.40 (EE loan for real estate purposes) of Subpart A of Part 1951 of this Chapter.

(1) General requirements. Deferred payments may be authorized if the following conditions exist:

(i) The County Supervisor determines that deferral will enable the borrower to remain on the farm and continue farming.

(ii) A Farm and Home Plan shows that loan installments cannot be repaid according to schedule.

(iii) A typical Farm and Home Plan, for a full calendar year following the deferral period indicates that full installments can be paid if normal conditions exist.

(iv) If appropriate, a Long-time Farm and Home Plan is prepared.

(v) If appropriate, development and improvements have been provided for on Form FmHA 424–1, "Development Plan."

(2) Scheduling and repaying deferred installments.

(i) Up to three installments may be deferred, but in no case will the deferral extend beyond the final due date of the note. Partial payments of accrued interest will be scheduled annually during the deferral period on Form FmHA 1940–17, "Promissory Note." Full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be paid.

(ii) Borrowers will be advised that they are expected to make payments as soon as they have repayment ability, even though the deferral period has not expired.

(iii) Borrowers will be advised that they are expected to repay all interest due on their loans.

(iv) Payments will be determined in accordance with repayment ability as indicated on Table K of Form FmHA 431–2.

(v) Deferred interest will not be capitalized.

(vi) Installments after the deferral period will be calculated in accordance with the FMI for Form FmHA 1940–17.

(e) *Terms.* (1) Consolidation and rescheduling. See § 1951.33 (d)(7) of Subpart A of Part 1951 of this Chapter.

(2) Reamortization. Existing EE loans made for real estate purposes may be reamortized in accordance with § 1951.40 of Subpart A of Part 1951 of this Chapter.

(f) *Interest rate.* See §§ 1951.33 (d)(6) or 1951.40 (d)(1) of Subpart A of Part 1951 of this Chapter, as applicable.

(g) *Processing consolidation, rescheduling, and/or deferral.* These functions will be performed in accordance with the FMI to Form FmHA 1940–17.

(h) *Disposition of promissory notes.* See §§ 1951.33 (f)(2) or 1951.40 (e)(4) of Subpart A of Part 1951 of this Chapter, as applicable.

(i) *Approval authority.* Loan approval officials are hereby authorized to consolidate, reschedule, reamortize, or defer loans subject to their approval authority in Subpart A of Part 1901 of this Chapter.

§ 1945.120 Collateral requirements.

(a) *Collateral.* (1) The County Supervisor is responsible for seeing that proper collateral is pledged, maintained, and is in existence and of record to protect the interest of the Government. The applicant, or any other individual or entity pledging real estate collateral for the loans must have a mortgageable interest or marketable title to the collateral pledged as security for the loan, and FmHA must ascertain that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Except for the modifications contained in paragraph (c)(1) of this section, collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and the applicant's prospective earnings. Collateral may

include, but is not limited to the following: livestock, livestock products, crops, land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases of leasehold interest, revenues, patents, and copyrights. In unusual cases, the loan approval official may require a co-signer or a pledge of security. Generally a pledge of security in lieu of a co-signer is preferable.

(3) A lien will not be taken on property that cannot be taken subject to a valid lien, nor will a lien be taken on subsistence livestock, household goods, and small tools and small equipment such as handtools, power lawnmowers and the items of like type not needed for security purposes. A lien on feed crops does not have to be taken if the crops produced by the borrower are used to feed livestock except when such livestock is being fed for market and the loan is otherwise well secured.

(4) When FmHA and a guaranteed lender are involved in separate EE loans to the same borrower, separate collateral must be clearly identified for both the FmHA and the lender's loans.

(b) *Additional requirements.*

(1) If the present market value of the collateral is not at least equal to the amount of the loan, the applicant's repayment ability may be considered by the loan approval official in determining whether the loan should still be made. When the applicant's repayment ability is so considered, the following conditions must also be met:

(i) The applicant's typical year operating plans indicate ability to pay the loan in full within the proposed repayment period (which may provide for a deferral if necessary).

(ii) The applicant will give a lien on *all* available collateral.

(iii) Life insurance may be required for the individual borrower or for the principals and key employees of an entity borrower and will be assigned or pledged to FmHA. This life insurance may be decreasing term insurance. A schedule of life insurance available as security for the loan will be included as part of the application.

(2) Operating loans for *annual* recurring expenses made under § 1945.116 (a) (6) of this Subpart will be secured by a first lien on the crop or livestock, or both, being financed with EE loan funds plus enough other collateral, including personal property, real estate, and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide no collateral other than a first lien on crop and/or livestock production, or both, the amount that may be loaned for annual recurring expenses will be limited to the greater of $100,000 or one-half the estimated gross farm income planned as shown on Form FmHA 431–2, or another acceptable plan of operation based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When a borrower needs a supplemental EE loan for annual recurring expenses to complete the year's farming operation and the loan is made to protect the Government's financial interest, the $100,000 or 50 percent gross income requirement will not apply, provided the loan is otherwise sound and proper.

(3) Loans made under § 1945.116 (a) (*Operating purposes*) of this Subpart will be secured by a lien on sufficient equity in livestock, crop, equipment and machinery, (including essential truck and automobiles) and, if necessary, other personal property to protect the Government's interest. A lien on part or all of the real estate owned by the applicant may be taken as additional security if the lien is needed to protect the interest of the Government. When the applicant can provide no collateral other than a first lien on crops and/or livestock production, or both, the policy outlined in paragraph (b)(2) of this section will apply. If the applicant has enough equity in real estate to secure the entire amount of the loan, no additional security need be taken. However, a second crop lien may be taken when deemed necessary to assure repayment of the loan.

(4) Loans under § 1945.116(b) (*Real estate purposes*) of this Subpart will be secured by a lien on real estate. However, if the applicant does not have sufficient equity in the real estate, a lien also will be taken on personal property, plus, if necessary, a second lien on the crops. An EE loan made to a tenant with a long-term lease may be secured by a lien on a transferable leasehold.

(5) Loans may be approved with abbreviated appraisals (also see § 1945.114 of this Subpart) of the property being taken as security for the loan provided:

(i) The loan approval official determines that the applicant's equity in the security will adequately secure the EE loan(s).

(ii) When abbreviated appraisals are prepared:

(A) For real estate, the following portions of Form FmHA 422–1 will be completed: The heading of the report; Item A of Part 1; Part 2; Part 3; Part 6; Part 7; and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(B) For chattel property, Form FmHA 440–21, "Appraisal of Chattel Property," will list and identify and show the value of each chattel item, and items A through E will be completed.

(6) When an EE loan is to be secured by a lien on real estate or a combination of real estate and chattels, the total security will be considered "basic security." However, notwithstanding the definition in § 1945.104(a)(24)(i) of this Subpart, when chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's interest and when the amount of the loan does not exceed the value of the primary chattel security by more than $10,000, the additional real estate security will not be considered as basic security. For all loans *over $25,000* when real estate is taken as basic security, title clearance is required. For loans of $25,000 or less, and for loans for which real estate is taken as additional security, only a certification of ownership and verification of equity in real estate is required. Certificiation of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, and in all cases where loans are made to cooperatives, corporations or partnerships, title search will be required.

(7) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

(i) The applicant must be able to provide mortgageable interest in the real estate concerned.

(ii) The applicant and the purchase contract holder must agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair any damaged real estate improvements which are essential to the farming operation, used for other essential real estate improvements or paid on the EE loan or any prior real estate indebtedness including the purchase contract. The applicant will renegotiate with the purchase contract holder to arrive at a new contract if there are any provisions objectionable to FmHA in the existing contract.

(iii) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to enter into the

agreement described in paragraph (b)(7)(ii) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EE loan will be considered to include funds to pay off the contract and improve the property, provided the contract has been in effect for at least 12 months.

(iv) If the conditions provided for in paragraphs (b)(7) (i), (ii) and (iii) of this section can be met and an EE loan is approved, it can be closed provided the FmHA escrow agent or designated attorney determines that:

(*A*) The purchase contract is not subject to summary concellation on default and does not contain other provisions which might jeopardize the Government's security position or the borrower's ability to repay the loan.

(*B*) The contract holder must agree in writing to give the FmHA notice of any breach by the purchaser, and must further agree to give FmHA the option to rectify the conditions which amount to a breach within 30 days. The 30 days begin to run on the day FmHA receives written notice of the breach.

(8) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet the obligations under these prior liens and to pay the EE loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions to the interest of the Government.

(9) When a junior lien on real estate is to be taken as security for the loan in States where a prior lienholder may foreclose the security instrument under power of sale or otherwise and extinguish junior liens or private parties without giving junior lienholders actual notice, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(10) If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land, after deducting the value of buildings shown on the report, exceeds the amount of the debt (including the EE loan) and the owner has equity equal to or exceeding the amount of the debt (including the EE loan), real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if the applicant does not already have it to protect the applicant's interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings, application on debts secured by prior liens, or application on the EE loan.

(11) Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(12) Loan approval officials may require *Federal or other types of Crop Insurance* with an assignment to FmHA during the repayment period of the EE loan if such insurance is available in the country. This determination is a judgement factor and the decision should be based on the amount and type of collateral, other than crops, that the applicant can provide. *However when only a crop lien is taken as security for EE loans, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loan(s) if such insurance is available.* An assignment of Federal Crop Insurance proceeds will be prepared on Form FCI–20, "Collateral Assignment," furnished by the local representatives of the Federal Crop Insurance Program. The assignment must be approved by the Federal Crop Insurance Corporation. An assignment of crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(13) EE loans to Indians which are secured by trust or restricted land will be handled as follows: The United States Department of Agriculture (USDA) and the Department of the Interior have mutually agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restriction against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. These statutes include, but may not be limited to, the Act of March 29, 1956 (70 Stat. 62).

(i) When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant.

(ii) The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(14) The taking and filing of security instruments will be in accordance with Subpart B of Part 1941 of this Chapter (chattels and crops) and with paragraph (b)(7) of this section and § 1945.129(b) (real estate) of this Subpart.

(15) Insurance may be required on personal property when the loan approval official determines it is necessary to protect the interest of the Government.

(c) *Signatures of principal partners, shareholders, and members of cooperatives, corporations and partnerships required to obtain full personal liability.* (1) When the applicant is an unincorporated farm cooperative, the promissory note(s) will be executed so as to evidence the liability of the cooperative as well as each member as an individual. This will be accomplished by typing the name of the cooperative above the space provided for signatures and having the note executed by each member of the cooperative both as a member and as an individual. To evidence the liability of the cooperative, the words "As Members" will be typed immediately beneath the name of the cooperative and each member will sign thereunder. To evidence the members' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each member will sign thereunder.

(2) When the applicant is a corporation or an incorporated cooperative, the promissory note(s) will be executed by the corporation or cooperative acting through its appropriate officials. To evidence the principal stockholders' or members' liability as individuals, each principal stockholder or member will sign the note(s) except in unusual circumstances including legal disability, absence from the country, or legal justification.

(3) When the applicant is a partnership, the promissory note(s) will be executed so as to evidence the liability of the partnership as well as each principal partner as an individual. This will be accomplished by typing the name of the partnership above the space provided for signatures and having the note executed by each principal member of the partnership both as a partner and as an individual. To evidence the liability of the partnership, the words "As Partners" will be typed immediately beneath the name of the partnership and each principal partner will sign thereunder. To evidence the principal partners' liability as individuals, the words "As Individuals" will be typed at the top of the blank space to the left of the lines for signatures, and each principal partner will sign thereunder.

(d) *Personal and corporate guarantees.* (1) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(2) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

§ 1945.121 [Reserved]

§ 1945.122 Revision of the use of loan funds.

(a) *Requirements.* Loan approval officials or their delegates are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan was within the respective official's loan approval authority.

(2) Such a change will not adversely affect the feasibility of the operation for the Government's interest.

(3) Such a change is consistent with authorities, policies, and limitations for the loan involved and is for an authorized purpose.

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to funds for the "debt repayment" will be made in Table K of Form FmHA 431–2 and they will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of Form FmHA 405–1, "Management System Card-Individual," for followup.

§ 1945.123 General provisions—compliance requirements.

(a) *Environmental impact and evaluation statements.* If EE loans are made in populated areas to finance an operation which has relatively large feedlots or holding facilities for livestock of aquatic organisms or smaller feedlots or holding facilities which are likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449–10, "Applicant's Environmental Impact Evaluation."

(1) The County Supervisor will complete Form FmHA 440–46, "Environmental Impact Assessment," from information provided by the applicant in Form FmHA 449–10.

(2) The County Supervisor will forward a copy of the loan application, completed Forms FmHA 449–10 and 440–46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether an environmental impact statement should be prepared based on this submittal and any other available information.

(3) The provisions of Subpart G of Part 1901 of this Chapter will be followed to the extent applicable for EE loans in making decisions on farm operations that may have significant impact on the environment.

(b) *Equal opportunity and nondiscrimination requirements.* In accordance with Title V of Pub. L. 93–495, the Equal Credit Opportunity Act, FmHA will not discriminate against any applicant on the basis of race, color, religion, marital status, sex, national origin, physical/mental handicap with respect to any aspect of credit transactions. See Subpart E of Part 1901 of this Chapter for applicable compliance requirements.

(c) *Flood or mudslide hazard area precautions.* (1) Projects located in special flood or mudslide hazard areas, as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development, may be financed under this Subpart only:

(i) If the community, as a result of such designation by FIA as a special flood or mudslide prone area, has an approved flood plain area management plan.

(ii) If the project location and construction plans and specifications for new buildings or improvements to existing buildings comply with the approved flood plain area management plan required by paragraph (c)(1)(i) above of this section.

(2) If the project is located in a special flood or mudslide hazard area and if flood insurance is available, it will be purchased by the borrower prior to loan closing. (See Subpart B of Part 1806 of this Chapter.) (FmHA Instruction 426.2.)

(d) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 of this Chapter apply.

(e) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with the Soil Conservation Service, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisitions of water rights.

(ii) Define areas where development of ground water for acquisition is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and obtain any special licenses or permits needed for nonfarm, recreation, specialized or aquaculture farming enterprises.

§§ 1945.124–1945.125 [Reserved]

§ 1945.126 Cancellation of loan checks and advances.

(a) If a loan check is to be cancelled, the County Supervisor should follow

FmHA Instruction 102.1, paragraph IV C (a copy of which is available in any FmHA office).

(b) When an advance is to be cancelled, the County Supervisor must take the following actions:

(1) Complete Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with the FMI.

(2) When necessary, obtain a substitute promissory note reflecting the revised total of the loan and the revised schedule. When it is not possible to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440–10 the revised amount of the loan and the revised repayment schedule.

(3) Transmit to the Finance Office Form FmHA 440–10 and Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," reflecting the revised repayment schedule.

§ 1945.127 Increase or decrease in amount of loan.

If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing, unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office.

§ 1945.128 Docket preparation.

(a) *Processing guide.* See Exhibit A of this Subpart for Insured EE Loan Processing Guide.

(b) *Form FmHA 440–1, "Request for Obligation of Funds."* A separate Form FmHA 440–1 will be prepared for each amount of the total loan which has a different purpose (operating or real estate), but Form FmHA 1940–37, "Economic Emergency Loan Analysis," will be prepared to reflect the total loan.

When the County Supervisor is reasonably certain that the EE loan can be closed within 20 days from the date of the check, loan funds may be requested at the time of loan approval by entering the amount needed in the appropriate block on Form FmHA 440–1. Loan funds may be scheduled for multiple advances, if appropriate. The amount of the initial advance will be shown on Form FmHA 440–1. Subsequent advances may be scheduled by using Form FmHA 440–57. Each advance will be limited to an amount which can be used promptly, usually within sixty days from the date of check.

(c) *Promissory Note.* A separate Form FmHA 1940–17 will be prepared for each Form FmHA 440–1 used in obligating the total amount of the EE loan. Each scheduled installment will include interest in addition to principal unless deferral of principal is authorized in accordance with § 1945.119 of this Subpart.

§ 1945.129 Approval and closing.

(a) *Loan approval.* Loans will be approved in accordance with the authorities and provisions contained in this Subpart and the loan approval conditions and authorities contained in Subpart A of Part 1901 of this Chapter. See Subpart B of Part 1941 of this Chapter for closing loans secured by chattels.

(1) When the County Committee certification has been made, the loan approval official will determine administratively whether:

(i) The applicant is eligible, likely to be successful in the proposed operations, and likely to achieve the objectives of the loan.

(ii) The applicant has satisfactory tenure arrangements on the farm to be operated.

(iii) The proposed farm and home operations of the applicant are reasonably sound.

(iv) The loan is proper and can be repaid from farm or other income as scheduled.

(v) The security requirements can be met.

(vi) The certification required of the applicant and County Committee have been made and are a part of the loan docket.

(vii) The loan meets all other FmHA requirements.

(b) *Loan closing.* Closing loans secured by real estate will be handled as follows:

(1) Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this Chapter (FmHA Instruction 427.1).

(2) Security instruments referred to in this section are real estate mortgages or deeds of trust.

(i) *Security instrument forms.* (A) FmHA real estate mortgage or deed of trust Form FmHA 427–1 (State), "Real Estate Mortgage for ———," will be used in all cases.

(B) For assignment of income, Form FmHA 443–16, "Assignment of Income from Real Estate Security," will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of OGC.

(C) When water stock certificates or similar collateral are a part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 405–1, "Management System Card-Individual," showing that such security has been retained.

(D) Form FmHA 1940–17 will be prepared and completed at the time of loan closing in accordance with the FMI. If insured RH funds are advanced simultaneously, the RH loan will be evidenced by a separate note on the proper form as provided in Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1). However, both notes will be described in the same security instruments. When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless a deferral is approved.

(E) When subsequent loans are made, a new security instrument will be required only when such existing instruments do not cover all required security or will not secure the subsequent loan.

(F) A subsequent loan for any authorized purpose may be made without taking new security instruments in any case in which the existing security instruments cover all of the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan. A new security instrument will be taken if one of these requirements is not met.

(ii) *Leaseholds.* Security instruments for loans secured by leaseholds will describe the security in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(A) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ———,19—, created and established by a certain lease dated ———, 19— executed by ———, as lessor(s), recorded on ———, 19—, in Book ———, page — of the ——— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(B) An additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(C) A copy of the lease will be obtained for the case file.

(iii) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(A) If the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. If the original is retained by the recording official, a conformed copy, including the recording date showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A conformed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder or if it is required by a working agreement provision with that lender.

(B) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(iv) *Abstracts of Title.* Any abstract of title will be delivered to the borrower for safekeeping, and Form FmHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the FMI. However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(v) *Requesting title service.* When the loan is approved, the County Supervisor will see that title service is requested in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), if this has not already been done. Agreements will be in writing and cover subjects such as disposition of growing crops, rentals, payment of maintenance cost, and other pertinent points.

(vi) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes Form FmHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower.

(vii) *Supervised bank accounts.* If a supervised bank account is required, loan funds usually will be deposited following loan closing. Supervised bank accounts will be established in accordance with Subpart A of Part 1902 of this Chapter.

§§ 1945.130–1945.134 [Reserved]

§ 1945.135 Loan servicing.

Loans will be serviced in accordance with Parts 1806, 1863, and 1872 of this Chapter (FmHA Instructions 426.1, 425.1, and 465.1, respectively) and Subpart A of Part 1962 of this Chapter.

§ 1945.136 Graduation.

Borrowers will be expected to graduate when they are able to obtain their needed credit from conventional sources. All borrowers will be advised that their loans will be reviewed for graduation by FmHA. Loans for operating purposes will be reviewed four years after they are made and every other year thereafter. Loans for real estate purposes will be reviewed six years after they are made and every other year thereafter. Borrowers will also be advised that they will be required to refinance if other satisfactory credit is available to them even though their loans have not fully matured.

§§ 1945.137–1945.145 [Reserved]

§ 1945.146 Memoranda of Understanding.

See the appropriate section of this Chapter for memoranda pertaining to all Farmer Program loans. The following memoranda items also apply to this Subpart:

(a) Memorandum of Understanding Between Commodity Credit Corporation and FmHA (Exhibit A to Subpart A of Part 1962 of this Chapter).

(b) Memorandum of Understanding and Blanket Commodity Lien Waiver (Exhibit B to Subpart A of Part 1962 of this Chapter).

(c) Memorandum of Understanding with the Farm Credit Administration (Exhibit A to Subpart R of Part 2000 of this Chapter).

§ 1945.147 State supplements.

State supplements will be issued as necessary to implement this Subpart.

§ 1945.148 FmHA forms.

See Exhibit A of this Subpart.

§ 1945.149 Additional loans.

Additional EE loans may be made for the same purposes and under the same conditions as an initial EE loan provided:

(a) The additional loan will not cause either the unpaid principal balance of the EE indebtedness to exceed $400,000 or the limitation found in § 1945.117(d)(3) of this Subpart to be circumvented.

(b) All outstanding notes may be consolidated for EE loans for operating purposes in accordance with § 1951.33 (d) of Subpart A of Part 1951 of this Chapter.

§ 1945.150 General provisions.

(a) In performing the FmHA functions with respect to EE loans, the advice and assistance of OGC may be sought and followed on any legal matter.

(b) The State Director may delegate to staff members those administrative duties and responsibilities stipulated in this Subpart.

Exhibit A—Processing Guide

Insured Economic Emergency (EE) Loans

This Exhibit outlines the basic steps involved in processing a loan application and identifies the FmHA forms which should be considered for use at each step as appropriate for the different Economic Emergency loans.

Consult the appropriate FMI for instructions for completion, distribution, and procedural reference for each form.

Application Processing

A. Application Interview.

Review applicant's proposed plan of operation in relation to FmHA EE loan purposes and limitations.

Begin running case record.

Provide applicant with FmHA forms to be completed and returned which are needed to determine eligibility.

Advise applicant of other information that must be obtained and provided to FmHA.

The following FmHA forms will be made available to the applicant or used by the County Supervisor. Forms designated with an "x" are required and those designated with an "*" are used when applicable.

Form No.	Name	EE
410–1	Application for FmHA Services	x
410–5	Request for Verification of Employment	*
410–7	Notification to Applicant on Use of Financial Information From Financial Institution.	*
410–8	Applicant Reference Letter	*
410–10	Privacy Act Statement to References	*
431–1	Long-Time Farm and Home Plan	*
431–2	Farm and Home Plan	x
440–32	Request for Statement of Debts and Collaterals.	*
1940–51	Crop-Share-Cash Farm Lease	*
1940–53	Cash Farm Lease	*
1940–55	Livestock-Share-Farm Lease	*
1940–56	Annual Supplement to Farm Lease	*

B. Field Visit.

Notify applicant of planned visit and its purpose.

Evaluate the resources available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.

Obtain information needed to complete required appraisals (chattel and real estate).

If development is planned, discuss plans, specifications, and estimates.
Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.
Determine security requirements and enter in the running case record.

The following FmHA forms will be used as appropriate.

Form No.	Name	EE
141-2	Notice of Visit or Meeting	x
422-1	Appraisal Report (Farm Tract)	x
422-2	Supplemental Report-Irrigation, Drainage, Levee, and Minerals.	*
422-3	Map of Property	x
422-10	Appraiser's Worksheet for Study of Comparable Properties.	*
424-1	Development Plan	*
424-2	Description of Materials	*
440-13	Report of Lien Search	*
440-21	Appraisal of Chattel Property	*

C. Eligibility Determination.

Obtain all needed application forms, and other information from the applicant; assist the applicant in completing these forms and/or in obtaining needed information, as necessary.
Request deed or other evidence of title.
Schedule meeting for County Committee, to review application and determine eligibility.
Inform applicant of the results of committee action.

The following FmHA forms will be used as appropriate in accomplishing the above actions:

Form No.	Name	EE
403-1	Debt Adjustment Agreement	*
440-2	County Committee Certification or Recommendation.	x

Docket Preparation

Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.
Check to assure all security requirements have been or will be met by loan closing.
Prepare a loan narrative, and enter it into the running case record.

The following FmHA forms will be completed and used as necessary in preparing the loan docket for approval:

Form No.	Name	EE
427-8	Agreement with Prior Lienholder	x
440-1	Request for Obligation of Funds	x
440-4	Security Agreement (Chattels and Crops).	x
440-4A	Security Agreement (Crops)	*
440-6	Severance Agreement	*
440-9	Supplementary Payment Agreement	*
440-25/440-A25.	Financing Statement	*
440-28	Consent and Subordination Agreement.	*
440-41	Disclosure Statement for Loans Secured by Real Estate (for loans under $25,000).	*
440-41A	Disclosure Statement for Loans Not Secured by Real Estate.	*
440-43	Notice of Right to Rescind	*
440-46	Environmental Impact Assessment	*
441-5	Subordination Agreement	*
441-8	Assignment of Proceeds from the Sale of Agricultural Products.	*
441-10	Nondisturbance Agreement	*
441-12	Agreement for Disposition of Jointly Owned Property.	*
441-13	Division of Income and Nondisturbance Agreement.	*
441-17	Certification of Obligation to Landlord	*
441-18	Consent to Payment of Proceeds from Sale of Farm Products.	*
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	*
443-17	Agreement to Sell Nonessential Real Estate.	*

Loan Approval and Closing

A. Loan Approval.

For chattel loan—file financing statement or chattel mortgage, and obtain a lien search.
For real estate loan—request preliminary title opinion.
Establish loan closing conditions and enter them in the running case record.
Execute and distribute all forms necessary for loan approval.

B. Loan Closing.

Request needed legal services.
Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	EE
400-3	Notice to Contractors and Applicants	*
400-6	Compliance Statement	*
402-1	Deposit Agreement	*
402-2	Statement of Deposits and Withdrawals.	*
402-5	Deposit Agreement (Non-FmHA Funds).	*
426-2	Property Insurance Mortgage Clause (Without Contribution).	*
427-1	Real Estate Mortgage or Deed of Trust.	*
427-4	Transmittal of Title Information	*
427-5	Affidavit of Borrowers (or Transferees).	*
427-6	Affidavit of Sellers (or Transferors)	*
427-9	Preliminary Title Opinion	*
427-11	Warranty Deed	*
440-45	Nondiscrimination Certificate (Individual Housing).	*
1940-17	Promissory Note	x
1940-37	Economic Emergency Loan Analysis.	x
1945-23	Applicant's Certification (Insured Economic Emergency Loan).	x

Part 1980—GUARANTEED LOAN PROGRAMS

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Subpart F—Economic Emergency Loans

Sec.
1980.501 Introduction.
1980.502 Program objectives.
1980.503 [Reserved]
1980.504 Definitions.
1980.505–1980. 508 [Reserved]
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Subpart F—Economic Emergency Loans

§ 1980.501 Introduction.

(a) *Policy.* This Subpart contains regulations for making and servicing Economic Emergency (EE) loans made after August 11, 1978, and applies to lenders, holders, borrowers, Farmers

Home Administration (FmHA) personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. Subpart A of this Part applies to EE loans except for §§ 1980.21 and 1980.61 (b)(2) and (f). It is the policy of FmHA to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age or physical/mental handicap providing the applicant can execute a legal contract.

(b) *Program administration.* The County Supervisor is the focal point for the program and the local contact person for guarantee processing and servicing activities.

(c) *Administrative provisions.* The internal duties, responsibilities, and procedures to carry out the requirements of the program are identified as "ADMINISTRATIVE."

(1) *Office of the General Counsel (OGC):* In performing administrative functions with respect to EE loans, FmHA may ask for the advice and assistance of OGC on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are met. If FmHA has any questions concerning the lender's resolution of these matters, it should consult with OGC.

(2) *Delegation of Authority:* State Directors should delegate to their staff members those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart.

§ 1980.502 Program objectives.

The objective of EE loans is to make adequate financial assistance available during the period authorized by Public Law 95–334 (authority expires May 15, 1980) in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit due to national or area wide economic stresses such as a general tightening of agricultural credit *or* in the alternative, an unfavorable relationship between production costs and prices received for agricultural commodities. *It is to be the policy of FmHA to make guaranteed EE loans before insured EE loans.*

§ 1980.503 [Reserved].

§ 1980.504 Definitions.

The following general definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of Subpart A of this Part.

(a) *Act.* The Emergency Agricultural Credit Adjustment Act of 1978 (Title II of Pub. L. 95–334).

(b) *Applicant.* The person or entity carrying on the farming operation and desiring EE loan assistance from a lender.

(c) *Approval official.* An FmHA field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA office (see Subpart A of Part 1901 of this Chapter, Exhibit C).

(d) *Aquaculture.* The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, or crustacean (or other invertebrate), amphibian, reptile, or aquatic plant.

(e) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the law(s) of the State in which the entity will operate a farm(s).

(f) *Corporation.* For the purposes of this Subpart, a private domestic corporation recognized as a corporation by the laws of the State(s) in which the entity will operate a farm(s).

(g) *Economic Emergency.* As used herein, a condition resulting from (1) a general tightening of agricultural credit, or (2) an unfavorable relationship between production costs and prices received for agricultural commodities, which has resulted in widespread need among farmers for temporary credit.

(h) *Family Farm.* A farm which:

(1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(2) Provides enough agricultural income by itself, including rented land, or together with any other dependable income to enable the borrower to:

(i) Pay necessary family and operating expenses.

(ii) Maintain essential chattel and real property.

(iii) Pay debts.

(3) Is managed by:

(i) The borrower when a loan is made to an individual.

(ii) The member(s), stockholder(s) or partner(s) responsible for operating the farm when a loan is made to a cooperative, corporation, or partnership.

(4) Has a substantial amount of the labor requirements for the farm provided by:

(i) The borrower and any family members of the borrower for a loan made to an individual.

(ii) The member(s), stockholder(s), or partner(s) who are responsible for operating a farm and the families of the member(s), stockholder(s), or partner(s), for a loan made to a cooperative, corporation or partnership.

(5) May require a reasonable amount of full-time hired labor and seasonal labor during peakload periods.

(i) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (d) of this section. It will also include a residence which, although physically separate from the farm acreage, is ordinarily considered as part of the farm in the local community.

(j) *Farmer.* An individual, cooperative, corporation or partnership that is a farmer, rancher or aquaculture operator.

(k) *Farming or farm enterprises.* The business of producing crops, livestock products, and aquatic organisms through the utilization and management of land, water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(l) *Guaranteed line of credit.* EE loan advances made and serviced by a lender subject to a maximum amount agreed to by the lender and FmHA which is specified in a Form FmHA 1980–27, "Contract of Guarantee (Emergency Livestock Loan or Economic Emergency Loan)."

(m) *Loan.* Both a fixed amount loan to which a Loan Note Guarantee will be attached and an advance(s) made pursuant to a line of credit guaranteed by a Contract of Guarantee.

(n) *Loan servicing.* All actions that are necessary after loan closing to collect the indebtedness and to protect the security and security rights. The term "servicing" also includes transfer and assumption and liquidation.

(o) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation or partnership.

(p) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term

"mortgage" also refers to any security interest in chattel property.

(q) *Normal lender.* An eligible lender as defined in § 1980.13 of Subpart A of this Part, who has been the primary source of agricultural credit for the applicant.

(r) *Partnership.* An entity consisting of members who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(s) *Principal member, stockholder or partner.* Any member, stockholder or partner owning or controlling a 10 percent interest in a cooperative, corporation or partnership. If no member, stockholder, or partner owns or controls at least a 10 percent interest, all members, stockholders or partners will be considered principal members, principal stockholders, or principal partners.

(t) *Protective advances.* Payments made by the lender to third parties to protect or preserve security.

(u) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral shall be considered a reference to the term "security."

(v) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§§ 1980.505–1980.508 [Reserved]

§ 1980.509 Eligible lenders.

See § 1980.13 of Subpart A of this Part. This section is applicable to both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.510 Case and identification (ID) numbers.

See § 1980.12 of Subpart A of this Part.

§ 1980.511 Receiving and processing applications.

An applicant and/or lender may file either a preliminary or complete application. In either case, the requirements of § 1980.46 of Subpart A of this Part must be met. A preliminary application may be used when an applicant or lender wants FmHA to determine eligibility, feasibility, or the availability of guarantee authority before filing a complete application. The County Supervisor will cooperate with the lender and applicant and will provide appropriate assistance in connection with loan application processes. The degree of this assistance will be determined by the lender's experience with FmHA guaranteed loan processing, the lender's farm lending experience, and the complexity of the proposal. The lender and applicant should contact the local FmHA office serving the area where the farming operation is conducted for guidance and assistance in preparing the request and for obtaining the guarantee. The County Supervisor will provide copies of all applicable FmHA forms and regulations. (See Appendix A of this Subpart for a list of these FmHA forms.) An applicant conducting farming operations as an individual or as a cooperative, corporation, or partnership in different counties or locations will be considered for only one application and will file the application in the county in which the farming operation is conducted unless determined otherwise by the State Director. In cases where the operation is located in more than one State, the State Directors involved will determine which State will process the application and service the loans(s).

(a) *Preliminary application.* This will consist of:

(1) Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Commercial credit report or other information concerning the applicant's credit history.

(4) Form FmHA 1980–32, "Lender's Certification (Guaranteed Economic Emergency Loan)."

(5) Any proposed "Line of Credit Agreement."

(6) The following additional information if the applicant is a cooperative, corporation or partnership:

(i) A complete list of members, stockholders, or partners, showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(ii) A current personal financial statement (not over 60 days old at the time of filing the application) from each of the principal members of a cooperative, principal partners of a partnership or principal stockholders of a corporation. Any other member, partner or stockholder whose financial statement, in the judgement of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide a personal financial statement.

(iii) A current financial statement (not over 90 days old at the time of filing the application) from the cooperative, corporation or partnership itself.

(iv) A copy of the cooperative's or corporation's charter, or partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative or corporation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(b) *Evaluation of preliminary applications.* If it appears, after a review of the preliminary application, that the proposal will not meet FmHA's minimum credit standards for a sound loan, or the County Committee determines the applicant to be ineligible, or funds or guarantee authority are not available, the County Supervisor will so inform the lender using Form FmHA 449–13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible and the County Committee determines that the applicant is eligible and loan guarantee authority is available, the County Supervisor will inform the lender in writing and request that a formal application be prepared.

(c) *Completed application:* This will consist of:

(1) Those items listed in paragraph (a) of this section.

(2) Form FmHA 1980–25, "Request for Guarantee (Emergency Livestock Loan or Economic Emergency Loan)."

(3) Applicable items required by §§ 1980.40, 1980.41, 1980.42, 1980.43, 1980.44, and 1980.45 of Subpart A of this Part.

(4) A copy of any lease agreement entered into by the applicant which may be pertinent to consideration of the application. When a lease is not obtainable, a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

(5) Proposed loan agreements (or line of credit agreement when a Contract of Guarantee is requested) between the applicant and lender. (See paragraph VIII of Form FmHA 449–35, "Lender's Agreement," in Loan Note Guarantee cases or Form FmHA 1980–38, "Lender's Agreement", in Contract of Guarantee cases). Ordinarily, agreements will include the following information:

(i) Any improved mangement practices to be implemented.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security for the loan and plans for at least an annual accounting of security.

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on patronage refunds if the applicant is a cooperative, dividend payments if the applicant is a corporation or distribution if the applicant is a partnership.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of partners, officers and/or owners if applicant is not a sole proprietorship.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances if the applicant is a corporate entity.

(xi) The plans for repayment, reamortization or rescheduling of the loan, including the ceiling and duration of any line of credit.

(xii) Purposes for which loan funds will be used.

(xiii) Interest rate.

(6) *Appraisal report.* (i) Real estate or chattel property that will serve as collateral for loans will be appraised by a qualified appraiser selected by the lender. The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made. Appraisal reports may be on forms approved by the lender and/or Form FmHA 422-1, "Appraisal Report Farm Tract," and Form FmHA 440-21, "Appraisal of Chattel Property."

(ii) A real estate appraisal report will be based on at least two comparable sales made within 2 years. If the real estate has been appraised by FmHA or by a qualified appraiser within the last 3 years and if no significant changes in the market value of real estate have occurred in the area within the 3-year period, a new appraisal does not have to be made.

(iii) A *current* chattel appraisal is required when chattels are taken as security.

(7) Notices of compliance with the Privacy Act of 1974.

(8) Form FmHA 440-32, "Request for Statement of Debts and Collateral."

(9) Production history for at least 3 years except when applicant has farmed less than 3 years.

(10) The lender's plan for servicing the loan and providing management assistance to the borrower, including the steps necessary to see that the requirements of the loan agreement are met.

(d) *FmHA evaluation of applications.* When the County Office receives a completed application, the County Supervisor will make any proper independent investigations, inspections, and appraisal reviews which are deemed to be necessary to determine whether (1) the applicant is eligible, (2) the proposed loan is for authorized purposes, (3) there is reasonable assurance of repayment ability, and (4) there is sufficient collateral and equity. The County Supervisor's determinations will be recorded on Form FmHA 449-23, "Guaranteed Loan Evaluation Farmer Programs." This evaluation is for the benefit of FmHA and not the lender.

(1) If the evaluation indicates that the guarantee cannot be approved (for reasons that would not be affected by the County Committee certification), the County Supervisor will inform the lender on Form FmHA 449-13 of the reasons and will discuss with the lender the items necessary to overcome any objections. The foregoing will be recorded in the County Office file.

(2) If the evaluation indicates that the guarantee may be approved and the County Committee has not taken action on the case, the County Supervisor will present the application to the County Committee for action.

Administrative

(A) Regardless of whether the applicant is acting as an individual or as a representative of a cooperative, corporation or partnership, when FmHA solicits personal information, the individual will be given Form FmHA 410-9, "Statement Required by the Privacy Act."

(B) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410-10, "Privacy Act Statement to References."

§ 1980.512 Eligibility.

To be eligible for an EE loan, an applicant must:

(a) *Citizen.* If an individual, be a citizen of the United States (see § 1980.504(v) of this Subpart for the definition of "United States"). If a cooperative, corporation, or partnership, those member(s), stockholder(s) or partner(s) who have majority interest in the entity applying for the loan must be citizens.

(b) *Bona fide farmer.* Be a *bona fide* farmer (owner-operator or tenant-operator), doing business in the United States either as an individual, cooperative, corporation, or partnership, that is recognized in the community as one primarily and directly engaged in agricultural production. *In the case of an individual loan applicant* the term "primarily and directly engaged in agricultural production" means that the applicant derives more than 50 percent of the gross income from the applicant's own agricultural production *or* more than 50 percent of the time required to operate the farm is provided by the applicant or family members of the applicant. *In the case of a cooperative, corporation, or partnership loan applicant,* the term "primarily and directly engaged in agricultural production" means the cooperative, corporation, or partnership derives more than 50 percent of its gross income from agricultural production *and* the member(s), shareholder(s), or partner(s) owning or controlling a majority interest in such cooperative, corporation, or partnership either derive more than 50 percent of their gross income from their own or the cooperative's, corporation's, or partnership's agricultural production, *or* devote more than 50 percent of their time to such agricultural production.

(1) A bona fide farmer must be actually engaged in farming operations to be financed by an EE loan. If the applicant is an individual, the applicant must manage such farming operation. If the applicant is a cooperative, corporation, or partnership it must be managed by one or more of the members, stockholders, or partners. One who does not devote full time to the farming operation may be considered the manager provided the person visits the farm at sufficiently frequent intervals to exercise control over the farming operation, give directions as to how it should be run, and see that the enterprise is being carried on properly. Any enterprise that involves an outside full-time manager or management service does not qualify regardless of the number of visits made. In addition, as between two applications on file at the same time, the lender will give preference to an applicant who owns or operates not larger than a family farm as defined in § 1980.504(h) of this Subpart. However, for purposes of an EE loan, this does not exclude an applicant who does not own or operate a family farm.

(2) An estate or trust; a corporation owned primarily (more than 50%) by an estate, trust, other corporations, or other partnerships; an individual partnership composed primarily (more than 50%) of an estate, trust, corporation or other partnership is not considered to be a bona fide farmer for EE loan purposes.

(3) An individual engaged in a joint farming operation and/or owning an undivided interest in the property of such an operation is not considered to

be an eligible farmer for EE loans purposes. However, if the individuals engaged in the joint operation decide on their own to reorganize their operation to form a cooperative, corporation or partnership, an application from the entity for an EE loan may then be accepted and considered by FmHA in accordance with this Subpart.

(4) For the purpose of determining EE loan eligibility, farmers, ranchers, or aquaculture operators who operate through contract or business arrangements with an integrated processor(s) are considered "bona fide" farm, ranch, or aquaculture operators provided they meet established eligibility criteria and the unit being operated is recognized in the community as a farm, ranch, or aquaculture operation.

(5) Integrated livestock, poultry, and fish processors who operate primarily and directly as commercial businesses through contracts or business arrangements with farmers, ranchers, and aquaculture operators are not considered to be bona fide farmers, ranchers, or aquaculture operators and, therefore, are not eligible for EE loans.

(c) *Legal capacity.* Possess the legal capacity to incur the obligations of the loan.

(d) *Character, industry, training, or experience and ability.* Possess the character (as related only to debt repayment ability and reliability) industry, training and/or experience and ability necessary to carry out the proposed farming operations, and honestly endeavor to carry out the undertakings and obligations in connection with the loan.

(e) *Credit elsewhere.* Be unable at the time the loan application is filed to obtain sufficient credit from the applicant's normal lender without a guarantee to finance actual needs at reasonable rates and terms due to national or areawide economic stresses, such as tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural, commodities. Furthermore, no loan shall be guaranteed unless the applicant's normal lender certifies that it is unwilling to provide the needed credit to the applicant without the guarantee.

(f) *Need.* Need such credit in order to maintain a viable agricultural production enterprise.

(g) *Registration or authorization.* If a cooperative, corporation, or partnership, be authorized to carry on a farming operation in the State(s) in which the farm is located.

§ 1980.513 County Committee review.

The County Committee will review the preliminary application or completed application, if the applicant and lender choose not to file a preliminary application, to determine whether the applicant meets EE loan eligibility requirements. The committee will also review any additional application(s) received from a lender relative to increasing the loan amount or line of credit ceiling.

(a) *Favorable Action.* If the County Committee finds the applicant is eligible under § 1980.512 of this Subpart, the members will sign Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file. A new Form FmHA 440–2 will be prepared for any loan(s) resulting from a subsequent application.

(b) *Unfavorable Action.* If the County Committee finds that the applicant does not meet all of the requirements set forth in § 1980.512 of this Subpart, the members will complete Form FmHA 440–2 and the County Supervisor will inform the lender of the reasons for the Committee's unfavorable action by following the same procedure outlined in § 1980.511(d)(1) of this Subpart in using Form FmHA 449–13.

Administrative

A. After the County Committee certification of eligibility is obtained, the County Supervisor will:

1. Prepare Form FmHA 449.14, "Conditional Commitment for Guarantee," for Loan Note Guarantee cases or Form FmHA 1980–15, "Conditional Commitment for Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee," for Contract of Guarantee cases. At the time Form FmHA 449–15 is prepared, delete from the applicable paragraph the following sentence: "If a variable rate is used, it must be tied to a base rate which cannot change more often than quarterly and must be published periodically in a financial publication specifically agreed to by the Lender and Borrower" Initial the deletion. If it is within the County Supervisor's approval authority, the County Supervisor will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, and type and frequency of financial reports required by FmHA but not required by the lender. The County Supervisor is authorized to execute and distribute Form FmHA 449–14 or Form FmHA 1980–15 if the loan is within the County Supervisor's approval authority.

2. Prepare Form FmHA 440–1, "Request for Obligation of Funds," Form FmHA 1940–37, "Economic Emergency Loan Analysis," and, for initial loans only, Form FmHA 1980–50, "Add, Delete, or Change Guaranteed Loan Borrower Information," in accordance with the Forms Manual Inserts (FMI). If the loan is within the County Supervisor's approval authority, Form FmHA 440–1 should be executed and the copies distributed in accordance with the FMI. Unless the County Supervisor has received notice that EE funds are not available and if the loan is within the County Supervisor's approval authority, the lender will be notified by sending a Form FmHA 440–1 as provided in the FMI and will also be provided a signed copy of Form FmHA 449–14 of Form FmHA 1980–15. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440–1 and make each copy a permanent part of the County Office loan file. The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440–57," Acknowledgement of Obligated Funds/Check Request."

3. Forward the loan docket to the appropriate approval official if the loan is not within the County Supervisor's approval authority.

4. Initiate and/or complete FmHA loan closing actions in accordance with this Subpart and Subpart A of this Part. This action may take place prior to the receipt of Form FmHA 440–57.

B. When appropriate the State Director will:

1. Set forth in the space provided in Form FmHA 449–14 or Form FmHA 1980–15 any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required by FmHA but not required by the lender. An attachment to the form may be used if necessary. Return Form FmHA 449–14 or Form FmHA 1980–15 to the County Supervisor for execution and proper distribution.

2. Sign the original and one copy of Form FmHA 440–1 and distribute copies in accordance with the FMI, making sure the lender receives a signed copy.

§ 1980.514 Planning and Development.

The lender is responsible for seeing that any buildings or other improvements or major land development to be paid for with loan funds are properly completed within a reasonable period of time. The security must be free of any mechanic's or materialmen's or other liens which would affect the priority of the lien which the lender indicated would be taken. All major construction, major repairs, and major land development must be performed under contract. As soon as such construction, repair, or land development involving the use of loan funds has been completed in accordance with the plans and specifications, Form FmHA 449–11, "Certificate of Acquisition or Construction," will be complete and given to the County Supervisor. This form will be used by a lender, borrower, and/or contractor to certify that the security has been acquired or the construction completed. In connection with construction the lender is responsible for:

(a) Making sure there is compliance with applicable laws, ordinances, codes and regulations, including FmHA regulations, which affect all phases of construction. The lender may inspect the site and any construction or development work at any stage whenever the lender considers it necessary.

(b) Seeing that the plans, specifications, and estimates are adequate.

(c) Making sure of the rights to an adequate water supply of sufficient quantity and quality.

(d) Identifying whether the construction or development will be performed by contract or other method.

(e) Checking to see that any necessary surety bonds covering contractors are in proper form.

(f) Seeing that all equal opportunity and nondiscrimination requirements are met. (See § 1980.41 of Subpart A of this Part.)

(g) Limiting periodic or partial payments for construction or development to a reasonable percentage of the actual value of work and material in place. The lender will make final payment only after seeing that the final inspection has been made.

(h) Ascertaining that after planned development is completed that no suits are pending or threatened that would adversely affect the borrower's interest in the collateral when the security instruments are filed and when final loan disbursement is made.

Administrative

The County Supervisor will:

1. Check to see that the construction, repair or land development has been completed.

2. Forward Form FmHA 449-11 to the lender for completion and execution by the lender, borrower and contractor.

§ 1980.515 Type of guarantee.

(a) *Loan Note Guarantee.* Lenders desiring to sell the guaranteed portion of fixed amount and term loans will use the method contained in Subpart A of this Part. In accordance with that method, loans may be made by a lender and guaranteed by issuance of Form FmHA 449-34 (1980-34) "Loan Note Guarantee." This procedure will be followed for *operating* or *real estate* purposes (see § 1980.516 of this Subpart).

(b) *Contract of Guarantee.* Lenders desiring a guarantee on a "line of credit" will use the method contained in this Subpart. Line of credit loans are guaranteed by Form FmHA 1980-27. The amount of loan advances outstanding at any one time under a Contract of Guarantee may not exceed the line of credit ceiling set forth in the contract. This procedure will be followed for *operating* purposes only (see § 1980.516 of this Subpart).

(c) *Multiple guarantees.* More than one Loan Note Guarantee or Contract of Guarantee may be executed with the same or different lenders to a borrower so long as each loan is secured with separate collateral that is clearly identified. The total loans must not exceed $400,000 at any time. The limitation found in § 1980.517(d)(3) of this Subpart must also be complied with.

(d) *Program termination date.* A Loan Note Guarantee or Contract of Guarantee will not be executed after *May 15, 1980.*

§ 1980.516 Loan purposes.

EE loans may be guaranteed for purposes which are *essential* to carrying on farming operations. These purposes are:

(a) *Operating purposes.* (1) Purchase of livestock, poultry, fur bearing and other farm animals, aquatic organisms, bees, farm equipment, and paying costs incident to reorganizing the farming system for a viable operation.

(2) Consolidating, restructuring or refinancing of secured or unsecured indebtedness, including the making of installment payments of principal and interest owed on farm real estate or other farm and home debts (including FmHA insured and guaranteed loans), that cannot be paid unless assistance is made available with an EE loan, and other debts necessary to provide rates and terms within the applicant's repayment ability that will assure continuation of the farm operation.

(3) Purchase of a milk base either with or without cows when such action is necessary to assure the borrower a satisfactory market for its dairy products.

(4) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred.

(5) Augmenting and improving existing water supplies.

(6) Payment of fuel, seed, fertilizer, insecticide, farm supplies, labor, and other annual operating expenses that are essential to continuation of farming operations including the operation of any additional acreage which does not substantially expand the farming operations.

(7) Payment of customary cash rent or cash charges for the use of essential buildings, pasture, crops, hay, land, and grazing permits or bills for such purposes for the operating or crop year being financed, subject to the following:

(i) The applicant is obligated under a written lease or other agreement to pay such rent or charges in advance of the time income will be available from the operation to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head and the total cost may be used in lieu of a written lease. However, when relatively small amounts of funds are involved, an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the loan docket.

(ii) Arrangements cannot be made for the rent or charges to become due when income will be available from the operations to make such payment.

(iii) The terms of the rental agreement provide the applicant with satisfactory tenure for the crop year being financed.

(iv) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year, funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(8) Payment of real and personal property taxes due or about to become due and water or drainage charges or assessments.

(9) Payment or reasonable expenses incidental to obtaining, planning, making, and closing the loan, such as loan fees authorized in § 1980.22 of Subpart A of this Part and fees for legal, architectural, and technical services which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building and/or improvements. However, loan funds are not to be used to pay fees charged applicants by agriculture management consultants and other professionals for preparation of EE loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(10) Payment of premiums for insurance on real and personal property including premiums for public liability and property damage insurance on farm and other essential equipment, including farm trucks. When a loan is secured by chattels and the loss of such chattels would jeopardize the interest of lender or the Government, the lender may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

(11) Meeting the family subsistence needs, including premiums on reasonable amounts of health and life insurance, and expenses for medical care or for paying bills incurred for any

of these purposes during the crop year being financed.

(12) Purchase any stock in a cooperative lending or marketing organization that is necessary to obtain a loan or to maintain a viable farming operation

(13) Up to $25,000 in a fiscal year for real estate improvements, repairs or refinancing unsecured debts clearly incurred for such purposes although real estate is *NOT* available for collateral. The following determinations must first be made:

(i) A loan will not be needed year after year for this purpose.

(ii) The applicant owns the land or has a lease including a compensating agreement adequate to reimburse the tenant for any unexhausted value of the improvement upon termination of the lease.

(iii) It is clearly necessary for the success of the operation.

(14) When it is a customary practice among farmers in the locality, payment of "hedging" costs including brokerage fee, margin requirements, and margin calls in connection with a futures contract for nonspeculative purposes for a specific commodity being produced.

(b) *Real estate purposes.* (1) Changing or reorganizing the farming operation so it will be an economically viable operating unit. Such a purpose includes the construction, improvement, alteration, repair, relocation, purchase or moving of essential service buildings, facilities, and structures on the applicant's real estate necessary for reorganization of the operation, including the purchase and/or installation or augmentation and improvement of essential farmstead water and sewage systems, and other equipment or facilities necessary to the operation (includes equipment which utilizes wind or solar energy).

(2) Providing land and water development, acquiring water supplies, rights, use, and providing conservation essential to the operation. This includes but is not limited to fencing, land clearing forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, and development of fish ponds and lakes.

(3) Consolidating, restructuring or refinancing of secured and unsecured indebtedness, including the making of installment payments of principal and interest, owed on farm real estate or other farm and home debts (including FmHA insured and guaranteed loans) that cannot be paid unless assistance is made available with an EE loan, and other debts necessary to provide rates and terms within the applicant's repayment ability that will assure continuation of the farm operation.

(4) Payment of reasonable expenses incidental to obtaining, planning, making, and closing the loan, such as loan fees authorized in § 1980.22 of Subpart A of this Part and fees for legal, architectural, and technical services which are required to be paid by borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building and/or improvements. However, loan funds are not to be used to pay fees charged applicants by agriculture management consultants and other professionals for preparation of EE loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(5) Payment of the first-year premium for required insurance on buildings on the property which are to serve as security for the loan.

§ 1980.517 Loan limitations and special provisions.

(a) *Limitations on use of loan funds.* (1) Loan funds *will not* be used to purchase land.

(2) Loan funds *will not* be used to lease additional land which would increase the number of acres of the operation above the highest level being farmed during the year of application or the year preceding application, whichever is greater.

(3) Individual members of a cooperative or partnership, or stockholders of a corporation, will not receive individual loans to finance their interest in the cooperative, corporation or partnership farming operation.

(4) Loan funds will not be used to buy, build, or repair a borrower's personal dwelling(s).

(5) Loan funds will not be used as part of a compensating balance, i.e. a minimum required balance.

(6) An applicant conducting farming operations as an individual or as a cooperative, corporation, or partnership may be considered for more than one EE guaranteed loan when more than one agricultural lender is involved, provided (a) identifiable separate security is given to each lender and (b) the combined total principal balance outstanding at any one time on guaranteed loans for all lenders involved does not exceed *$400,000.* The limitation found in paragraph (d)(3) of this section must also be complied with.

(b) *Total loans to applicants.* The total principal balance outstanding at any time on EE loan(s) shall not exceed $400,000.

(c) *Applicants involved in more than one operation.* Loan to applicants involved in more than one operation will be considered as follows:

(1) If an applicant who, in addition to the applicant's own farm operation, owns or controls *50 percent or more* of another farm operation(s), and is actively engaged in both operations, both the applicant and the other farm operation(s) may be considered for separate loans provided the combined total does not exceed the $400,000 limitation.

(2) If an applicant, who, in addition to the applicant's own farm operation, owns or controls *less than 50 percent* of another farm operation(s), and is actively engaged in *separate* farm operation(s), the applicant and the other farm operation(s) will be considered as separate entities for application of the $400,000 limitation.

(3) If the first applicant described in paragraphs (c) (1) and (2) of this section is deemed to be ineligible, such determination shall not preclude the other operation(s) in which the applicant holds an interest from being considered for an EE loan(s).

(d) *Relationship with other FmHA insured or guaranteed loans.* (1) If an applicant qualifies for an Emergency (EM) loan in an authorized area, the applicant's total credit needs will first be considered under EM loan authorities. An EE loan may be made simultaneously with an EM loan to meet the applicant's total needs.

(2) Applicants applying for FmHA assistance or borrowers already indebted to FmHA and/or FmHA guaranteed lender(s) for Farm Ownership (FO), Operating (OL), Recreation (RL) or Soil and Water (SW) loan(s) may be considered for EE loan(s) provided the total outstanding principal indebtedness to FmHA and/or the lender(s) does not exceed $650,000. Applicants applying for assistance, who are eligible for FO, OL, RL or SW loans, will have their credit needs considered as follows:

(i) If at all possible, their *total* credit needs should be met with an FO, OL, RL, or SW loan;

(ii) If their *total* credit needs cannot be met with an FO, OL, RL or SW loan, they may be made an EE loan to meet their total needs;

(iii) If their *total* credit needs are greater than can be met with an EE loan, an EE loan can be made simultaneously with an FO, OL, RL or SW loan to meet the applicant's needs; and

(iv) If FO, OL, RL or SW loan funds are not available, in hardship cases, an

EE loan can be made to meet the applicant's immediate credit needs.

(4) The combined total of Emergency Livestock (EL) and EM indebtedness will *not* be considered in application of the $400,000 EE loan limitation.

§ 1980.518 Loan rates and terms.

(a) *Interest rate to borrower.* The interest rate to be paid by the borrower to the lender will be a fixed or variable rate agreed upon by the borrower and the lender, *except* the lender may not charge a rate in excess of its best rate to its best farm customers. Variable rates may change according to the practices of the lender for its best farm customers. Best farm customers are those conventional farm borrowers who are required to pledge their crops, livestock, and other chattel and real estate security for the loan. This does not include those high risk farmers with limited security and management ability that are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include those low risk farm customers who obtain financing on a secured or unsecured basis who have as collateral such items as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance, which they are able to pledge for the loan.

(b) *Variable interest rate.* (1) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree, and:

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purposes for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion. Fixed and variable interest rates cannot be used on the same loan.

(2) When multi-rates are used the lender will provide FmHA with the overall effective interest rate for the entire loan.

(c) *Loan terms for Loan Note Guarantee and Contract of Guarantee.* (1) Loans will be scheduled for repayment at such time and periods as the lender may determine, consistent with the purpose of the loan and in accordance with the useful life of the security and the reasonable repayment ability of the applicant as determined by the plan of operation. Form FmHA 431–2, "Farm and Home Plan," may be used in establishing a plan of operation or the lender may submit a plan of operation without using FmHA forms. However, there must be at least an annual installment unless a *deferment* of principal and/or interest is authorized in accordance with paragraph (f) of this section.

(2) Loan terms for items financed under § 1980.516(a) (operating purposes) of this Subpart will be as follows:

(i) Loans will be for a period not to exceed 7 years. Loans may be scheduled for a longer repayment period if the lender and FmHA approval official determine that the needs of the applicant justify a longer repayment period.

Such period may be approved as warranted by the needs of the applicant but cannot exceed 20 years. Generally real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, rescheduling is *not authorized.* This longer repayment period option is not available for Contract of Guarantee (line of credit) cases.

(ii) When conditions warrant, installments may vary in amounts. However, the final installment will not be larger than the amount which can then be financed by the lender without a guarantee or be repaid within a rescheduled period of not to exceed 7 years. The applicant must be advised before the loan is closed that the lender will review each case at the end of the loan term to determine if such rescheduling is warranted.

(iii) Advances for *annual recurring operating expenses* or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received. *HOWEVER,* the initial loan for annual recurring operating purposes may be scheduled for repayment for a period up to 7 years if additional security other than crops can be obtained.

(3) The terms for items financed under § 1980.516(b) of this Subpart (*real estate purposes)* will be for a period not to exceed 40 years. If less than 40-year terms are established for the initial loan, the loan may be reamortized not to exceed 40 years in accordance with paragraph (f) of this section. This repayment period option is not available for Contract of Guarantee (line of credit) cases.

(4) When real estate is taken as additional collateral for Contract of Guarantee cases, repayment terms will be limited to terms established for operating purposes as outlined in paragraph (c)(2) of this section.

(d) *Repayment schedules.* In order for notes to be acceptable, the principal and interest repayment schedules will have to be clearly shown in the note(s). Use of a note with a "payment on demand" feature is not permissible unless it is modified by a supplemental agreement which waives the demand feature and sets forth the repayment schedule.

(e) *Advances under a Contract of Guarantee—line of credit.* Prior to May 15, 1980, an outstanding guaranteed advance may be paid off before the end of its term with funds from a new guaranteed advance, provided the line of credit ceiling is not exceeded. However, no advance may be made for a term which exceeds the period remaining in the original or extended line of credit term. The line of credit term may be up to 7 years, but it is limited to the term established in the "Line of Credit Agreement." FmHA consent is not needed to make these line of credit advances under a Contract of Guarantee. After May 15, 1980, no new advances will be made. Advances outstanding at that time may be rescheduled for an additional 7 years with FmHA's consent. When deemed to be in the best interest of the Government and the borrower, and with FmHA's approval, advances rescheduled on May 15, 1980, may be rescheduled for an additional 7 years provided such rescheduling will not extend the loan terms beyond 14 years from the date of the original "Line of Credit Agreement."

(f) *Consolidation, rescheduling, reamortization and deferral.* (1) *General requirements.* All borrowers are expected to repay their loans according to the planned repayment schedule. However, circumstances may occur which will not permit borrowers to pay as scheduled. When rescheduling, consolidation, reamortization, or deferral will assist in the orderly collection of a loan, such action *may* be taken provided:

(i) The borrower meets the eligibility and security requirements for an initial loan as set out in this Subpart;

(ii) Such action is not used in lieu of or to delay liquidation;

(iii) Such action is not taken to remove a delinquency;

(iv) The lender determines that the borrower is making satisfactory progress or will make satisfactory progress with revised repayment terms;

(v) The borrower is cooperating in servicing the account and is maintaining the security;

(vi) Such action will enable the borrower to continue farming; and

(vii) Any holder(s) agrees to the consolidation rescheduling, reamortization, or deferral and recognizes that no payments will be

made to the holder by the lender or FmHA during any deferment period.

(2) *Consolidation and rescheduling.* (i) The term "consolidate" means to combine the outstanding principal and interest balance of two or more EE loans *made for operating purposes.* This applies to Loan Note Guarantee cases only.

(ii) The term "reschedule" means to rewrite the rates and/or terms of a promissory note which acknowledges indebtedness for a loan made for operating purposes.

(iii) EE loans made for operating loan purposes *may* be consolidated only with other EE loans made for operating loan purposes. Whenever a subsequent EE loan for operating purposes is approved, it may be consolidated with all outstanding EE loans for operating purposes into a single new note.

(iv) An EE loan made for operating loan purposes may be consolidated or rescheduled when it is in the best interests of the borrower and the lender to do so.

(v) An EE loan made for operating purposes scheduled to be repaid in more than seven years will *not* be consolidated with other EE loans.

(vi) There is no limit on the number of times consolidation or rescheduling action may take place.

(vii) The interest rate for a consolidated or rescheduled loan for operating purposes will be the negotiated rate agreed upon by the lender and the borrower subject to the limitations set out in subsections (a) and (b) of this section.

(viii) The new note which exists after a consolidation or rescheduling action occurs must be scheduled over a period *not to exceed seven years* from the date of the action except in special cases authorized in subparagraph (c)(2)(i) of this section. When a longer term is needed, EE loans for operating purposes may be rescheduled for up to 20 years from the date of the original note.

(ix) When a consolidation occurs, a new Form FmHA 449–34 and a new Form FmHA 449–35 will be executed.

(3) *Reamortization.* (i) The term "reamortize" means to rearrange the rates and/or terms of a EE loan(s) made for real estate purposes.

(ii) Scheduled payments may be rearranged over the remaining term of the original repayment period established for the loan or assumption agreement (new terms), or be rearranged over a period not to exceed the maximum statutory period of 40 years from the date of the original note.

(iii) The interest rate for a reamortized EE loan will be the negotiated rate agreed upon by the lender and the borrower at the time of the action subject to the limitations set out in paragraphs (a) and (b) of this section.

(4) *Deferral.* (i) The term "defer" means to postpone the payment of interest and/or principal on an EE loan.

(ii) Principal may be deferred in whole or in part. Interest may be deferred only in part. A partial payment of the interest will be required during the deferment period.

(iii) Deferred interest will *not* be capitalized.

(iv) Payments may be deferred for no more than three years, but in no case will the deferral period extend beyond the final due date of the note.

(v) The lender must determine that scheduled payments cannot be made due to circumstances beyond the borrower's control, and the borrower is temporarily unable to continue making payments due on the loan without unduly impairing the borrower's standard of living. Also the lender must determine that there are reasonable prospects that the borrower will be able to resume full payments at the end of the deferral period.

(5) For the actions described in paragraphs (f) (1), (2) and (3) of this section, the following will also apply:

(i) The consolidated, rescheduled or reamortized note may increase the amount of principal by the amount of accrued interest owed at the time of the consolidation, rescheduling, or reamortization.

(ii) The new note will describe the note(s) being consolidated, deferred, rescheduled or reamortized and will state that the indebtedness evidenced by such note(s) is *not* satisfied. The original note(s) must be retained for identification purposes.

(iii) Additional security instruments will be required if needed to maintain lien priority or to protect the interest of the lender and FmHA.

§ 1980.519 [Reserved]

§ 1980.520 Collateral requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that all available collateral is pledged and maintained and is in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Except for the modifications contained in paragraph (c) (1) of this section, collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and prospective earnings. Collateral may include, but is not limited to the following: livestock, livestock products, crops, land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the guaranteed and unguaranteed portions of the loan(s). The lender may not take separate collateral to secure only that portion of the loan not covered by the guarantee. Compensating balances or certificates of deposit as used in the ordinary course of business may be required but not as a means of eliminating the lender's exposure on the unguaranteed portion of the loan.

(4) When FmHA and a guaranteed lender are involved in separate EE loans to the same borrower, separate collateral must be clearly identified for both the FmHA and the lender's loans.

(b) *Personal and corporate guarantees* (also considered collateral).

(1) Personal guarantees from principal members of cooperatives, principal stockholders in a corporation, or principal partners of partnerships, usually will be required. Guarantees from principals of parent, subsidiary, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide sufficient security.

(2) An exception to the requirements for personal guarantees or corporate guarantees may be granted by FmHA if the proposed guarantors provide written evidence through the lender to FmHA that they cannot provide such guarantees due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, such guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, the lender and/or FmHA may require additional personal and corporate guarantees. The lender and/or FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing),

signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(c) *Additional requirements.* (1) If the present market value of the collateral is not at least equal to the amount of the loan, the applicant's repayment ability may be considered by the lender and FmHA (provided the FmHA loan approval official's opinion is based on the evaluation set forth in § 1980.511(d) of this Subpart) in determining whether the loan should still be made. When the applicant's repayment ability is so considered, the following conditions must also be met:

(i) The applicant's *typical year* operating plans indicate ability to pay the loan in full within the proposed repayment period (which may provide for a deferral if necessary).

(ii) The applicant will give a lien on *all* available collateral.

(iii) The agreement between the lender and FmHA concerning the applicant's repayment ability will be indicated on either Form FmHA 449–14 or Form FmHA 1980–15.

(iv) If FmHA and the lender agree, life insurance will be required for the individual borrower or for the principals and key employees of an entity borrower and will be assigned or pledged to the lender. This life insurance may be decreasing term insurance. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(2) Any extension of credit by the lender after May 15, 1980, will not be covered by the guarantee and, if it is to be secured, a lien must be taken on other collateral or the lien position taken on the existing collateral must be junior to any liens taken for the guaranteed EE advances.

(3) When the same lender is involved in both an EE guaranteed loan(s) and a separate loan and there will be like chattel collateral for each, the EE guaranteed loan(s) must be adequately secured by (i) a lien on separate collateral that is clearly identifiable, or (ii) a lien of a higher priority if the same collateral is used to secure both loans. In the latter case when the same collateral secures both loans, the lender must agree in writing that the scheduled installments on the EE guaranteed loan will be paid first.

(4) *The use of supervised accounts* by lenders to maintain ongoing farming operations will be established for Loan Note Guarantee cases when chattels serve as security for the loan. This requirement is imposed by FmHA for the purpose of assisting the lender in maintaining security and in order that the lender and FmHA will have available a record of the use of both loan funds and funds received in the normal course of a borrower's farming operation. The funds placed in such an account must be assigned as collateral for the guaranteed loan and disbursed only for authorized EE loan purposes. Also, the value of the security for, and the lien position of, the loan must be maintained by the lender as funds are received and disbursed through the account. The lender will maintain a continuous record of items sold, funds placed in, and use of proceeds disbursed from the account. It is intended that supervised accounts be used primarily with Loan Note Guarantee cases. However, the same requirements will apply should the occasion arise to use a supervised account with a Contract of Guarantee on a line of credit.

(5) The lender must ascertain that the borrower or any other individual or entity pledging collateral for the loan, actually has a marketable title to the collateral pledged as security for the loan and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(6) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required when necessary to properly protect the interests of the Government and the lender on every loan in an amount that is at least the lesser of the replacement cost of the real estate property being insured or the amount of the loan.

(7) Insurance may be required on personal property when the loan approval official determines it is necessary to protect the interest of the lender and the Government.

Administrative

The County Supervisor will:

1. Review and determine whether the lender has required the necessary security to be taken. If necessary, the County Supervisor will seek the advice and assistance of the District Director. The security is inadequate or questionable, the County Supervisor will make an appraisal of the required security.

2. Determine if the material and information submitted is complete. If the County Supervisor determines that the lender's appraisal(s) of the security is inadequate or questionable, the County Supervisor will make an appraisal of the required security.

§§ 1980.521–1980.522 [Reserved]

§ 1980.523 General provisions—compliance requirements.

See the following sections of Subpart A of this Part for appropriate actions to be taken:

(a) § 1980.40—Environmental impact assessments and statements.

(b) § 1980.41—Equal opportunity and nondiscrimination requirements.

(c) § 1980.42—Flood or mudslide hazard area precautions.

(d) § 1980.43—Clean Air Act and Water Pollution Control Act requirements.

(e) § 1980.44—National Historic Preservation Act of 1966.

(f) § 1980.45—Other Federal, State and local requirements.

Administrative

The County Supervisor will:

1. Determine that the supporting items and forms listed in §§ 1980.40 through 1980.45 of Subpart A of this Part are a part of the application, and the conditions of each section are being complied with when applicable.

2. Follow the requirements of Subpart G of Part 1901 of this Chapter.

§ 1980.524 Additional loans or advances.

See paragraph XIV of Form FmHA 449–35 for Loan Note Guarantee cases and paragraph XIII of Form FmHA 1980–38 for Contract of Guarantee cases.

§ 1980.525 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its own promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this Subpart or Subpart A of this Part.

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) Stating that "disposition of the collateral is not authorized hereby."

§ 1980.526 Guarantee fees.

There are no Guarantee Fees for EE loans.

§ 1980.527 Charges and fees by lender.

See § 1980.22 of Subpart A of this Part for these requirements.

§ 1980.528 Full faith and credit.

The Loan Note Guarantee and Contract of Guarantee constitute an obligation supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purchase in Loan Note Guarantee cases will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee and Contract of Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violations of usury laws, use of the loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. As used in this section and in any Loan Note Guarantee or Contract of Guarantee in which the phrase appears, "use of loan funds for unauthorized purpose" refers to the situation in which the lender in fact agrees with the borrower that loan funds are to be so used and the phrase "unauthorized purposes" means any purpose not listed by the lender in the completed application as approved by FmHA.

§ 1980.529 Guarantee limits.

The maximum loss covered under Form FmHA 449–34 (1980–34) or Form FmHA 1980–27 will not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note(s) or assumed under an assumption agreement. Lenders and applicants will propose the percentage of guarantee. FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to those provisions set forth in paragraphs (a), (b), (c), (d) and (e) of § 1980.20 of Subpart A of this Part. In this regard, loan guarantees will not be rejected solely because the applicant has collateral which has depreciated in value because of temporary economic conditions. Instead, the percentage of the guarantee should be reduced as outlined above to compensate for any additional risk to the Government resulting from these factors. The lender and applicant will be informed in writing on Form FmHA 449–14 or Form FmHA 1980–15 by FmHA of any percentage of guarantee less than that proposed by the lender and the applicant and the reasons for such a reduction.

§§ 1980.530–1980.546 [Reserved]

§ 1980.547 Review of FmHA requirements by lender and applicant.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449–14 or Form FmHA 1980–15 should complete and execute the "Acceptance or Rejection of Conditions" part and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of the County Supervisor's decision. If these alternatives are acceptable, Form FmHA 449–14 or Form FmHA 1980–15 will be revised accordingly.

§ 1980.548 Conditions precedent to issuance of the guarantee.

See § 1980.60 of Subpart A for conditions precedent to the issuance of either a Loan Note Guarantee or a Contract of Guarantee except:

(a) The provisions of § 1980.60(a)(2) are not applicable to Loan Note Guarantee cases;

(b) The provisions of §§ 1980.60(a)(2) and (d) are not applicable to Contract of Guarantee cases, and

(c) To meet the requirements of § 1980.60(c) in Contract of Guarantee cases, the lender will execute and deliver Form FmHA 449–38 to FmHA.

Administrative

The County Supervisor will:

1. Negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449–14 or Form FmHA 1980–15. A copy of the completed form and any amendments thereto will be included in the loan file.

2. Review the loan agreement or the line of credit agreement between the borrower and lender. It should provide for the frequency of submission of financial statements to the County Supervisor. Annual financial statements are required for *all* EE loans.

3. Review plans for inspections to be made of construction projects.

4. Review cost overruns and, if any are found, determine with the lender how cost overruns will be met.

5. Review basic credit requirements of all loans.

§ 1980.549 Issuance of guarantee instruments.

Events from issuance of a conditional commitment through issuance of the guarantee instruments may all occur at loan closing in the sequence indicated in § 1980.61 of Subpart A of this Part.

(a) *Loan Note Guarantee cases.* See § 1980.61 of Subpart A, except that paragraphs § 1980.61(b)(2) and § 1980.61(f) as well as the "guarantee fee" in paragraph § 1980.61(a) shall not apply. Paragraph X C 10 of Form FmHA 449–35 will be changed by, striking the word "semiannually", inserting "annually" in its place, and eliminating the words "June 30 and". FmHA and the lender should initial the change.

(b) *Contract of Guarantee cases.* (1) If FmHA finds that all requirements have been met, FmHA will execute Form FmHA 1980–38. The original will be retained by FmHA and a signed duplicate original will be retained by the lender. Paragraph IX C 10 of Form FmHA 1980–38 will be changed by striking the word "semiannually" inserting "annually" in its place, and eliminating the words "June 30 and." FmHA and the lender should initial the change.

Form FmHA 1980–38 will be executed for all lines of credit guaranteed by FmHA. The Lender's Agreement will be executed not later than the time the Contract of Guarantee is signed.

(2) Upon receipt of the Form FmHA 1980–38 and after all requirements have been met, FmHA will execute Form FmHA 1980–27. An original will be provided to the lender. A conformed copy will be retained by FmHA.

(3) If FmHA determines that it cannot execute the Contract of Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449–13 of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(4) If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will prepare and submit Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," to the Finance Office.

(c) *Authorized FmHA representatives to execute forms.* State Directors and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, Contract of Guarantee, and Assignment Guarantee Agreement.

Administrative

A. The original Form FmHA 449–35 or Form FmHA 1980–38 will be kept in the County

Office. A copy may be retained in the State Office.

B. Copies of Form FmHA 449-34 (1980-34) and Form FmHA 1980-27 will be kept in the County Office. Additional copies may be retained by the State Office. Copies of issued guarantees will be kept in each borrower's loan file.

C. For reporting purposes when multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

D. The County Supervisor and lender will complete Form FmHA 1980-19, "Guaranteed Loan Closing Report," execute the original and conform the copies. This will be done on the same date the guarantee instrument is executed. The original will be sent to the Finance Office and a copy transmitted to the State Office.

E. The guarantee processing actions required for an EE loan will be completed as soon as possible, but in no case more than thirty days after FmHA receives a lender's formal written request for an EE guarantee, unless unusual circumstances are involved.

F. Upon receipt of Form FmHA 440-1, the Finance Office will charge the loan amount or line of credit ceiling (as appropriate for the type of guarantee) against any EE allocation for the particular State. The Finance Office will submit a State summary report on loan obligations to the State and National Office weekly.

§§ 1980.550-1980.558 [Reserved]

§ 1980.559 Substitution of lenders.

With prior FmHA written approval from the State Director, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all servicing responsibilities and liabilities and acquires the unguaranteed portion of the loan. In Loan Note Guarantee cases, such substitution may be made without the holder's consent but not without notice to the holders by the substituted lender. The new lender will execute Form FmHA 449-35 or Form FmHA 1980-38 at the same time as the substitution. After FmHA approval of the new lender, Form FmHA 1980-42, "Notice of Substitution of Lenders," will be completed by the FmHA servicing representative and mailed to the FmHA Finance Office.

§§ 1980.560-1980.576 [Reserved]

§ 1980.577 Transfer and assumption of EE loans.

(a) All transfers and assumptions must be approved in writing by FmHA. Such transfers and assumptions must be to an *eligible* applicant as set forth in § 1980.512 of this Subpart. No applicant will be considered "eligible" after the termination date of the EE loan authority.

(b) The transferee will submit Form FmHA 449-6 and other needed information to the lender for evaluation.

(c) Available transfer and assumption options to eligible applicants include transferring the *total* indebtedness to another borrower either on the same terms or on different terms not to exceed those terms for which an initial loan can be made.

(d) In any transfer and assumption case, the transferor and any guarantor(s) may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan.

(e) Any proceeds received from the sale of security before a transfer and assumption will be credited to the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(f) The lender is responsible for getting an appraisal of the fair market value of all the collateral securing the loan. Subject to the approval of the transferor and transferee, an appraisal can be made by either independent fee appraisers or qualified appraisers on the lender's staff. The appraisal report fee and other related costs will be paid by the transferor and/or transferee, as they agree.

(g) The market value of the security being acquired by the transferee, plus any additional security the transferee proposes to give, must be adequate to secure the balance of the total guaranteed loan plus any prior liens.

(h) If any cash downpayment is made, it may be paid directly to the transferor as payment for the transferor's equity in the project provided:

(1) The lender recommends and FmHA approves the cash downpayment be released to the transferor.

(2) Any downpayment that is made by the transferee to the transferor does not suspend the transferee's obligation to continue to make the guaranteed loan payments as they come due under the terms of the assumption.

(3) The transferor agrees not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the lender.

(4) The lender determines that the transferee has the ability to repay the guaranteed debt assumed and any other indebtedness.

(i) The lender will issue a statement to FmHA that the debt can be properly transferred and the conveyance instruments must be filed, registered, or recorded, as appropriate, and must be legally sufficient.

(j) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(k) The assumption will be made on the lender's form of assumption agreement.

(l) The assumption agreement must contain the FmHA case number of the transferor and transferee.

(m) The assumption agreement may change loan terms and/or interest rates only if a new Loan Note Guarantee will be executed.

(n) In the case of a transfer and assumption at the same rates and terms, the lender must give any holder(s) notice of the transfer and notice that future payments will be made under a different name and case number. It is the lender's responsibility to see that the transfer and assumption is noted on all originals of the Loan Note Guarantee. The lender must provide FmHA with a copy of the transfer and assumption agreement.

(o) Before allowing a transfer and assumption at *different* rates and terms the lender must consult with any holder(s). If the holder(s) consents to the transfer, the lender must provide FmHA with a copy of the transfer and assumption agreement and must note the transfer and assumption on all originals of the Loan Note Guarantee.

Administrative

A. Loan approval officials, consistent with their authority to approve guarantees, may consent:

1. To all transfer and assumption cases.

2. To the releases of the transferor and guarantor(s) from liability on the loan. They will notify the lender and the transferor and guarantor(s) of the decision in writing.

3. To any changes in the loan terms provided the holder(s), if any and lender agree.

B. The Loan Note Guarantee or Contract of Guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the County Office file. The County Supervisor will notify the Finance Office of all approved transfer and assumption cases so that Finance Office records may be adjusted accordingly. This will be accomplished by sending completed Forms FmHA 1980-7, "Notice of Transfer and Assumption of a Guaranteed Loan", FmHA 1980-51, "Add Change or Delete Guaranteed Loan Record," and, for new borrowers, FmHA 1980-50 to the Finance Office.

§ 1980.578 Loan servicing.

The *lender* is responsible for loan servicing. See paragraph X of Form FmHA 449-35 for Loan Note Guarantee Cases or paragraph IX of Form FmHA 1980-38 for Contract of Guarantee cases.

Administrative

A. The lender has the responsibility for loan servicing and protecting the collateral. The County Supervisor is responsible for monitoring the loan to see that the required servicing is properly accomplished. Prompt follow-up on deliquent payments and early

recognition of problems are keys to resolving many delinquent loan cases.

B. The County Supervisor will:

1. Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security that was to be acquired or constructed after issuance of the guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops, the County Supervisor will promptly contact the lender to resolve it.

2. Review all EE borrowers' financial statements furnished by the lender and take appropriate servicing action reminding the lender of its servicing responsibilities. See paragraph X of Form FmHA 449–35 or paragraph IX of Form FmHA 1980–38.

3. Contact the State Office when information indicates the lender or the borrower has failed to fulfill any of the loan approval conditions and the resulting problem cannot be resolved by the County Supervisor and the lender.

4. Take appropriate action upon receipt of notice from the lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. See paragraph XI of Form FmHA 449–35 or paragraph X of Form FmHA 1980–38.

5. Establish an office management system for guaranteed loans in accordance with FmHA Instruction 405.1 (a copy of which is available in any FmHA office) to ensure timely followup on all required financial statements and to make sure any special requirements for loan servicing conditions are met.

6. Submit to the Finance Office "the lender's statement" required in paragraph X C 10 of Form FmHA 449–35 or paragraph IX C 10 of Form FmHA 1980–38 reflecting the unpaid principal balances on the loan.

C. The District Director will:

1. Provide guidance and assistance to the County Supervisor in loan making and servicing.

2. Review all field visit reports and make recommendations or comments and transmit them to the State Director, if necessary.

D. The County Supervisors are authorized to approve or concur in:

1. Alterations in the loan approval conditions which will not prejudice the Government's interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the guarantee.

4. Any deferral, rescheduling, consolidation, or reamortization.

5. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449–35 or paragraph IX of Form FmHA 1980–38.

E. State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§ 1980.579 Protective advances.

It is not intended that protective advances be made in lieu of additional loans. See paragraph XIII of Form FmHA 449–35 or paragraph XII of Form FmHA 1980–38, as appropriate.

Administrative

The County Supervisor is required and authorized to approve protective advances in excess of $500 when it is necessary to protect or preserve security.

§ 1980.580 Termination of guarantee.

See paragraph 12 of Form FmHA 449–34 for termination of Loan Note Guarantees and paragraph 5 of Form FmHA 1980–27 for termination of Contracts of Guarantee.

Administrative

The County Supervisor will advise Finance Office by a memorandum when a Loan Note Guarantee or Contract of Guarantee is terminated.

§ 1980.581 Defaults by borrower.

(a) See paragraph XI of Form FmHA 449–35 for Loan Note Guarantee cases or paragraph X of Form FmHA 1980–38 for Contract of Guarantee cases.

(b) The lender will arrange with the County Supervisor to meet with the borrower to resolve the problems.

(c) The lender will summarize the meeting in a memorandum listing the individuals who attended and describing the problems and proposed solutions. The original will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

Administrative

A. The County Supervisor will review and distribute Form FmHA 1980–44, "Guaranteed Loan Borrower Default Status," in accordance with the preparation instructions in the FMI upon receipt of the lender's default notification in accordance with paragraph XI A of Form FmHA 449–35 or paragraph X A of Form FmHA 1980–38. The County Supervisor will coordinate and process any request for FmHA to purchase (as outlined in paragraph XI D of Form FmHA 449–35) when the holder(s) is located in close proximity to the local lender. If any holder is located outside the area, the State Director will designate an employee to handle the repurchase arrangements. If the employee is not the County Supervisor, the County Supervisor will be notified of the transaction by the State Director.

B. The County Supervisor will verify the amounts due the holder(s), and transmit the holder's demand for payment by memorandum to the State Director, copies of evidence of the holder's ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. In the event of default or servicing problems, the County Supervisor will use Form FmHA 1980–37, "FmHA Purchase of Guaranteed Loan Portion," to request a check to pay the guaranteed portion of a loan(s) to the holder(s) when necessary. The Finance Office will forward the check within 10 days after receipt of the request.

D. Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.582 Liquidation.

See paragraph XII of Form FmHA 449–35 for Loan Note Guarantee cases or paragraph XI of Form FmHA 1980–38 for Contract of Guarantee cases.

Administrative

A. *Meetings.* The County Supervisor will meet with the lender when the lender or FmHA determines that liquidation is necessary and will inform the District Director and the State Director of the results.

B. *Form FmHA 449–35 or Form FmHA 1980–38, paragraphs XII B or XI B respectively.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan is not likely to provide for a reasonably adequate recovery. The County Supervisor will approve lender liquidation plans or exercise the FmHA option to liquidate. The District Director or State Office may be consulted on complex cases for advice if necessary. When such a decision is made, the County Supervisor will submit Form FmHA 1980–45, "Notice of Liquidation Responsibility," to the Finance Office.

C. *Form FmHA 449–35, or Form FmHA 1980–38, paragraphs XII D or XI D respectively.* County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph XII D or paragraph XI D, as appropriate. The County Supervisor will accept or reject the accounting reports as submitted by the lender and will obtain the advice of the District Director or State Office when necessary. When FmHA liquidates the security, the County Supervisor will submit these reports to the lender and will send copies to the District Director and the State Office.

D. *Form FmHA 449–35, or Form FmHA 1980–38, paragraphs XII E 2 or XI E 2 respectively.* County Supervisors are authorized to accept Report of Estimated Loss or Final Loss payment determinations on Form FmHA 449–30, "Loan Note Guarantee Report of Loss," in those cases where the loss will not exceed $55,000. The State Director is authorized to accept the determinations in all other cases. A copy of the form will be given to the District Director. The State Director will submit Form FmHA 449–30 to the Finance Office for payment of any losses. The Finance Office will forward loss payment checks within 10 days of receipt of the request to the County Supervisor for delivery to lender.

E. *Form FmHA 449–35, or Form FmHA 1980–38, paragraphs XII E 3 or XI E 3 respectively.* Final loss payments will be made within the 60 days required, but only after a review has been made to accurately determine FmHA liability. There payments will be reduced if necessary after considering the "Conditions of Guarantee" in Form FmHA 449–34 or Form FmHA 1980–27, as

appropriate. State Directors are responsible for seeing that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. The County Supervisor may conduct such reviews when the loss does not exceed $55,000. The State Director will conduct all other reviews. The State Director may request National Office assistance in conducting any reviews.

§§ 1980.583–1980.588 [Reserved]

§ 1980.589 Graduation.

There is *no* "graduation" requirement for guaranteed FmHA loans.

§ 1980.590 Appeal procedure.

See § 1980.80 of Subpart A of this Part for the method of having adverse decisions of County Supervisors, District Directors and State Directors reviewed. Any adverse decision by a County Committee will, upon request of the aggrieved party, be reviewed by the State Director or Acting State Director. The method of review set forth in § 1980.80 will be followed with the following exceptions:

(a) The aggrieved party will be offered an opportunity to present material before the County Committee for their reconsideration prior to a formal determination by the State Director.

(b) Prior to issuance of any determination on an appeal to the aggrieved party which is overturning or modifying a County Committee decision, the committee will be given an explanation of the determination(s) by a member delegated by the State Director. The County Committee will be given an opportunity to reconsider their initial decision once more prior to issuance of the determination to the aggrieved party.

§ 1980.591 Access to lenders records.

See § 1980.81 of Subpart A of this Part for this requirement.

§ 1980.592 County and State Office files.

(a) *County Office files.* County Offices having charge of loan guarantees are not expected to maintain complete case files. However, the County Office case file for each loan guarantee should contain originals or copies of forms and other material which is needed to monitor the lender's loan servicing actions.

(b) *State Office files.* State Directors may maintain files on cases which require special servicing attention.

§ 1980.593 FmHA forms.

(a) See Appendix A for list of applicable FmHA forms, number to be prepared, signatures required, and manner of distribution.

(b) Forms FmHA 1980–27, "Contract of Guarantee (Emergency Livestock Loan or Economic Emergency Loan)"; FmHA 1980–38, "Lender's Agreement (Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee)"; FmHA 1980–15, "Conditional Commitment for Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee"; FmHA 1980–32, "Lender's Certification (Guaranteed Economic Emergency Loan)"; and FmHA 1980–25, "Request for Guarantee (Emergency Livestock Loan or Economic Emergency Loan)," are incorporated in this Subpart F, made a part hereof, and appear as Appendices B, C, D, E, and F in the Federal Register. Copies of the forms may be obtained from any FmHA office.

§ 1980.594–1980.600 [Reserved]

Appendix A.—FmHA Forms

(a) The following chart lists applicable FmHA forms, number to be prepared, signatures required, and manner of distribution. Any of these FmHA forms and others needed by lenders or applicants may be obtained from FmHA.

FmHA form No.	Name of form	Total No.	Signed by[1]	Distribution
Forms Needed by a Lender for Use in Preparing the EE Guarantee Request				
400–1	Equal Opportunity Agreement	3	B–O	O–L, C–B, C–FmHA.
400–3	Notice to Contractors and Applicants	4	L–O	O–Con, C–B, C–L, C–FmHA.
400–6	Compliance Statement	4	Con, O–2C	O–L, C–Con, C–B, C–FmHA.
449–6	Application for Guaranteed Loan (Farmer Programs).	2	B–O	O–L, C–FmHA.
1980–25	Request for Guarantee (Emergency Livestock Loan or Economic Emergency Loan).	2	L–O	O–FmHA, C–L.
1980–32	Lender's Certification (Guaranteed Economic Emergency Loan).	3	L&B–O	O–FmHA, C–L, C–B.
449–35	Lender's Agreement	2	L&FmHA (O&C)	O–FmHA, C–L.
449–36	Assignment Guarantee Agreement	3	L,H & FmHA	O–H, C–L, C–FmHA.
1980–38	Lender's Agreement (Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee).	2	L&FmHA (O&C)	O–FmHA, C–L.
Forms Used by FmHA in Processing and Handling the Guarantee Request				
440–1	Request for Obligation of Funds	4	FmHA–O	O–FC, C–Leader, C–FmHA, C–State Director.
440–2	County Committee Certification or Recommendation.	1	County, Comm	FmHA.
449–13	Denial Letter	2	FmHA–O	O–L, C–FmHA.
449–14	Conditional Commitment for Guarantee	2	FmHA–O	O–L, C–FmHA.
1980–15	Conditional Commitment for Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee.	2	FmHA–O	O–L, C–FmHA.
449–23	Guaranteed Loan Evaluation Farmer Programs.	1	FmHA–O	O–FmHA.
1980–27	Contract of Guarantee (Emergency Livestock Loan or Economic Emergency Loan).	2	FmHA–O	O–L, C–FmHA.
1940–37	Economic Emergency Loan Analysis	3	FmHA–O	O–FC, C–FmHA, C–State Director.
449–34	Loan Note Guarantee	2	FmHA–O	O–L, C–FmHA, O–FC, C–FmHA.
1980–50	Add, Delete or Change Guaranteed Loan Borrower Information.	3	FmHA–O	County Office, C–Originator.
Forms Used Jointly by Lender and FmHA				
449–30	Loan Note Guarantee Report of Loss	3	L–O	O–FmHA, C–L, C–FmHA.
1980–19	Guaranteed Loan Closing Report	3	L–O, FmHA	O–FC, C–L, C–FmHA, County Office.

[1] Signature and Distribution "L"—Lender; "H"—Holder; "B"—Borrower or assumptor; "FC"—Finance Office; "FmHA"—Authorized FmHA Official; "Con"—Contractor; "O"—original; "C"—copy.

(b) *Other forms and information.* Any needed forms not furnished by FmHA will be provided by the lender. The lender may obtain information from FmHA and copies of other FmHA forms that may be helpful in various aspects of loan making, construction and development, and loan servicing.

(c) *Racial code.* Some FmHA forms contain space for coding the race of the applicant for the loan or assumption. In the code, "W" means "White," "N/B" means "Negro (Black)," "S" means "Spanish-American," "AI" means "American Indian," and "O" means any other race. The lender is responsible for completing this code on all forms on which it appears, in accordance

with its best judgment as to the race involved.

(d) *Revision of existing forms.* Until the present supply is exhausted, the forms described below will be revised on an individual case basis as follows:

(1) *Form FmHA 400–1, "Equal Opportunity Agreement."* In the second paragraph after the word "Recipient," insert "or to Recipient's lender." In subparagraph 1(e), change the word "or" to "issued."

(2) *Form FmHA 400–6, "Compliance Statement."* In the first paragraph between "with" and "assistance," insert "loan guarantee."

(3) *Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."* The crop and livestock production tables on the face of the form may be omitted.

BILLING CODE 3410–07–M

Position 3

USDA-FmHA Form FmHA 1980-32 (10-29-79)	APPENDIX E LENDER'S CERTIFICATION (Guaranteed Economic Emergency Loan)	*Case No.* State County
Loan Applicant's Name & Address		Principal Amount of Loan; or $ Line of Credit Ceiling $

To induce the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), to execute a Loan Note Guarantee or Contract of Guarantee with respect to Economic Emergency (EE) loan(s) pursuant to the Emergency Agricultural Credit Adjustment Act of 1978, and the regulations in 7 CFR, Part 1980, Subparts A and F, the undersigned lender hereby certifies that:

1. An application has been received from the above-named applicant for an EE loan or line of credit in the amount stated above for the purposes and in the amounts set forth in Form FmHA 1980-25, to which this certification is attached.

2. Lender is unwilling to make such loan or line of credit advances without an FmHA guarantee.

3. Applicant is a bona fide farmer or rancher (owner-operator or tenant) doing business in the United States either as an individual, cooperative, corporation or partnership which is recognized in the community as one which is primarily and directly engaged in agricultural production. In the case of an individual loan applicant, the term "primarily and directly engaged in agricultural production" means that the applicant derives more than fifty percent of the gross income from the applicant's own agricultural production or more than fifty percent of the time required to operate the farm is provided by the applicant or family members of the applicant. In the case of a cooperative, corporation or partnership loan applicant, the term "primarily and directly engaged in agriculutral production means that the cooperative, corporation or partnership derives more than fifty percent of its gross income from agricultural production, and the member(s), shareholder(s) or partner(s) owning or controlling a majority interest in such cooperative, corporation or partnership either derive more than fifty percent of their gross income from their own or the cooperative's, corporation's or partnership's agricultural production, or devote more than fifty percent of their time to such agricultural production.

4. Applicant does not own or control more than fifty percent interest in any entity that is applying for or has received an EE loan, except as set forth here: _____

5. Applicant, if an individual, is a citizen of the United States. If a cooperative, corporation or partnership, those members, stockholders or partners who have a majority interest in the entity applying for the loan are citizens of the United States.

6. The loan or line of credit requested by the loan applicant is to be used for one or more purposes which are essential to carrying on farming or ranching operations as specified in Section 203 of said Act and FmHA regulations cited above.

7. The requested loan or line of credit is necessary for the continuation of a viable farming or ranching operation, does not exceed the amount necessary to permit the loan applicant to continue such an operation, and will not be used to purchase land or to lease additional land which would increase the number of acres of the operation above the highest level being farmed during the year of application or the year preceding application, whichever is greater.

8. The lender agrees that the loan or line of credit may be accelerated if the borrower ceases to be a farmer or rancher during the the term(s) of the loan or line of credit.

_____
(Name of Lender)

_____
(Date)

BY _____
(Authorized Official)

TITLE _____

BILLING CODE 3410-07-C

(7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Asst. Sec. of Rural Development, 7 CFR 2.70)

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment and in accordance with the National environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

Dated: November 20, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-38920 Filed 12-18-79; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 1951

[FmHA Instruction 1951-A]

Servicing and Collections; Account Servicing Policies

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the consolidation and rescheduling of Economic Emergency (EE) and Emergency (EM) loans. The change clarifies existing policy which is intended to prohibit EM actual loss loans and EM major adjustment loans for real-estate purposes from being consolidated. In addition, the change modifies existing policy pertaining to consolidation of EM loans made for operating purposes to permit consolidation of an annual operating loan only with other annual operating loans and to permit consolidation of a major adjustment loan for Subtitle B (operating) purposes only with other major adjustment loans for Subtitle B (operating) purposes.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: James Vollmer, Farmers Home Administration, USDA, Room 5336 South Agriculture Building, Washington, D.C. 20250 (202) 447-6257.

SUPPLEMENTARY INFORMATION: FmHA is revising § 1951.33(d) and § 1951.40(d)(1) in Subpart A of Part 1951, Subchapter H, Chapter XVIII, Title 7, in the Code of Federal Regulations. The amendments:

(1) Prohibit the consolidation of Emergency actual loss loans and prohibit the consolidation of Emergency major adjustment loans for Subtitle A (real-estate) purposes.

(2) Permit the consolidation of Emergency annual operating loans only with the other annual operating loans and permit the consolidation of Emergency major adjustment loans for Subtitle B (operating) purposes only with other Emergency major adjustment loans for Subtitle B (operating) purposes.

(3) Prohibit repayment terms on consolidated loans from being shorter than the terms established on the existing loans.

It is the policy of the Department that rules relating to public loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This action, however, is being published as a final rule. The clarification of existing policy is needed to prevent loans from being consolidated and rescheduled over a shorter repayment period than that established for the original loans, particularly when annual operating and major adjustment loans are being consolidated. The agency does not intend to approve consolidation of loans over a repayment period that is shorter than that of the original loan.

The agency has determined that consolidating and rescheduling loans over a shorter repayment period than that established for existing loans is not in the public's best interest. The amendment also clarifies existing agency policy without modifying existing policies. Therefore prior rulemaking publication of these changes is impractical and unnecessary. The official responsible for making this determination is James E. Lee, Assistant Administrator, Farmer Programs.

Accordingly, FmHA amends Title 7, Chapter XVIII, Part 1951 Subpart A as follows:

1. § 1951.33, paragraph (d) is revised to read as follows:

§ 1951.33 Deferral, consolidation and rescheduling of OL, and EM and EE loans made for Subtitle B purposes.

* * * * *

(d) *Consolidation and rescheduling EE and EM loans.* EE and EM loans made for real estate purposes will *not* be consolidated and rescheduled under any circumstances. EE and EM loans made for operating purposes may be consolidated and rescheduled subject to all of the following conditions:

(1) EE and EM loans may be consolidated and rescheduled when it is in the best interests of the borrower and the government.

(2) EM actual loss loans will *not* be consolidated.

(3) EM annual operating loans can be consolidated only with other EM annual operating loans.

(4) EM major adjustment loans for operating purposes can be consolidated only with other EM major adjustment loans for operating purposes.

(5) EE and EM loans which were made without a consolidation and rescheduling action and which have repayment terms greater than seven (7) will *not* be consolidated.

(6) EE loans made for operating purposes can be consolidated only with other EE loans made for operating purposes.

(7) Before a consolidation occurs and a new note is taken, the County Supervisor must review the government's lien priority and see if any new liens have been filed on the security for the loan. If there are any liens which were not in existence at the time the first note was signed, the County Supervisor should ask OGC for an opinion as to what lien position the government will have if the consolidation occurs and a new note is taken. Then the County Supervisor must determine that the government's interests will be protected adequately if the consolidation occurs.

(8) Repayment terms for consolidated and rescheduled EE or EM loans will be:

(i) Seven (7) years or less from the date of the consolidation or rescheduling, but consistent with the borrower's repayment ability.

(ii) Equal to or greater than the longest repayment terms established on the existing EE or EM loans being consolidated. For example, if a borrower's existing loan is due in five (5) years, the consolidated loan must be due in at least (5) years.

(9) Repayment terms for EE and EM loans which are rescheduled without an accompanying consolidation action will not exceed twenty (20) years from the date of the original note.

(10) The interest rate for consolidated or rescheduled loans:

(i) For EE loans, will be the current loan rate in effect as specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1, Exhibit B available in any FmHA office) at the time of consolidation or rescheduling.

(ii) For EM actual loss loans, will *not* be changed from the rate in the original note.

(iii) For EM annual operating loans or EM major adjustment loans for Subtitle B (operating) purposes, will be the current rate specified in Subpart A of Part 1810 of this Chapter (FmHA Instruction 440.1 Exhibit B available in any FmHA office) at the time of consolidation and rescheduling.

* * * * *

2. § 1951.40, paragraph (d)(1) is revised to read as follows:

§ 1951.40 Deferment and reamortization of FO, SW, RL, EE or EM loans made for real estate purposes.

* * * * *

(d) *Interest.* (1) The interest rate for other than limited resource loans will be the current interest rate in effect at the time the reamortization is granted except for EM actual loss loans in which case the interest rate will not be changed.

* * * * *

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this section should not be classified "significant" under those criteria.

A copy of the final Impact Statement has been prepared and is available from the office of the Chief, Directives Management Branch, Farmers Home Administration, Room 6346, South Agriculture Building, Washington, D.C. 20250.

(7 U.S.C. 1889; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: November 30, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-38921 Filed 12-18-79; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Technical corrections to final rule.

SUMMARY: On November 19, 1979, the Federal Trade Commission issued a final rule which requires the disclosure, for seven categories of appliances, of energy efficiency ratings or energy costs, and related information, in labeling and in retail sales catalogs; mandates that the energy costs or energy efficiency ratings be based on standardized test procedures; requires a general disclosure on certain point-of-sale promotional materials of the availability of energy cost or energy efficiency rating information; and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on the results of standardized test procedures. This notice corrects §§ 305.11(a)(3) and 305.11(a)(5)(i)(H) of the final rule.

EFFECTIVE DATE: These corrections are effective on December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Andrew I. Wolf, 202-724-1453, Lucerne D. Winfrey, 202-724-1560, or Kent C. Howerton, 202-724-1514, Attorneys, Federal Trade Commission, 414 11th Street, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Commission published the final rule on November 19, 1979 [44 FR 66466]. The rule contained two technical errors. Section 305.11(a)(3) of the rule failed to specify the white background color of the table(s) displaying yearly cost. Section 305.11(a)(5)(i)(H) of the rule did not clearly refer to the yearly cost table(s).

Section 305.11(a)(3) of the rule is corrected to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *

(3) *Colors.* The basic colors of all labels shall be process yellow or equivalent and process black. The label shall be printed full bleed process yellow with a window dropped out (showing as white) over the table(s) displaying yearly cost. The window shall flush left and right, top and bottom with the table rules. All type including chart or table rules shall be print process black.

* * * * *

The first sentence of § 305.11(a)(5)(i)(H) of the rule is corrected to read as follows: "Yearly cost text and tables are found in section 2 of the appropriate appendices accompanying this part." The remainder of § 305.11(a)(5)(i)(H) remains unchanged.

Carol M. Thomas,

Secretary.

[FR Doc. 79-38335 Filed 12-18-79; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16421]

Applications for Extension of Unlisted Trading Privileges

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Rules 12f-1 and 12f-3 [17 CFR 240.12f-1, f-3] under the Securities Exchange Act of 1934 (the "Act") to conform the text of those rules to Section 12(f) of the Act, as amended by the Securities Acts Amendments of 1975. Rule 12f-1 sets forth the items of information required to be filed by a national securities exchange in applying for unlisted trading privileges in a security pursuant to Section 12(f) of the Act. Rule 12f-3 sets forth items of information required to be filed by an interested person in applying for the termination or suspension of unlisted trading privileges in a particular security.

EFFECTIVE DATE: January 18, 1980.

FOR FURTHER INFORMATION CONTACT: Curt H. Mueller, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2448.

SUPPLEMENTARY INFORMATION: Rule 12f-1 requires a national securities exchange, in applying to the Commission for unlisted trading privileges in a security pursuant to Section 12(f) of the Act,[1] to include in its

[1] Sections 12(f) (1), (2) of the Act, 15 U.S.C. 78*l*(f) (1), (2), provide that:

(f)(1) Notwithstanding the foregoing provisions of this section, any national securities exchange, subject to the terms and conditions hereinafter set forth—

(A) may continue unlisted trading privileges to which a security had been admitted on such exchange prior to July 1, 1964;

(B) upon application to and approval of such application by the Commission, may extend unlisted trading privileges to any security listed

Footnotes continued on next page

application information concerning, among other things, the public distribution and volume of public trading of such security in the geographical vicinity of the applicant exchange.[2] The rule also requires an exchange to furnish in its application "[a]ny other information which is deemed pertinent to the question of whether the * * * extension of unlisted trading privileges in [a] security is necessary or appropriate in the public interest or for the protection of investors."[3]

Rule 12f-3(a) requires an interested person, in applying for the termination or suspension of unlisted trading privileges in a security pursuant to Section 12(f)(4) of the Act,[4] to set forth, among other things, in its application "information in the applicant's possession, and the sources thereof, with respect to * * * the extent of public distribution of such security in the vicinity of such exchange and the geographical area which is deemed to constitute such vicinity."[5]

Since the Commission's last amendments to Rules 12f-1 and 12f-3 in 1955,[6] Congress has twice amended Section 12(f) of the Act. First, in 1964, Congress deleted the "geographical vicinity" standard which had, in part, governed the grant of unlisted trading privileges, and required instead that the Commission simply find the grant of unlisted trading privileges to be "necessary or appropriate in the public interest or for the protection of investors."[7] Second, in the Securities Acts Amendments of 1975,[8] Congress replaced the "necessary or appropriate" standard with the requirement that the Commission find the extension of unlisted trading privileges to be "consistent with the maintenance of fair and orderly markets and the protection of investors."[9]

In view of these statutory changes, the Commission is amending Rules 12f-1 and 12f-3 so that the procedural filing requirements of those rules reflect the current standards set forth in Section 12(f) of the Act. Accordingly, the Commission is amending Rules 12f-1 and 12f-3 to delete the requirement that information concerning the distribution or trading volume of a security in the "geographical vicinity" of an exchange be furnished in applications for the extension, termination or suspension of unlisted trading privileges. In addition, the Commission is amending Rule 12f-1 by deleting the requirement that an applicant exchange set forth information bearing on whether the grant of unlisted trading privileges is "necessary or appropriate in the public interest or for the protection of investors." Instead, Rule 12f-1 is amended to require an applicant exchange to furnish any other information addressing whether the grant of unlisted trading privileges would be "consistent with the maintenance of fair and orderly markets and the protection of investors." Finally, the Commission is amending Rule 12f-1 to require that an exchange set forth in its application for unlisted trading privileges in a particular security (1) the name of each exchange on which such security is listed or admitted to unlisted trading privileges, and (2) whether transactions in such security are reported in the consolidated transaction reporting system established pursuant to Rule 17a-15 under the Act.

The Commission finds, in accordance with 5 U.S.C. 553(b)(A) of the Administrative Procedure Act, that the foregoing action relates solely to agency organization, procedure, or practice and that notice and public procedures in accordance with 5 U.S.C. 553(b) are not necessary. Further, in accordance with Section 23(a)(2) of the Securities Exchange Act, 15 U.S.C. 78w(a)(2), the Commission perceives no impediment to competition arising from adoption of these procedural rule amendments.

Amendments

Accordingly, the Commission, acting pursuant to the Securities Exchange Act, and particularly Sections 12(f) and 23 thereof, 15 U.S.C. 78/(f) and 78w, adopts these amendments to Rules 12f-1 and 12f-3 [17 CFR 240.12f-1, 12f-3] effective January 18, 1980. Part 240 of Title 17 of the Code of Federal Regulations is amended as follows:

Section 240.12f-1 is revised to read as follows:

§ 240.12f-1 Applications for permission to extend unlisted trading privileges.

(a) An application may be made to the Commission by any national securities exchange for the extension of unlisted trading privileges to any security, pursuant to section 12(f). One copy of such application, executed by a duly authorized officer of the exchange, shall be filed and shall set forth:

(1) Name of issuer;

(2) Title of security;

(3) The name of each national securities exchange, if any, on which such security is listed or admitted to unlisted trading privileges; and

(4) Whether last sale information concerning such security is reported in the consolidated transaction reporting system established pursuant to § 240.17a-15 (Rule 17a-15 under the Act); and

(5) Any other information which is deemed pertinent to the question of whether the continuation or extension of

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Footnotes continued from last page

and registered on any other national securities exchange; and

(C) upon application to and approval of such application by the Commission, may extend unlisted trading privileges to any security registered pursuant to section 12 of this title or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of that section.

If an extension of unlisted trading privileges to a security is based upon its listing and registration on another national securities exchange, such privileges shall continue in effect only so long as such security remains listed and registered on a national securities exchange.

(2) No application pursuant to this subsection shall be approved unless the Commission finds, after notice and opportunity for hearing, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. In considering an application for the extension of unlisted trading privileges to a security not listed and registered on a national securities exchange, the Commission shall, among other matters, take account of the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system and shall not grant any such application if any rule of the national securities exchange making application under this subsection would unreasonably impair the ability of any dealer to solicit or effect transactions in such security for his own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

[2] Rules 12f-1(a) (3), (4).

[3] Rule 12f-1(a)(5).

[4] Section 12(f)(4) of the Act, 15 U.S.C. 78/(f)(4), provides that: "(4) On the application of the issuer of any security for which unlisted trading privileges on any exchange have been continued or extended pursuant to this subsection, or of any broker or dealer who makes or creates a market for such security, or of any other person having a bona fide interest in the question of termination or suspension of such unlisted trading privileges, or on its own motion, the Commission shall by order terminate, or suspend for a period not exceeding twelve months, such unlisted trading privileges for such security if the Commission finds, after appropriate notice and opportunity for hearing, that such termination or suspension is necessary or appropriate in the public interest or for the protection of investors."

[5] Rule 12f-3(a)(8)(i).

[6] Securities Exchange Act Release No. 5221 (August 31, 1955), 20 FR 6701 (September 13, 1955).

[7] Securities Acts Amendments of 1964, Pub. L. No. 88-467, section 3(b), 78 Stat. 565-566. Prior to 1964, Section 12(f), required applicants for unlisted trading privileges to: "Establish to the satisfaction of the Commission that there exists in the vicinity of such exchange sufficiently widespread public distribution of such security and sufficient public trading activity therein to render the extension of unlisted trading privileges * * * necessary or appropriate in the public interest or for the protection of investors."

Pub. L. No. 621, section 1, 49 Stat. 1375.

[8] Pub. L. No. 94-29 (June 4, 1975).

[9] Section 12(f)(2), 15 U.S.C. 78/(f)(2).

unlisted trading privileges in such security is consistent with the maintenance of fair and orderly markets and the protection of investors.

Paragraph (a)(8) of § 240.12f-3 is revised to read as follows:

§ 240.12f-3 Termination or suspension of unlisted trading privileges.

(a) * * *

(8) A brief statement of the information in the applicant's possession, and the sources thereof, with respect to (i) the extent of public trading in such security on such exchange, and (ii) the character of trading in such security on such exchange.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

December 12, 1979.

[FR Doc. 79-38918 Filed 12-18-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

19 CFR Part 159

[T.D. 80-2]

Dextrines and Soluble or Chemically Treated Starches Derived From Potato Starch From the European Community; Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the European Community and the Government of the Netherlands have given benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production, or exportation of dextrines and soluble or chemcially treated starches derived from potato starch. The deposit of countervailing duties in the amount of these benefits will be required at the time of entry in addition to duties normally collected on dutiable shipments of this merchandise.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On June 26, 1979, a notice of "Preliminary Countervailing Duty Determination" was published in the Federal Register (44 FR 37363). The notice stated that it had been preliminarily determined that benefits bestowed by the European Community (EC) and the Government of the Netherlands upon the manufacture, production, or exportation of dextrines and soluble or chemically treated starches derived from potato starch constitute the payment of bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to as "the Act").

The EC comprises Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom. Imports covered by this investigation are classified under item 493.30, Tariff Schedules of the United States Annotated (TSUSA), and include only those dextrines and soluble or chemically treated starches derived from potato starch.

The preliminary determination stated that bounties or grants are paid by the EC in the form of "production refund payments", which are made to processors who establish contracts in accordance with the minimum price set for potatoes, and "premium payments", a further unconditional payment made to processors.

On the basis of additional information, it has been determined that, in addition to the payments mentioned above, the EC gives "export restitution payments" to exporters of the subject merchandise. These payments, made based on an established formula for each unit of eligible merchandise exported from the EC, also constitute a bounty or grant because they simply confer a direct benefit on the exported merchandise.

The total bounty or grant associated with the subject merchandise is equal to the sum of the various payments made through all stages of the production process from potato, to potato starch, to dextrine and soluble or chemically treated starches derived from potato starch. The net value of these payments, in terms of the U.S. import value on a Customs valuation basis, is equal to 34.4% *ad valorem.*

The preliminary determination also stated that the Government of the Netherlands provides financial assistance to the sole potato starch producer in that country. The assistance is given under a general government program for regional economic development and not for the purposes alleged by the petitioner. However, these payments are in the form of a grant which confers a direct benefit on the production of potato starch and, therefore, constitute a bounty or grant to the Dutch manufacturer. The average value of this bounty or grant has been calculated to be 1.6% *ad valorem.* This figure represents the average annual benefit bestowed on the Dutch manufacturer in the last three years divided by the value of firm's production in the most recent year for which data is available.

Under traditional Treasury practice, whether a domestic program providing a benefit had a trade distorting effect would be examined in determining whether a bounty or grant had been paid or bestowed. This would be determined by the size of the *ad valorem* benefit found and, except where that benefit was of significant size, the proportion of production of the subject merchandise that was exported. In the instant case, analysis of proportion exported is unnecessary in view of the magnitude of the benefits. On November 29, 1979, the Court of Customs and Patent Appeals overturned Treasury's administrative practice. *ASG Industries* v. *United States,* C.A.D. 1237. If this holding remains in effect, Treasury could not, in any circumstance, consider the level of exportation in determining whether a bounty or grant was paid or bestowed under the programs investigated. Thus, whatever standard is used, it is determined that a bounty or grant is provided in the instant case.

Accordingly, notice is hereby given that dextrines and soluble or chemically treated starches derived from potato starch which are imported directly or indirectly from the EC, if entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of the bounties or grants bestowed on the merchandise subject to this investigation has been ascertained and determined to be 34.4% *ad valorem* for imports of the subject merchandise from all countries of the EC other than the Netherlands (i.e., Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg and the United Kingdom), and 36.0% *ad valorem* for imports of the subject merchandise from the Netherlands.

In order to allow Customs officials to distinguish the merchandise subject to it, those officials may take whatever administrative actions are necessary, such as, but not limited to, requiring

manufacturer's certification of the material origin of shipments and/or a detailed invoice description of the merchandise.

Effective on or after the publication date of this notice, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such dextrines and soluble or chemically treated starches derived from potato starch, imported directly or indirectly from the EC, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of the subject merchandise from the EC are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of dextrines and soluble or chemically treated starches derived from potato starch from the EC.

PART 159—LIQUIDATION OF DUTIES

§ 159.47 [Amended]

The table in § 159.47(f), Customs Regulations (19 CFR 159.47(f)), is amended by inserting after the last entry for "European Community", the words "dextrines and soluble or chemically treated starches derived from potato starch" in the column headed "Commodity"; the number of this Treasury Decision in the column headed "Treasury Decision"; and the words "Bounty declared-rate", in the column headed "Action".

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624))

This final determination is published pursuant to section 303(a), Tariff Act of 1930, as amended (19 USC 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim,

General Counsel of the Treasury.

December 13, 1979.

[FR Doc. 79-38873 Filed 12-18-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-79-741]

Community Development Block Grants for Indian Tribes and Alaska Natives; Allocation of Funds

AGENCY: Community Planning and Development, HUD.

ACTION: Interim Rule and Request for Comments.

SUMMARY: This Interim Rule will revise the allocation of funds to Regional Offices for the Community Development Block Grant Program for Indian Tribes and Alaska Natives. The new funding formula will phase out the weight given to past funding while increasing the weight given to population.

EFFECTIVE DATE: February 11, 1980.

COMMENT DUE DATE: January 8, 1980.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The Rule may be changed in light of comments received.

FOR FURTHER INFORMATION CONTACT: William Jacobson, Office of Policy Planning, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, phone No. (202) 755-6092.

SUPPLEMENTARY INFORMATION; The new allocation formula is being published as an Interim Rule rather than a Proposed Rule in order to resolve some inequities in the current allocation formula prior to the Fiscal Year 1980 allocations to the Regions. It is therefore impracticable to afford an opportunity for public comment prior to publication of the rule. However, as indicated above, there will be a period of 20 days after publication of the Rule during which interested persons may submit comments on the Rule. Special efforts will be made to solicit comments from potential applicants. All comments received by the comment due date will be considered by HUD before the Interim Rule becomes effective.

Recent examination of the current formula revealed that funds have not been allocated equitably. Allocations have been biased towards those Regions with Tribes who, at the time the formula was established, had greater success in receiving grants than other Tribes. In trying to determine what Regional allocation formula would insure the most equitable distribution of funds, many variables which measure need were examined. Population, however, proved to be the only one available at the current time which has a clear relationship to need.

Accordingly, 24 CFR 571.101 is amended as follows:

§ 571.101 Allocation of funds to Regional and Field Offices.

The following provisions apply to the allocation of funds to Regional and Field Offices:

(a) For Fiscal Year 1980, sixty-six and two-thirds percent (66⅔%) of funds available under this part shall be allocated among all Regions according to the percentage of the total eligible Indian population that resides in each Region. In Fiscal Year 1981, this percentage shall be seventy-five percent (75%).

(b) For Fiscal Year 1980, thirty-three and one-third percent (33⅓%) of funds available under this part shall be allocated to each Region according to the ratio of: previous Community Development Block Grant funding to and for Indian Tribes in that Region, to the total of all previous Community Block Grant funding to and for all Indian Tribes which were eligible recipients. In Fiscal Year 1981, this percentage shall be twenty-five percent (25%).

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (42 U.S.C. 5301 et seq.); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 8, 1979.

Walter G. Farr, Jr.,

Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 79-38312 Filed 12-18-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 7660]

Employment Taxes With Respect to Employees of Related Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to employment taxes with respect to employees of related corporations. Provisions for treating certain related corporations as one employer for purposes of the social security and Federal unemployment taxes were added by the Social Security Amendments of 1977. The final regulations provide related corporations and their employees with the guidance needed to comply with the new law. The regulations affect related corporations and individuals who are employed by two or more related corporations one of which is the common paymaster of the corporations.

DATE: The amendments apply to wages paid after December 31, 1978.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T, 202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1978, the Federal Register published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under sections 3121(s) and 3306(p) of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to section 314 of the Social Security Amendments of 1977 (19 Stat. 1536). A public hearing was held on April 5, 1979. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

The effectiveness of these regulations will be evaluated on the basis of comments and information received from the public, other Government agencies, and offices within the Treasury Department and Internal Revenue Service.

Explanation of Provisions

Section 314 of the Social Security Amendments of 1977 added sections 3121(s) and 3306(p) to the Internal Revenue Code of 1954 to provide, in effect, for the treatment of certain related corporations as one employer for the purposes of the social security tax and the Federal unemployment tax. These new provisions state that when two or more related corporations concurrently employ the same individual, and compensate that individual through a common paymaster which is one of the related corporations for which the individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual. The regulations define the terms related corporations, common paymaster, and concurrent employment. The regulations also provide rules for the allocation of employment taxes, and for liability for those taxes.

Comments

The proposed regulations were revised in several ways to reflect comments received from the public. Several comments requested that guidance be provided regarding treatment of reporting and filing requirements under the new sections. Accordingly, the regulations were expanded to include such guidance.

Under the regulations, no additional reporting or filing requirements have been imposed. One comment stated that the regulations are unclear as to the intended consequences when two corporations are related (under the tests provided in the regulations) to the common paymaster but not related to each other. An example has been added to clarify this situation. Several comments stated that one of the proposed tests for the definition of related corporations, dealing with nonstock corporations, should be revised to encompass some mutual insurance companies which, due to the way they were organized, could not meet the test. Since the test was designed to include mutual insurance companies (among other nonstock corporations), the test was accordingly revised. Several comments asked for clarification whether the tests for the definition of related corporations, requiring a certain percentage of common officers or employees, required the applicable percentage of officers or employees to exist in one corporation or in both corporations. An example has been revised to clarify this point. One comment suggested that a common paymaster should include a corporation which pays common employees with checks drawn on separate bank accounts of each employing corporation. The final regulations include this suggestion, with the limitation that the common paymaster must be the drawer of the checks.

Section 3121(s) applies only to concurrently employed individuals who are remunerated by a common paymaster that is one of the employing corporations. Several comments were received regarding the definition of concurrent employment. The comments requested that this definition be changed so that the performance of services for the employing corporation, and, in particular, the common paymaster corporation, was not a requirement. The definition of concurrent employment has not been changed in the final regulations, however, because the statute clearly indicates the individual must be employed by the common paymaster, and there is no indication that Congress intended the word "employment" to mean other than the normal definition of the term, which includes the concept of performance of services in exchange for wages. In addition, the suggested definition could cause administrative difficulties in determining who was concurrently employed. Recognizing that additional guidance was needed in this area, the final regulations have been revised and expanded to clarify the definition of concurrent employment, and the examples have been revised to illustrate common fact patterns.

The provisions of the proposed regulations dealing with allocation of employment taxes is unchanged in the Treasury decision. One comment was received suggesting that, in the case of insurance companies, an allocation method based on intercompany reinsurance agreements would be desirable. One method of allocation included in the proposed regulations for allocation in an appropriate manner varying according to the circumstances encompasses this suggestion.

Drafting Information

The principal author of this regulation in Eileen Murphy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Part 31 published as a notice of proposed rulemaking in the Federal Register for December 13, 1978 (43 FR 58199), are hereby adopted as proposed, except that paragraphs (a) and (b) of § 31.3121(s)–1 are revised to read as follows:

§ 31.3121(s)–1 Concurrent employment by related corporations with common paymaster.

(a) *In general.* For purposes of section 3102, 3111, and 3121(a)(1), except as otherwise provided in paragraph (c) of this section, when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations that employs the individual, each of the corporations is considered to have paid only the remuneration it acutally disburses to that individual. This rule applies whether the remuneration was paid with respect to the employment relationship of the individual with the disbursing corporation or was paid on behalf of another related corporation. Accordingly, if all of the remuneration to the individual from the related corporations is disbursed through the common paymaster, the total amount of taxes imposed with respect to the remuneration under sections 3102 and 3111 is determined as though the individual has only one employer (the common paymaster). The common paymaster is responsible for filing information and tax returns and issuing Forms W–2 with respect to wages it is considered to have paid under this section. Section 3121(s) and this section apply only to remuneration disbursed in the form of money, check, or similar instrument by one of the related corporations or its agent.

(b) *Definitions.* The definitions contained in this paragraph are applicable only for purposes of this section and § 31.3306 (p)–1.

(1) *Related corporations.* Corporations shall be considered related corporations for an entire calendar quarter (as defined in § 31.0–2(a)(9)) if they satisfy any one of the following four tests at any time during that calendar quarter:

(i) The corporations are members of a "controlled group of corporations", as defined in section 1563 of the Code, or would be members if section 1563 (a)(4) and (b) did not apply and if the phrase "more than 50 percent" were substituted for the phrase "at least 80 percent" wherever it appears in section 1563(a).

(ii) In the case of a corporation that does not issue stock, either fifty percent or more of the members of one corporation's board of directors (or other governing body) are members of the other corporation's board of directors (or other governing body), or the holders of fifty percent or more of the voting power to select such members are concurrently the holders of fifty percent or more of that power with respect to the other corporation.

(iii) Fifty percent or more of one corporation's officers are concurrently officers of the other corporation.

(iv) Thirty percent or more of one corporation's employees are concurrently employees of the other corporation.

The following examples illustrate the application of this paragraph:

Example (1). (a) X Corporation employs individuals A, B, D, E, F, G, and H. Y Corporation employs individuals A, B, and C. Z Corporation employs individuals A, C, I, J, K, L, and M. X Corporation is the paymaster for all thirteen individuals. The corporations have no officers or stockholders in common.

(b) X and Y are related corporations because at least 30 percent of Y's employees are also employees of X. Y and Z are related corporations because at least 30 percent of Y's employees are also employees of Z. X and Z are not related corporations because neither corporation has 30 percent of its employees concurrently employed by the other corporation.

(c) For purposes of determining the amount of the tax liability under sections 3102 and 3111, individual B is treated as having one employer. Individual C has two employers for these purposes, although Y and Z are related corporations, because C is not employed by X Corporation, the common paymaster. Individual A also is treated as having two employers for the purposes of these sections because X and Y Corporations are treated as one employer, and Z Corporation is treated as a second employer (since it is not related to the paymaster, X Corporation). Of course, individuals D, E, F, G, H, I, J, K, L, and M are not concurrently employed by two or more corporations, and, accordingly, section 3121 (s) is inapplicable to them.

Example (2). M and N Corporations are both related to Corporation O but are not related to each other. Individual A is concurrently employed by all three corporations and paid by O, their common paymaster. Although M and N are not related, O is treated as the employer for A's employment with M, N, and O.

Example (3). Corporations X, Y, and Z meet the definition of related corporations for the first time on April 12, 1979, and cease to meet it on July 5, 1979. A is concurrently employed by X, Y, and Z throughout 1979. In each of the four calendar quarters of 1979, A's remuneration from X, Y, and Z is $2,000, $10,000, and $30,000, respectively. All of the remuneration to A from X, Y, and Z for the year is disbursed by X, the common paymaster. Under these circumstances, the amount of wages subject to sections 3102 and 3111 is as follows:

For the first calendar quarter

X	Y	Z
$2,000	$10,000	$22,900

For the second calendar quarter

X	Y	Z
$20,900 ($22,900–$2,000)	0	0

For the third calendar quarter

X	Y	Z
0	0	0

For the fourth calendar quarter

X	Y	Z
0	$10,000	0

Of course, if the corporations had been related throughout all of 1979, only $22,900 of X's first quarter disbursement would have constituted wages subject to sections 3102 and 3111.

(2) *Common Paymaster*—(i) *In general.* A common paymaster of a group of related corporations is any member thereof that disburses remuneration to employees of two or more of those corporations on their behalf and that is responsible for keeping books and records for the payroll with respect to those employees. The common paymaster is not required to disburse remuneration to all the employees of those two or more related corporations, but the provisions of this section do not apply to any remuneration to an employee that is not disbursed through a common paymaster. The common paymaster may pay concurrently employed individuals under this section by one combined paycheck, drawn on a single bank account, or by separate paychecks, drawn by the common paymaster on the accounts of one or more employing corporations.

* * * * *

(3) *Concurrent employment.* For purposes of this section, the term "concurrent employment" means the contemporaneous existence of an employment relationship (within the meaning of section 3121(b)) between an individual and two or more corporations. Such a relationship contemplates the performance of services by the employee for the benefit of the employing corporation (not merely for the benefit of the group of corporations), in exchange for remuneration which, if deductible for the purposes of Federal income tax, would be deductible by the employing corporation. The contemporaneous existence of an employment relationship with each corporation is the decisive factor; if it exists, the fact that a particular employee is on leave or otherwise temporarily inactive is immaterial. However, employment is not concurrent with respect to one of the related corporations if the employee's employment relationship with that corporation is completely nonexistent during periods when the employee is not performing services for that corporation. An employment relationship is completely nonexistent if all rights and obligations of the employer and employee with respect to employment have terminated, other than those that customarily exist after employment relationships terminate. Examples of rights and obligations that customarily exist after employment relationships terminate include those with respect to remuneration not yet paid, employer's property used by the employee not yet returned to the employer, severance pay, and lump-sum termination payments from a deferred compensation plan.

Circumstances that suggest that an employment relationship has become completely nonexistent include unconditional termination of participation in deferred compensation plans of the employer, forfeiture of seniority claims, and forfeiture of unused fringe benefits such as vacation or sick pay. Of course, the continued existence of an employment relationship between an individual and a corporation is not necessarily established by the individual's continued participation in a deferred compensation plan, retention of seniority rights, etc., since continuation of those benefits may be attributable to employment with a second corporation related to the first corporation if the corporations have common benefits plans or if the benefits are continued as a matter of corporate reciprocity. An individual who does not perform substantial services in exchange for remuneration from a corporation is presumed not employed by that corporation. Concurrent employment need not exist for any particular length of time to meet the requirements of this section, but this section only applies to remuneration disbursed by a common paymaster to an individual who is concurrently employed by the common paymaster and at least one other related corporation at the time the individual performs the services for which the remuneration is paid. If the employment relationship is nonexistent during a quarter, that employee may not be counted towards the 30-percent test set forth in paragraph (b)(1)(iv) of this section; however, even if the employment relationship is nonexistent, section 3121 (s) of the Code applies to remuneration paid to the former employee for services rendered while the employee was a common employee. The principles of this subparagraph are illustrated by the following examples:

Example (1). M, N, and O are related corporations which use N as a common paymaster with respect to officers. Their respective headquarters are located in three separate cities several hundred miles apart. A is an officer of M, N, and O who performs substantial services for each corporation. A does not work a set length of time at each corporate headquarters, and when A leaves one corporate headquarters, it is not known when A will return, although it is expected that A will return. Under these facts, A is concurrently employed by the three corporations.

Example (2). P, Q, and R are related corporations whose geographical zones of business activity do not overlap. P, Q, and R have a common pension plan and arrange for Q to be a common paymaster for managers and executives. All three corporations maintain caferterias for the use of their employees. B is a cafeteria manager who has worked at P's headquarters for 3 years. On June 1, 1980, B is transferred from P to the position of cafeteria manager of R. There are no plans for B's return to P. B's accrued pension benefits, vacation and sick pay, do not change as a result of the transfer. The decision to transfer B was made by Q, the parent corporation. Under these facts, B is not concurrently employed by P and R, because B's employment relationship with P was completely nonexistent during B's employment with R. Furthermore, section 3121(s) is inapplicable since B also was not employed by Q, the common paymaster, because B never contracted to perform services for remuneration from Q, and Q did not have the right to control the day-to-day duties of B's work.

Example (3). C is employed by two related corporations, S and T. C was concurrently employed by these corporations between April 1, 1979, and June 30, 1979. The corporations used T as the common paymaster with respect to C's wages between May 1, 1979, and September 30, 1979. T pays C on May 15 for services performed between April 1 and April 30, on July 15 for services performed between June 1 and June 30, and on August 15 for services performed between July 1 and July 31. Section 3121(s) applies to the first two payments but does not apply to the third payment (there was no concurrent employment). However, if the third payment was made by T for services performed for T, T counts the amounts previously disbursed to C in 1979 while C was concurrently employed by S and T towards the wage base (see section 3121(a)(1)).

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: December 10, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

§ 31.3121(a)(1) [Deleted]

Paragraph 1. Section 31.3121(a)(1) and the historical note are deleted.

Par. 2. Section 31.3121(a)(1)–1 is amended by adding at the end of the portion of paragraph (a)(3) that precedes example (1) a sentence which reads as follows:

§ 31.3121(a)(1)–1 Annual wage limitation.

(a) *In general.* * * *

(3) * * * In connection with the annual wage limitation in the case of remuneration paid after December 31, 1978, from two or more related corporations that compensate an employee through a common paymaster, see § 31.3121(s)–1.

* * * * *

Par. 3. There is added immediately after § 31.3121(r)–1 the following new section:

§ 31.3121(s)–1 Concurrent employment by related corporations with common paymaster.

(a) *In general.* For purposes of sections 3102, 3111, and 3121(a)(1), except as otherwise provided in paragraph (c) of this section, when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations that employs the individual, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual. This rule applies whether the remuneration was paid with respect to the employment relationship of the individual with the disbursing corporation or was paid on behalf of another related corporation. Accordingly, if all of the remuneration to the individual from the related corporations is disbursed through the common paymaster, the total amount of taxes imposed with respect to the remuneration under sections 3102 and 3111 is determined as though the individual has only one employer (the common paymaster.) The common paymaster is responsible for filing information and tax returns and issuing Forms W–2 with respect to wages it is considered to have paid under this section. Section 3121(s) and this section apply only to remuneration disbursed in the form of money, check or similar instrument by one of the related corporations or its agent.

(b) *Definitions.* The definitions contained in this paragraph are applicable only for purposes of this section and § 31.3306(p)–1.

(1) *Related corporations.* Corporations shall be considered related corporations for an entire calendar quarter (as defined in § 31.0–2(a)(9)) if they satisfy any one of the following four tests at any time during that calendar quarter:

(i) The corporations are members of a "controlled group of corporations", as defined in section 1563 of the Code, or would be members if section 1563(a)(4) and (b) did not apply and if the phrase "more than 50 percent" were substituted for the phrase "at least 80 percent" wherever it appears in section 1563(a).

(ii) In the case of a corporation that does not issue stock, either fifty percent or more of the members of one corporation's board of directors (or other governing body) are members of the other corporation's board of directors (or other governing body), or the holders of fifty percent or more of the voting power to select such members are concurrently the holders of more than fifty percent of that power with respect to the other corporation.

(iii) Fifty percent or more of one corporation's officers are concurrently officers of the other corporation.

(iv) Thirty percent or more of one corporation's employees are concurrently employees of the other corporation.

The following examples illustrate the application of this paragraph:

Example (1). (a) X Corporation employs individuals A, B, D, E, F, G, and H. Y Corporation employs individuals A, B, and C. Z Corporation employs individuals A, C, I, J, K, L, and M. X Corporation is the paymaster for all thirteen individuals. The corporations have no officers or stockholders in common.

(b) X and Y are related corporations because at least 30 percent of Y's employees are also employees of X. Y and Z are related corporations because at least 30 percent of Y's employees are also employees of Z. X and Z are not related corporations because neither corporation has 30 percent of its employees concurrently employed by the other corporation.

(c) For purposes of determining the amount of the tax liability under sections 3102 and 3111, individual B is treated as having one employer. Individual C has two employers for these purposes, although Y and Z are related corporations, because C is not employed by X Corporation, the common paymaster. Individual A also is treated as having two employers for the purposes of these sections because X and Y Corporations are treated as one employer, and Z Corporation is treated as a second employer (since it is not related to the paymaster, X Corporation). Of course, individuals D, E, F, G, H, I, J, K, L, and M are not concurrently employed by two or more corporations, and, accordingly, section 3121 (s) is inapplicable to them.

Example (2). M and N Corporations are both related to Corporation O but are not related to each other. Individual A is concurrently employed by all three corporations and paid by O, their common paymaster. Although M and N are not related, O is treated as the employer for A's employment with M, N, and O.

Example (3). Corporations X, Y, and Z meet the definition of related corporations for the first time on April 12, 1979, and cease to meet it on July 5, 1979. A is concurrently employed by X, Y, and Z throughout 1979. In each of the four calendar quarters of 1979, A's remuneration from X, Y, and Z is $2,000, $10,000, and $30,000, respectively. All of the remuneration to A from X, Y, and Z for the year is disbursed by X, the common paymaster. Under these circumstances, the amount of wages subject to sections 3102 and 3111 is as follows:

For the first calendar quarter

X	Y	Z
$2,000	$10,000	$22,500

For the second calendar quarter

X	Y	Z
$20,900 ($22,900−$2,000)	0	0

For the third calendar quarter

X	Y	Z
0	0	0

For the fourth calendar quarter

X	Y	Z
0	$10,000	0

Of course, if the corporations had been related throughout all of 1979, only $22,900 of X's first quarter disbursement would have constituted wages subject to sections 3102 and 3111.

(2) *Common paymaster*—(i) *In general.* A common paymaster of a group of related corporations is any member thereof that disburses remuneration to employees of two or more of those corporations on their behalf and that is responsible for keeping books and records for the payroll with respect to those employees. The common paymaster is not required to disburse remuneration to all the employees of those two or more related corporations, but the provisions of this section do not apply to any remuneration to an employee that is not disbursed through a common paymaster. The common paymaster may pay concurrently employed individuals under this section by one combined paycheck, drawn on a single bank account, or by separate paychecks, drawn by the common paymaster on the accounts of one or more employing corporations.

(ii) *Multiple common paymasters.* A group of related corporations may have more than one common paymaster. Some of the related corporations may use one common paymaster and others of the related corporations use another common paymaster with respect to a certain class of employees. A corporation that uses a common paymaster to disburse remuneration to certain of its employees may use a different common paymaster to disburse remuneration to other employees.

(iii) *Examples.* The rules of this subparagraph are illustrated by the following examples:

Example (1). S, T, U, and V are related corporations with 2,000 employees collectively. Forty of these employees are concurrently employed by two or more of the corporations, during a calendar quarter. The four corporations arrange for S to disburse remuneration to thirty of these forty employees for their services. Under these facts, S is the common paymaster of S, T, U, and V with respect to the thirty employees. S is not a common paymaster with respect to the remaining employees.

Example (2). (a) W, X, Y, and Z are related corporations. The corporations collectively have 20,000 employees. Two hundred of the employees are top-level executives and managers, sixty of whom are concurrently employed by two or more of the corporations during a calendar quarter. Six thousand of the employees are skilled artisans, all of whom are concurrently employed by two or more of the corporations during the calendar year. The four corporations arrange for Z to disburse remuneration to the sixty executives who are concurrently employed by two or more of the corporations. W and X arrange for X to disburse remuneration to the artisans who are concurrently employed by W and X.

(b) A is an executive who is concurrently employed only by W, Y, and Z during the calendar year. Under these facts, Z is a common paymaster for W, Y, and Z with respect to A. Assuming that the other requirements of this section are met, the amount of the tax liability under sections 3102 and 3111 is determined as if Z were A's only employer for the calendar quarter.

(c) B is a skilled artisan who is concurrently employed only by W and X during the calendar year. Under these facts, X is a common paymaster for S and X with respect to B. Assuming that the other requirements of this section are met, the amount of the tax liability under sections 3102 and 3111 is determined as if X were B's only employer for the calendar quarter.

(3) *Concurrent employment.* For purposes of this section, the term "concurrent employment" means the contemporaneous existence of an employment relationship (within the meaning of section 3121(b)) between an individual and two or more corporations. Such a relationship contemplates the performance of services by the employee for the benefit of the employing corporation (not merely for the benefit of the group of corporations), in exchange for remuneration which, if deductible for the purposes of Federal income tax, would be deductible by the employing corporation. The contemporaneous existence of an employment relationship with each corporation is the decisive factor; if it exists, the fact that a particular employee is on leave or otherwise temporarily inactive is immaterial. However, employment is not concurrent with respect to one of the related corporations if the employee's employment relationship with that corporation is completely nonexistent during periods when the employee is not performing services for that corporation. An employment relationship is completely nonexistent if all rights and obligations of the employer and employee with respect to employment have terminated, other than those that customarily exist after employment relationships terminate. Examples of rights and obligations that customarily exist after employment relationships terminate include those with respect to remuneration not yet paid, employer's property used by the employee not yet returned to the employer, severance pay, and lump-sum termination payments from a deferred compensation plan. Circumstances that suggest that an employment relationship has become

completely nonexistent include unconditional termination of participation in deferred compensation plans of the employer, forfeiture of seniority claims, and forfeiture of unused fringe benefits such as vacation or sick pay. Of course, the continued existence of an employment relationship between an individual and a corporation is not necessarily established by the individual's continued participation in a deferred compensation plan, retention of seniority rights, etc., since continuation of those benefits may be attributable to employment with a second corporation related to the first corporation if the corporations have common benefits plans or if the benefits are continued as a matter of corporate reciprocity. An individual who does not perform substantial services in exchange for remuneration from a corporation is presumed not employed by that corporation. Concurrent employment need not exist for any particular length of time to meet the requirements of this section, but this section only applies to remuneration disbursed by a common paymaster to an individual who is concurrently employed by the common paymaster and at least one other related corporation at the time the individual performs the services for which the remuneration is paid. If the employment relationship is nonexistent during a quarter, that employee may not be counted towards the 30-percent test set forth in paragraph (b)(1)(iv) of this section; however, even if the employment relationship is nonexistent, section 3121(s) of the Code would apply to remuneration paid to the former employee for services rendered while the employee was a common employee. The principles of this subparagraph are illustrated by the following examples.

Example (1). M, N, and O are related corporations which use N as a common paymaster with respect to officers. Their respective headquarters are located in three separate cities several hundred miles apart. A is an officer of M, N, and O who performs substantial services for each corporation. A does not work a set length of time at each corporate headquarters, and when A leaves one corporate headquarters, it is not known when A will return, although it is expected that A will return. Under these facts, A is concurrently employed by the three corporations.

Example (2). P, Q, and R are related corporations whose geographical zones of business activity do not overlap. P, Q, and R arrange for Q to be a common paymaster for managers and executives. All three corporations maintain cafeterias for the use of their employees. B is a cafeteria manager who has worked at P's headquarters for three years. On June 1, 1980. B is transferred from P to the position of cafeteria manager of R. There are no plans for B's return to P. B's accrued pension benefits, vacation and sick pay, do not change as a result of the transfer. The decision to transfer B was made by Q, the parent corporation. Under these facts, B is not concurrently employed by P and R, because B's employment relationship with P was completely nonexistent during B's employment with R. Furthermore, section 3121 (s) is inapplicable since B also was not employed by Q, the common paymaster, because B never contracted to perform services for remuneration from Q, and Q did not have the right to control the day-to-day duties of B's work. In the U Pension Plan are transferred to the W Pension Plan, at B's decision to forego a lump-sum payment from the U Pension Plan. B is replaced at the U cafeteria. B becomes subject to the W fringe benefit schedule. U pays B a lump-sum for B's unused vacation and sick pay. Under these facts, B is not concurrently employed by U and W, because B's employment relationship with U was completely nonexistent during B's employ

Example (3). C is employed by two related corporations, S and T. C was concurrently employed by these corporations between April 1, 1979, and June 30, 1979. The corporations used T as the common paymaster with respect to C's wages between May 1, 1979, and September 30, 1979. T pays C on May 15 for services performed between April 1 and April 30, on July 15 for services performed between June 1 and June 30, and on August 15 for services performed between July 1 and July 31. Section 3121 (s) applies to the first two payments but does not apply to the third payment (there was no concurrent employment). However, if the third payment was made by T for services performed for T, T counts the amounts previously disbursed to C in 1979 while C was concurrently employed by S and T towards the wage base (see section 3121 (a)(1)).

(c) *Allocation of employment taxes—*(1) *Responsibility to pay tax.* If the requirements of this section are met, the common paymaster has the primary responsibility for remitting taxes pursuant to sections 3102 and 3111 with respect to the remuneration it disburses as the common paymaster. The common paymaster computes these taxes as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit these taxes (in whole or in part), it remains liable for the full amount of the unpaid portion of these taxes. In addition, each of the other related corporations using the common paymaster is jointly and severally liable for its appropriate share of these taxes. That share is an amount equal to the lesser of:

(i) The amount of the liability of the common paymaster under section 3121(s), after taking account of any tax payments made, or

(ii) The amount of the liability under sections 3102 and 3111 which, but for section 3121(s), would have existed with respect to the remuneration from such other related corporation, reduced by an allocable portion of any taxes previously paid by the common paymaster with respect to that remuneration.

The portion of taxes previously paid by the common paymaster that is allocable to each related corporation is determined by multiplying the amount of taxes paid by a fraction, the numerator of which is the portion of the amount of employment tax liability of the common paymaster under section 3121(s) that is allocable to such related corporation under paragraph (c)(2) of this section, and the denominator of which is the total amount of the common paymaster's liability under section 3121(s), both determined without regard to any prior tax payments. These rules apply whether or not the tax on employees was withheld from the employees' wages.

(2) *Allocation of tax—*(i) *In general.* If the related corporations maintain a record of the remuneration disbursed to the employee for services performed for each corporation, the remuneration-based allocation rules of paragraph (c)(2)(ii) of this section apply. If the related corporations do not maintain this record of remuneration, the group-wide allocation rules of paragraph (c)(2)(iii) of this section apply. In all cases, allocations must be made with respect to each payment of wages. The allocation of employment tax liabilities pursuant to this subparagraph also determines which related corporation may be entitled to income tax deductions with respect to the payments of those taxes.

(ii) *Remuneration-based allocation rules.* Under the remuneration-based method of allocation, each related corporation that remunerates an employee through a common paymaster has allocated to it for each pay period an amount of tax determined according to the following formula:

$$\frac{\text{Portion of wage payment constituting remuneration to the employee for services performed for the corporation}}{\text{Total wage payment constituting remuneration to the employee for all services performed for the related corporations using the common paymaster}} \times \text{Tax on employees under section 3102 and tax on employers under section 3111 that the common paymaster is required to remit with respect to the wage payment.}$$

If the remuneration disbursed to an employee for services performed for a

corporation is inappropriate, the district director may adjust the remuneration records of the related corporations to reflect appropriate remuneration. The district director may use the principles of § 1.482–2(b) in making the adjustments.

Example. (i) X and Y are related corporations which use Y as common paymaster for their executives. A is a concurrently employed executive who performs services during the first quarter of 1979 for X and Y. Y remunerates $4,000 gross pay every week to A, calculated as follows:

Wage payments	Remuneration			Tax on employers under section 3111	Tax on employees withheld under section 3102	Total
	X	Y	Total			
1	$3,000	$1,000	$4,000	$245.20	$245.20	$490.40
2–3		8,000	8,000	490.40	490.40	980.80
4	1,000	3,000	4,000	245.20	245.20	490.40
5	4,000		4,000	245.20	245.20	490.40
6	2,000	2,000	4,000	177.77	177.77	355.54
7–13	10,000	18,000	28,000	0	0	0
Total	20,000	32,000	52,000	1,403.77	1,403.77	2,807.54

The amounts of remuneration to A are determined by the district director to be appropriate. Under these facts, the tax is allocated to X and Y in the following amounts:

Wage payments	X	Y
1	$\frac{\$3,000}{\$4,000} \times \$490.40 = \$367.80$	$\frac{\$1,000}{\$4,000} \times \$490.40 = \$122.60$
2–3	--	$\frac{\$8,000}{\$8,000} \times \$980.80 = \$980.80$
4	$\frac{\$1,000}{\$4,000} \times \$490.40 = \$122.60$	$\frac{\$3,000}{\$4,000} \times \$490.40 = \$367.80$
5	$\frac{\$4,000}{\$4,000} \times \$490.40 = \$490.40$	--
6	$\frac{\$2,000}{\$4,000} \times \$355.54 = \$177.77$	$\frac{\$2,000}{\$4,000} \times \$355.54 = \$177.77$
7–13	$\frac{\$10,000}{\$28,000} \times -0- = -0-$	$\frac{\$18,000}{\$28,000} \times -0- = -0-$
	$1,158.57	$1,648.97

(ii) If Y remits none of the taxes to the Internal Revenue Service, X is liable for $2,452.00 (the entire amount due pursuant to sections 3102 and 3111 with respect to the remuneration to A from X) (12.26% × $20,000). Any amount remitted by X to the Internal Revenue Service under these circumstances is also credited against the liability of the common paymaster, Y. However, only the portion of the employment taxes allocated to X under (i) above may be deducted by X as employment taxes paid by it in respect of wages paid by it to its employees.

(iii) If Y remits $1,000.00 of the total $2,807.54 due, Y as common paymaster remains liable for $1,807.54 ($2,807.54 minus $1,000). X's liability is the lesser of $1,807.54 (the liability of the common paymaster), or X's total liability, in the absence of section 3121 (s), on wages paid through the common paymaster ($2,452.00) minus a credit for an allocable part of the amount remitted by Y. The part is $412.66

$$\left(\frac{\text{\$1,158.57 (X's allocable share of tax)}}{\text{\$2,807.54 (total tax)}}\right) \times \$1,000$$

(tax remitted). Since $1,807.54 is less than $2,039.34 ($2,452.00 minus $412.66), X and Y are jointly and severally liable for $1,807.54.

(iii) *Group-wide allocation rules.* Under the group-wide method of allocation, the district director may allocate the taxes imposed by sections 3102 and 3111 in an appropriate manner to a related corporation that remunerates an employee through a common paymaster if the common paymaster fails to remit the taxes to the Internal Revenue Service. Allocation in an appropriate manner varies according to the circumstances. It may be based on sales, property, corporate payroll, or any other basis that reflects the distribution of the services performed by the employee, or a combination of the foregoing bases. To the extent practicable, the district director may use the principles of § 1.482–2(b) in making the allocations.

(d) *Effective date.* This section is effective with respect to wages paid after December 31, 1978.

§ 31.3306(b)(1) [Deleted]

Par. 4. Section 31.3306(b)(1) and the historical note are deleted.

Par. 5. Section 31.3306(b)(1)–1 is amended by adding at the end of the portion of paragraph (a)(3) that precedes example (1) a sentence which reads as follows:

§ 31.3306(b)(1)–1 $3,000 limitation.

(a) *In general.* * * *

(3) * * * In connection with the annual wage limitation in the case of remuneration after December 31, 1978 from two or more related corporations that compensate an employee through a common paymaster, see § 31.3306(p)–1. * * * * * *

Par. 6. There is added immediately after § 31.3306(o)–1 the following new section:

§ 31.3306(p)–1 Employees of related corporations.

(a) *In general.* For purposes of sections 3301, 3302, and 3306(b)(1), when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations for which the individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual (unless the disbursing corporation fails to remit the taxes due). Paragraphs (b) and (c) of § 31.3121(s)–1 contain rules defining related corporations, common paymasters, and concurrent employment, and rules for determining the liability of the other related corporations for employment taxes if the common paymaster fails to remit the taxes pursuant to sections 3102 and 3111, and for allocating these taxes among the related corporations. Those rules also apply to the tax under section 3301. For purposes of applying those rules to this section, references in those rules to section 3111 are considered references to sections 3301 and 3302,

and references to section 3121 are considered references to section 3306

(b) *Allocation of credit for contributions to State unemployment funds.* A special rule for applying the rules of § 31.3121(s)-1 to this section applies if it is necessary to determine the ultimate liability of each related corporation for which services are performed in the event the common paymaster fails to remit the tax to the Internal Revenue Service. In determining the ultimate liability of a corporation, the credit for contributions to State unemployment funds that the corporation may claim under section 3302 is calculated as if each corporation were a separate employer.

(c) *Effective date.* This section is effective with respect to wages paid after December 31, 1978.

[FR Doc. 79-38839 Filed 12-18-79; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 731

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Corrections

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C.

ACTION: Final rule; corrections.

SUMMARY: This document corrects the amendment of § 731.12 of the Permanent Regulatory Program that is on page 60969 of Volume 44 of the Federal Register of Monday, October 22, 1979.

EFFECTIVE DATE: December 19, 1979.

ADDRESS: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director for State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343-4225.

The following corrections of non-substantive errors are made:

§ 731.12 [Corrected]

On page 60969, column 2, paragraph 2, line 7, "731.12(e)" is corrected to read "731.12(d)".

On page 60969, column 3, paragraph 4, lines 4 and 6, "731.12(e)" is corrected to read "731.12(d)".

On page 60969, § 731.12, column 3, paragraph 5, line 8, "director" is corrected to read "Director".

On page 60969, § 731.12, column 3 paragraph 6, line 1, "(e)" is corrected to read "(d)".

Dated: December 3, 1979.

Walter N. Heine,

Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 79-38768 Filed 12-18-79; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

45 CFR Parts 205 and 206

Aid to Families With Dependent Children; Access to Wage Record Information

AGENCY: Social Security Administration, DHEW.

ACTION: Final rules.

SUMMARY: These rules require that State AFDC agencies request and use wage information from State unemployment compensation agencies or from the Social Security Administration to help determine eligibility for financial assistance or the amount of the assistance payment. These provision are designed to improve a State's ability to acquire accurate wage data about current applicants and recipients. The use of this wage information is expected to enable a State to reduce error rates in determining eligibility for, and the amount of, assistance under its AFDC program.

EFFECTIVE DATE: These regulations are effective December 19, 1979. However, in accordance with the law which these regulations reflect, the new requirement regarding the request and use of wage information became effective October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Hamilton, Office of Family Assistance, Division of Policy, Social Security Administration, 330 C Street, SW., Washington, D.C. 20201, telephone (202) 245-0901.

SUPPLEMENTARY INFORMATION: On January 11, 1979, we published a Notice of Proposed Rule Making on this subject in the Federal Register (44 FR 2404).

Section 403 of Pub. L. 95-216 amended section 402(a) of the Social Security Act to add a new paragraph (29). This statute provides that, in the administration of the AFDC program, State AFDC agencies must request and use wage information, about current applicants and recipients, available from agencies administering State unemployment compensation laws or from the Social Security Administration (SSA). State AFDC agencies must request information from SSA when it is not available from a State unemployment compensation agency. This requirement is effective October 1, 1979.

The Final Rules

The regulations require that a State establish procedures to request and use wage information for all current AFDC applicants or recipients from the State unemployment compensation agency, if wage information is available, quarterly. If a State unemployment compensation agency does not collect wage information, the AFDC agency must request this information from SSA semi-annually.

The State agency is to use the requested wage information to determine a person's eligibility for, or the amount of, aid or services under its AFDC plan. In addition, this information is available for any investigation or prosecution to determine whether recipients received aid or services to which they were not entitled.

A large amount of wage information is available from State unemployment compensation agencies and SSA. The data are maintained by those agencies in computerized storage files in social security number sequence. This, together with the expected large number of requests for data, would make furnishing the requested wage information subject to error and long delays unless a practical procedure for exchanging information is used. For this reason, the regulations require that an AFDC agency maintain an automated file of the names and social security numbers of current applicants and recipients. Requests for wage information will be made from these automated files in a "machine-readable" format to permit electronic transfers of information from the wage records to the AFDC agency.

The Department believes this requirement is essential to the efficient operation of the wage information system mandated by section 403 of Pub. L. 95-216. Manual recordkeeping and printed or handwritten requests would be far more error-prone, and would result in long delays in furnishing the requested information. Errors and delay would make the new information substantially less useful to a State in accurately determining eligibility and the amount of the grant, thus frustrating the purpose for which this legislation was enacted.

Under these regulations, all existing confidentiality requirements for AFDC information apply to the automated files and wage information. These protections are clarified with the addition of § 205.50(a)(3) (ii) and (iii), which requires that any information about wages, including information in machine-readable form, must be stored so that unauthorized persons cannot acquire the information. In addition, anyone with access to this information must be advised of the circumstances under which access is permitted and the sanctions imposed for its misuse. These requirements apply to information about wages from any source.

States are encouraged to develop ADP systems security procedures for protecting wage information. In that regard, part 6 of DHEW Systems Manual is considered to be a good reference and will be made available to interested States upon request.

The protections within both 45 CFR 205.50 and 20 CFR 401.105 apply to wage information provided under the regulations. In certain respects, however, these may be inconsistent because of historic differences between the AFDC program and the Old Age, Survivors and Disability Insurance programs. The disclosure regulations will be revised shortly to ensure consistency. Until then, if there is an inconsistency between two provisions, the more restrictive applies.

The regulations also provide that the specific arrangements for requesting wage information be covered in an agreement between the requesting agency and the agency furnishing the information. Each agreement will identify, at a minimum, the officials authorized to make the requests; the exact methods to be used; the dates in the year that the requests will be made; the periods of employment for which wage information will be furnished (i.e., the wage reporting periods); the time within which the requested information will be furnished; safeguards limiting release or redisclosure; and any reimbusement to be made for the costs of furnishing the requested information.

In addition, to measure the results and the cost effectiveness of the wage data exchange, the Department is requiring that State AFDC agencies maintain basic statistical information about the changes in eligibility and benefit amount which occur after this requirement is effective.

The regulations also provide that assistance will not be denied, delayed, or discontinued, pending receipt of wage information requested under these new requirements, if other documentary evidence establishes that the individual is eligible. The Department expects that in most cases the information gained through the wage record system will be used to verify eligibility information already received.

The law required State agencies to implement the new statutory provisions (i.e., to request and use wage information) by October 1, 1979. The new law also added section 411 to the Social Security Act, which is currently in effect. This provides that the Secretary of Health, Education, and Welfare will, upon request, make available to State and local agencies wage information contained in SSA's records for use in determining an individual's eligibility for, or the amount of, assistance or services under the AFDC program. The new law also added a new section 3304(a)(16) to the Federal Unemployment Tax Act. This provides that wage information which is contained in the records of the agency administering State unemployment compensation laws shall similarly be available to State and local welfare agencies. Under both of these provisions, the Secretary of Health, Education, and Welfare will establish safeguards ensuring that wage information obtained from the State unemployment compensation agencies or SSA is used only for the specified AFDC purposes.

HEW published interim regulations for disclosure of SSA wage information upon State request on January 30, 1978 (43 FR 3907). HEW published proposed rules on disclosure of social security records and information on April 10, 1979 (44 FR 21495). This proposal included the provisions for disclosure of wage information upon State request. The Department held public hearings on the proposed rules in seven cities during July 1979. The interim regulations remain in effect until final rules are published.

Technical Assistance Available to States

In order to help States comply with these rules, the Department will provide to State welfare agencies, upon request, a fully programmed system which compares welfare agency files with unemployment compensation files. The system, Interjurisdictional Data Exchange (IDEX), also checks for duplicate grants.

State welfare directors interested in information about IDEX should contact Mr. James Trainor, Office of Family Assistance, Room 4092, 330 C Street, SW., Washington, D.C. 20201, telephone (202) 245-0128.

Discussion of Comments

After publication of the Notice of Proposed Rule Making on January 11, 1979, we received a number of comments from State and local welfare departments, other public and private organizations, and concerned individuals. The significant comments and our responses follow:

Section 205.51 Definition of wage information

1. *Comment:* Several commenters pointed out that unemployment compensation agencies do not collect "self-employment income" information. Therefore, the proposed definition of income, which includes "self-employment income," would preclude States from obtaining complete wage information from the unemployment compensation agencies.

Response: We believe State unemployment compensation agencies should be the primary source of data on wages, because their information will be more current than SSA information in most cases. Therefore, we have deleted "self-employment income" from the definition in § 205.51(a). However, SSA will furnish both self-employment income and wage information as described in § 205.51(b).

2. *Comment:* Five commenters objected to the requirement that wage information be obtained on a quarterly basis, because of employers' reporting lags and the fact that the information is sometimes inaccurate and cannot be used the current month.

Response: The Department believes that if timely use is to be made of wage information it must be requested quarterly, since this information is reported by employers quarterly. We recognize that the information will not be available for use in the current month. However, it will be useful to check against income reported by applicants and recipients, and can help identify overpayments and fraud situations. It will also be helpful in redeterminations. We believe that employers and agencies administering the unemployment compensation law will provide data which are accurate enough to be useful.

3. *Comment:* Some commenters questioned the usefulness of information which is not current. Two commenters believed that the proposed regulations conflict with the requirements in § 233.20(a)(3)(ii)(D)—that income available for current use be considered in determining need and the amount of assistance—since wage information will be available only quarterly from agencies administering unemployment

compensation laws, and will generally be even less current from SSA.

Response: These comments reflect a perception that current eligibility and payment decisions will be made on the basis of past wage information. This is not correct. The wage information obtained under these rules is to be used to check eligibility and payment decisions for the time periods which correspond to those wages. However, this information could be helpful as indicators of overpayments and fraud. This information could also be used by States as an indicator of current income. Consistent with this approach, § 206.10 prohibits any delay or denial of assistance pending receipt of this information. We see no conflict with § 233.20.

4. *Comment:* Four commenters asked whether the rules apply to all applicants and recipients. Some asked whether wage information is required for children under 14 years of age, since the agency is prohibited by § 233.20(a)(3)(iii) from inquiring as to the amount of earnings of a child under 14 years of age.

Response: Because Pub. L. 95–216 requires a State to request and use wage information for purposes of "determining an *individual's* eligibility" (*underlining* added), the rule applies to all applicants and recipients. There is no authority to exclude children under 14 from this requirement. Section 233.20(a)(3)(iii) is not intended to preclude the type of wage information exchange provided by this rule—an administrative procedure between government agencies to share information.

We recognize that most children under the age of 14 are enrolled in school, and therefore whatever earnings they might have would be disregarded, but there are situations in which children are not enrolled in school and their earnings are not disregarded. The verification of wage information for all applicants and recipients is required to ensure that earnings are properly reported.

5. *Comment:* Three commenters suggested using wage information when determining eligibility for other Federal and State programs such as States' general assistance programs.

Response: States may use wage information from unemployment compensation agencies when determining eligibility for other Federal and State programs. The Department of Labor does not restrict redisclosure of this information. However, wage information obtained from SSA may not be redisclosed. The Tax Reform Act permits SSA to use wage information only for its own programs, and it is available for the AFDC program under section 411 of the Social Security Act. Information from SSA cannot be redisclosed to any other agencies or used for any other programs.

6. *Comment:* Seven commenters complained that SSA wage information is of questionable value because it is updated on an annual basis and there will be considerable delay in its availability for matching with AFDC records. One commenter advised that it serves no purpose to require States to make semi-annual requests to SSA for wage information if the SSA file will be updated only annually.

Response: The Senate Finance Committee, in considering the bill which became Pub. L. 95–216, recognized that wage record information from SSA may not be current. The Committee believed that obtaining the information would increase the incentive for recipients to report their earned income accurately. The Department believes that SSA wage information will be useful in identifying overpayments and in fraud investigations. SSA is also the best source for interstate data. This position is supported by data from New York City and Franklin County, Ohio. These jurisdictions have reported savings of $8 million and $2 million, respectively, in recovered overpayments through the use of SSA wage information.

The Department believes that it is necessary to require semi-annual matching of AFDC records with SSA wage information because of the frequency with which applicants and recipients enter and leave the assistance rolls. It is important to note that although most SSA wage information will be updated only annually, updating will not be done at the same time in the year for everyone. Therefore, changes to various people's wage records will become available at differing times.

7. *Comment:* One commenter felt that the proposed wage information system should be integrated with the National Recipient System to maximize the effectiveness of the component parts and provide for a more convenient and comprehensive system.

Response: Pub. L. 95–216 has the effect of requiring 40 State welfare agencies to request and use earnings data from the State unemployment insurance agencies. The proposed Federal National Recipient System could not serve as an integrated comprehensive system because it does not have access to State unemployment insurance agency earnings data. However, the BENDEX system will provide a comprehensive, integrated approach to the exchange of earnings and benefits information between SSA and the remaining States required to request SSA earnings information.

Section 205.57 Maintenance of an automated file; requests for wage information

8. *Comment:* Four commenters objected to the maintenance of the social security number in machine-readable form because of the burden and expense it imposes on States which lack sophisticated computer systems.

Response: The Department believes that this requirement is essential to the efficient operation of the wage information system. Agencies administering State unemployment compensation laws and SSA handle volume requests and their records are maintained in this manner. Manual record-keeping and printed or handwritten requests would be far more error-prone and would result in long delays by the agencies furnishing the requested information.

9. *Comment:* Two commenters stated that the wage screening system described in the proposal is rather rigidly defined and presumes fairly specific, technical capabilities. All States do not have like abilities to maintain a mechanical or automated system.

Response: The Department recognizes that the degree of sophistication of data processing systems that support State welfare agencies differs from State to State. State welfare agency compliance with the proposed rule does not require sophisticated data processing systems. It merely requires the exchange of machine-readable data between the State welfare agency and the unemployment compensation agency or SSA. This can be achieved with the simplest of data processing systems.

Section 205.58 Access to Wage Information: Specific Agreements Between the State Agency and the Agency Supplying the Information

10. *Comment:* Two commenters questioned the need for interagency agreements regarding security of wage data and cost reimbursement.

Response: The identities of AFDC applicants and recipients, as well as wage information supplied by unemployment compensation agencies and SSA, need to be protected according to the respective agencies' standards. The Department believes it would be best to have the agencies which are parties to the data exchange formally agree to confidentiality requirements. Similarly, we believe cost reimbursement should be a matter for agreement between the parties to the

information exchange. While the cost of the exchange will generally not be great enough to warrant reimbursement, where the agencies wish to make such provisions they will need a mechanism for putting into effect their agreement for reimbursement.

11. *Comment:* Two commenters asked whether the Federal government plans to pay the cost of the wage information system. In their States, no State funds have been appropriated to implement the system and the legislature is not scheduled to meet until after the October 1, 1979 deadline. They ask whether there will be an extension of the October 1 deadline if the Federal government is unwilling to pay the cost of the wage system.

Response: The Department believes that the cost of implementing the modest wage information system necessary to satisfy this rule will be so small that States can accommodate it. It should be noted that systems necessary to request and use wage information, as required under Pub. L. 95–216, would represent administrative costs subject to the usual Federal financial participation. Under Pub. L. 95–216, we have no authority to grant an extension of the October 1, 1979 deadline.

Section 205.60 Reports and Maintenance of Records

12. *Comment:* A large number of commenters objected to establishing and maintaining statistical records regarding case actions resulting from use of wage information.

Response: Because of the concern expressed by so many writers, the final regulations have been revised to limit the statistical requirement to the number and dollar value of case closings and grant changes. This information is necessary for the Department to determine that States are using the requested information, as the law requires.

13. *Comment:* One commenter advised that § 205.60, "Reports and maintenance of records," and § 206.10, "Application, determination of eligibility and furnishing of assistance" do not provide a date by which the State agency will establish and begin maintaining the required records. The commenter suggested that language be included in these sections in the regulations specifying that October 1, 1979, is the date on which the provisions become effective.

Response: The preamble to these regulations specifies that the provisions are effective October 1, 1979. We believe it is unnecessary to insert the effective date in the new or amended sections of the regulations.

Section 206.10 Application, Determination of Eligibility and Furnishing of Assistance

14. *Comment:* One commenter suggested informing all applicants and recipients of the State agency's access to wage information from unemployment agencies and SSA. That person also recommended telling people that differences between agency information and information provided by applicants and recipients could result in adjustment or termination of aid, recoveries of overpayments, and criminal prosecution.

Response: The Department has no rule regarding the detail with which the State must inform applicants or recipients of its verification procedures. Most States do tell applicants that information they give will be verified. Where the State identifies the sources which are used for verification, the wage records of unemployment compensation agencies and SSA should be included.

15. *Comment:* One commenter stated that existing regulation § 206.10 and the proposed regulation § 205.56 are in conflict. The writer points out that § 206.10 mandates that AFDC eligibility be reconsidered at least every 6 months while § 205.56 mandates that the AFDC agency request wage information about all applicants and recipients quarterly.

Response: The regulations are not in conflict. The existing regulation, § 206.10, requires that eligibility be verified for each case at least every 6 months and more frequently when a report is received showing a change in the individual's circumstances. In contrast, § 205.56 requires that the agency request wage information—one factor which affects eligibility—quarterly. This is a request for a specific type of information (income) for all recipients on a more frequent schedule.

Comments Beyond the Scope of the NPRM

One commenter suggested that a State unemployment compensation agency be empowered to acquire information about the personal characteristics of the workers whose wages are included in SSA's wage records. Another person stated that § 206.10 contains a requirement that there must be arrangements to assist applicants and recipients in obtaining medical care and services on a 24 hour basis, which his State cannot provide since such services are not available statewide.

These comments are not relevant to this regulation, but they will be considered when the regulations to which they relate are reviewed and revised.

Differences Between the Proposed Rules and the Final Rules

After consideration of all comments, we have adopted the proposed rules with three major changes. First, we have removed "self-employment income" from the definition in § 205.51(a) of wage information which must be obtained from agencies administering the unemployment compensation laws. Second, § 205.51(b) previously stated that wage information to be provided by SSA means "wages" and "self-employment income" as defined in title II of the Social Security Act. Use of the title II definition would restrict SSA to furnishing information only on wages and self-employment income covered by the Federal Insurance Contributions Act. Therefore, we have removed "as defined in title II of the Social Security Act" and have inserted "routinely maintained in the Social Security Administration's record systems." With this change SSA can provide wage information on non-covered employment and on wages and self-employment income in excess of the limits under the Federal Insurance Contributions Act. Third, we have substantially reduced the data collection requirements in § 205.60, limiting them to the number and dollar value of case closings and grant changes. We have also made a few technical and editorial changes.

(Secs. 402, 411, 1102, 1106(a), Social Security Act, as amended; 49 Stat. 647, as amended 91 Stat. 1561, 53 Stat. 1398, as amended (42 U.S.C. 602, 611, 1302, 1306(a)); and sec. 403 of Pub. L. 95–216, 91 Stat. 1561)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid))

Dated: October 11, 1979.

Stanford G. Ross,

Commissioner of Social Security.

Approved: December 6, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 205.50 is amended by revising paragraph (a)(2)(i)(B) and paragraph (a)(3) to read as follows:

§ 205.50 Safeguarding information for the financial assistance and social services programs.

(a) *State plan requirements.* * * *

(2) * * *

(i) * * *

(B) Information related to the social and economic conditions or circumstances of a particular individual, including wage information (see § 205.51) obtained from the agency administering the State unemployment

compensation laws or from the Social Security Administration;

* * * * *

(3)(i) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make these provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(ii) All information about wages (including that described in § 205.51) will be stored and processed so that no unauthorized personnel can acquire or retrieve the information by any means.

(iii) All persons with access to information about wages will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

* * * * *

2. A new § 205.51 is added to read as follows:

§ 205.51 Definition of wage information.

For purposes of §§ 205.50, 205.56, 205.57, 205.58, 205.60, and 206.10—

(a) Wage information requested from agencies administering State unemployment compensation laws means information about "wages" as defined in the State unemployment compensation laws;

(b) Wage information requested from the Social Security Administration means information about both wages and self-employment income routinely maintained in the Social Security Administration's record systems; and

(c) Wage information also includes the name and address of the employer and the identification number used by the employer in making the wage report.

3. A new § 205.56 is added to read as follows:

§ 205.56 Access to wage information from agencies administering State unemployment compensation laws and from the Social Security Administration.

A State plan under title IV–A of the Social Security Act must provide that—

(a) The State agency will request wage information about all current AFDC applicants and recipients quarterly from agencies administering the State unemployment compensation laws if those agencies collect wage information. If they do not, the State agency must request the wage information semi-annually from the Social Security Administration.

(b) The State agency will use this wage information for—

(1) Determining individuals' eligibility for aid or services under the State plan;

(2) Determining the amount of aid or services;

(3) Investigations to determine whether recipients received aid or services under the State plan to which they were not entitled; and

(4) Criminal or civil prosecutions based on receipt of aid or services under the State plan to which recipients were not entitled.

4. A new § 205.57 is added to read as follows:

§ 205.57 Maintenance of an automated file; requests for wage information.

A State plan under title IV–A of the Social Security Act must provide that—

(a) The State agency will maintain a file which is machine-readable, i.e., which is maintained in a fashion that permits automated processing, containing the name and social security number of each person applying for, or receiving, aid or services under the plan.

(b) Requests for wage information will be made in machine-readable form from this file.

5. A new § 205.58 is added to read as follows:

§ 205.58 Access to wage information; specific agreements between the State agency and the agency supplying the information.

(a) A State plan under title IV–A of the Social Security Act must provide that, in carrying out the requirements of §§ 205.56 and 205.57, the State agency will enter into specific written agreements with agencies administering State unemployment compensation laws, or with the Social Security Administration, if appropriate, detailing the procedures to be used in requesting and providing wage information.

(b) These agreements will include, but need not be limited to, the following:

(1) Identification of all agency officials by position with authority to request wage information;

(2) Methods and timing of the requests for information, including the machine-readable format to be used, and the period of time needed to furnish the requested wage information;

(3) The wage reporting periods for which information will be provided;

(4) Safeguards limiting release or redisclosure as required by Federal or State law or regulation, including the requirements of § 205.50 and 20 CFR 401.105; and

(5) Reimbursement, if any, for the costs of furnishing the information requested by the State agency.

6. Section 205.60 is amended by adding a sentence to paragraph (a)(1); redesignating paragraph (a)(2) as (a)(3) and adding a new paragraph (a)(2) to read as follows:

§ 205.60 Reports and maintenance of records.

(a) *State plan requirements.* * * *

(1) * * *

In addition, records kept under a State's IV–A plan will include the individual's social security number.

(2) Under title IV–A, the State agency will establish and maintain statistical records regarding the effect of the use of wage information received from agencies administering State unemployment compensation laws and from the Social Security Administration. The records will include—

(i) The number and dollar value of case closings per month;

(ii) The number and dollar value of grant reductions per month; and

(iii) The number and dollar value of grant increases per month.

7. Section 206.10 is amended by revising paragraph (a)(5) to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) State plan requirements. * * *

(5)(i) Financial assistance and medical care and services included in the plan shall be furnished promptly to eligible individuals without any delay attributable to the agency's administrative process, and shall be continued regularly to all eligible individuals until they are found to be ineligible. Under this requirement there must be arrangements to assist applicants and recipients in obtaining medical care and services in emergency situations on a 24-hour basis, 7 days a week.

(ii) Under title IV–A, assistance will not be denied, delayed or discontinued pending receipt of wage information requested under § 205.56, if other evidence establishes the individual's eligibility for assistance.

* * * * *

[FR Doc. 79-38318 Filed 12-18-79; 8:45 am]
BILLING CODE 4110-07-M

COMMISSION ON CIVIL RIGHTS

45 CFR Parts 701, 702, 703, 704, 705, and 706

Statement of Organization and Functions of the Commission

AGENCY: United States Commission on Civil Rights.

ACTION: Final rule.

SUMMARY: This rule summarizes the statutory functions of the Commission, states the staff organization of the Commission, informs the public with respect to how information may be obtained from the Commission and establishes rules for employee conduct. Publication of this rule is appropriate in view of statutory amendments and reorganization of the Commission staff.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Glick, Solicitor, U.S. Commission on Civil Rights, Washington, D.C. 20425, (202) 254–5633.

SUPPLEMENTARY INFORMATION: Pursuant to 42 U.S.C. 1975a(e) the United States Commission on Civil Rights is required to: separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law.

In view of amendments to the Commission's statutory authority by Pub. L. 95–444, of October 10, 1978, recent staff reorganization and the establishment of new regional offices, it is appropriate to amend and republish the Commission's statement of organization, sources from which information is available to the public, functions and relevant rules and regulations.

Since these amendments to the Commission's regulations constitute only an informational statement of the amended Commission jurisdiction and its staff structure and does not directly affect the public, it is deemed unnecessary to provide an opportunity for public participation in the rule-making process.

45 CFR Chapter VII is amended as set forth below:

1. Part 701 is revised to read as follows:

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Subpart A—Operations and Functions

Sec.
701.1 Establishment
701.2 Responsibilities

Subpart B—Organization Statement

Sec.
701.11 Membership of the Commission—Staff Director
701.12 Staff organization
701.13 Regional offices

Authority.—Secs. 101–106, 71 Stat. 634–636, as amended (42 U.S.C. 1975–1975e).

Subpart A—Operations and Functions

§ 701.1 Establishment.

The United States Commission on Civil Rights (hereinafter referred to as the "Commission") is a bipartisan agency of the executive branch of the Government. Established under the Civil Rights Act of 1957, 71 Stat. 634, the Commission derives its authority from that Act and from amendments to it in the Civil Rights Act of 1960, 74 Stat. 86; in the Civil Rights Act of 1964, 78 Stat. 241; by 81 Stat. 582 (1967); by 84 Stat. 1356 (1970); by 86 Stat. 813 (1972); and by the Civil Rights Commission Act of 1978, 92 Stat. 1067. The statutes are codified in 42 U.S.C. 1975–1975e. (Hereinafter the 1957 Act as amended will be referred to as "the Act.")

§ 702.2 Responsibilities.

(a) The Commission's authority under Section 104(a) of the Act may be summarized as follows:

(1) To investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, age, handicap, or national origin;

(2) To study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap or national origin or in the administration of justice;

(3) To appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(4) To serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap or national origin;

(5) To investigate sworn allegations that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination.

(b) Under Section 104(c) of the Act the Commission is required to: submit interim reports to the President and to the Congress at such times as the Commission, the Congress, or the President shall deem desirable and submit to the President and the Congress a final report of its activities, findings, and recommendations not later than the last day of fiscal year 1983.

(c) In fulfilling these responsibilities the Commission is authorized by the Act to hold hearings and to issue subpenas for the production of documents and the attendance of witnesses; to consult with governors, attorneys general, other representatives of State and local governments, and private organizations; and is required to establish an advisory committee in each State. The Act also provides that all Federal agencies shall cooperate fully with the Commission so that it may effectively carry out its functions and duties.

Subpart B—Organization Statement

§ 701.11 Membership of the Commission—Staff Director.

(a) The Commission is composed of six members, not more than three of whom may be of the same political party, appointed by the President by and with the advice and consent of the Senate.

(b) The Chairman and Vice Chairman of the Commission are designated by the President, the Vice Chairman acting as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(c) No vacancy in the Commission affects its powers, and any vacancy is filled in the same manner and is subject to the same limitation with respect to party affiliations as previous appointments.

(d) Four members of the Commission constitute a quorum.

(e) A Staff Director for the Commission is appointed by the President (after consultation with the Commission) by and with the advice and consent of the Senate. The Staff Director is the chief executive officer of the agency.

§ 701.12 Staff Organization.

The organization of the Commission is established as follows:

(a) *Office of the Staff Director.* Under the direction of the Staff Director, this office plans the agency's programs, directs, supervises, and coordinates the work of other offices; reports plans, programs, and activities of the agency to the Commission; manages the administrative affairs of the agency and represents the agency in relations with the Executive Office of the President, the Congress and other Federal agencies. Special units reporting to the Office of the Staff Director are:

(1) *Equal Employment Opportunity Unit.* Under the direction of the Equal Employment Opportunity Officer, this unit is responsible for the agency's EEO

and affirmative action programs; advises employees regarding the applicability of Office of Personnel Management and other relevant equal employment opportunity regulations and is responsible for the agency troubled employee program.

(2) *Solicitor's Unit.* Under the direction of the Solicitor, this unit is responsible for administrative law matters, including contracts, openness in government, government ethics and personnel.

(b) *Office of General Counsel.* Under the direction of the General Counsel, this office serves as legal counsel to the Commissioners and to the agency; plans and conducts hearings for the Commission; conducts legal studies; prepares reports of legal studies and hearings; drafts or reviews proposals for legislative and executive action and reviews all agency publications and congressional testimony for legal sufficiency.

(c) *Office of Management.* Under the direction of the Assistant Staff Director for Administration, this office is responsible for all administrative, management and facilitative services necessary for the efficient operation of the agency. Its units, headed by division directors, include the Administrative Services Division, the Budget and Fiscal Division, the Management Analysis Division, the Personnel Division, the Publications Management Division, and the National Clearinghouse Library Division.

(d) *Office of Program Planning and Evaluation.* Under the direction of the Assistant Staff Director for Program Planning and Evaluation, this office is responsible for: coordinating the agency's program planning process; conducting program evaluations to assess the impact of the Commission's projects on problems addressed; and coordinating the monthly program reporting system. Its units, headed by Division Directors, are the Program Development and Planning Division and the Program Evaluation Division.

(e) *Office of Federal Civil Rights Evaluation.* Under the direction of the Assistant Staff Director for Federal Civil Rights Evaluation, this office is responsible for: monitoring, evaluating and reporting on the civil rights enforcement effort of the Federal Government and forwarding complaints alleging denials of civil rights to Federal agencies having appropriate jurisdiction.

(f) *Office of Program and Policy Review.* Under the direction of the Assistant Staff Director for Program and Policy Review, this office is responsible for: planning, conducting or stimulating studies to advance basic knowledge of the extent, causes and consequences of civil rights denials; preparing monographs dealing with subjects which are current national civil rights issues; monitoring civil rights developments; planning and conducting consultations on the civil rights implications of Federal programs and policies and/or current civil rights issues; and providing staff assistance as needed to other offices of the Commission.

(g) *Office of Congressional and Public Affairs.* Under the direction of the Assistant Staff Director for Congressional and Public Affairs, this Office is comprised of three divisions:

(1) The Press and Communications Division is responsible for liaison with and dissemination of information concerning the Commission to the news media and the preparation and dissemination of various periodical publications on civil rights issues.

(2) The Congressional Liaison Division is responsible for responding to requests for information from members of Congress, preparing testimony for presentation before committees of Congress when such testimony has been requested by a committee or a member and assisting members of the Commission and staff in liaison with members of Congress and committees of Congress.

(3) The Community Relations Division organizes, plans and manages conferences at which the Commission receives information regarding civil rights issues; establishes and maintains liaison with government and private civil rights agencies; and represents the Commission at government and private organization conferences and conventions.

(h) *Office of Regional Programs.* Under the direction of the Assistant Staff Director for Regional Programs, this office is responsible for: directing and coordinating the programs and work of the regional offices and State Advisory Committees to the United States Commission on Civil Rights, and maintaining liaison between the regional offices and the various headquarters offices of the Commission.

§ 701.13 Regional offices.

Each regional office of the Commission is directed by a regional director. The address of each office and the States which they serve are as follows:

Region I: U.S. Commision on Civil Rights, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, FTS (8) 223-4671—(617) 223-4671; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Region II: U.S. Commission on Civil Rights, 26 Federal Plaza, Room 1639, New York, N.Y. 10007, FTS (8) 284-0400—(212) 264-0543; New Jersey and New York.

Region III: U.S. Commission on Civil Rights, 2120 L Street, N.W., Room 510, Washington, D.C. 20037, FTS (8) 254-6717—(202) 254-6670; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Region IV: U.S. Commission on Civil Rights, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 632, Atlanta, Georgia 30303, FTS (8) 242-4391—(404) 221-4344; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Region V: U.S. Commission on Civil Rights, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, FTS (8) 353-7371—(312) 353-7371; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Region VI: U.S. Commission on Civil Rights, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, FTS (8) 730-5570—(512) 225-4810; Arkansas, Louisiana, Oklahoma, Texas, and New Mexico.

Region VII: U.S. Commission on Civil Rights, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106, FTS (8) 758-5253—(816) 374-5253.

Region VIII: U.S. Commission on Civil Rights, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202, FTS (8) 327-2211—(303) 837-2211; Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Region IX: U.S. Commission on Civil Rights, 312 North Spring Street, Room 1015, Los Angeles, California 90012, FTS (8) 798-3437—(213) 688-5705; Arizona, California, Hawaii, and Nevada.

Region X: U.S. Commision on Civil Rights, 915 Second Avenue, Room 2852, Seattle, Washington 98174, FTS (8) 399-1426—(206) 442-1246; Alaska, Idaho, Oregon, and Washington.

PART 702—RULES ON HEARINGS, REPORTS AND MEETINGS OF THE COMMISSION

2. Authority: Secs. 101-106, 71 Stat. 634-636, as amended; 42 U.S.C. 1975-1975e, Pub. L. 94-409, 90 Stat. 1241, Pub. L. 94-409.

3. Section 702.1(g) is revised to read as follows:

§ 702.1 Definitions.

* * * * *

(g) "Report" refers to statutory reports or portions thereof issued pursuant to Section 104(c) of the Civil Rights Act of 1957, as amended.

4. Section 702.4 (a) and (f) are revised to read as follows:

§ 702.4 Subpenas.

(a) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued by the Commission over the signature of

the Chairman and may be served by any person designated by the Chairman.

* * * * *

(f) Subpenas shall be issued at a reasonably sufficient time in advance of their scheduled return, in order to give subpenaed persons an opportunity to prepare for their appearance and to employ counsel, should they so desire.

5. Section 702.6 (b), (c), (d), (e) and (h) are revised to read as follows:

§ 702.6 Executive session.

* * * * *

(b) The Commission shall afford any persons defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by them, before deciding to use such evidence or testimony.

* * * * *

(c) If a person receiving notice under this section notifies the Commission within five days of service of such notice, or where service is by mail within eight days of service of such notice, that the time scheduled therein constitutes a hardship, the Commission may, in its discretion, set a new time for such person's appearance at the executive session.

(d) In the event such persons fail to appear at executive session at the time and place made available under paragraph (b) or (c) of this section, they shall not be entitled to another opportunity to appear at executive session, except as provided in § 702.11.

(e) If such persons intend to submit sworn statements of themselves or others, or if they intend that witnesses appear in their behalf at executive session, they shall, no later than 48 hours prior to the time set under paragraph (b) or (c) of this section, submit to the Commission, all such statements and a list of all witnesses. The Commission will inform such persons whether the number of witnesses requested is reasonable within the meaning of paragraph (b) of this section. In addition, the Commission will receive and dispose of requests from such persons to subpena other witnesses. Requests for subpenas shall be made sufficiently in advance of the scheduled executive session as to afford persons subpenaed reasonable notice of their obligation to appear at that session. Subpenas returnable at executive session shall be governed by the provisions of § 702.4.

* * * * *

(h) In the event the Commission determines to release or to use evidence or testimony which it has determined may tend to defame, degrade, or incriminate any persons, in such a manner as to reveal publicly their identity, such evidence or testimony, prior to such public release or use, will be presented at a public session, and the Commission will afford them an opportunity to appear as voluntary witnesses or to file a sworn statement in their own behalf and to submit brief and pertinent sworn statements of others.

6. Section 702.7 (a) and (c) are revised to read as follows:

§ 702.7 Counsel.

(a) Persons compelled to appear in person before the Commission and any witness appearing at a public session of the Commission will be accorded the right to be accompanied and advised by counsel, who will have the right to subject their clients to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections.

* * * * *

(c) Failure of any persons to obtain counsel shall not excuse them from attendance in response to a subpena, nor shall any persons be excused in the event their counsel is excluded from the proceeding pursuant to § 702.5(g). In the latter case, however, such persons shall be afforded a reasonable time to obtain other counsel, said time to be determined by the Commission.

7. Section 702.7 (b) and (c) are revised to read as follows:

§ 702.8 Evidence at Commission proceedings.

* * * * *

(b) Where a witness testifying at a public session of a hearing or a session for return of subpenaed documents offers the sworn statements of other persons, such statements, in the discretion of the Commission, may be included in the record, provided they are received by the Commission within 24 hours in advance of the witness' appearance.

(c) The prepared statement of a witness testifying at a public session of a hearing, in the discretion of the Commission, may be placed into the record, provided that such statement is received by the Commission 24 hours in advance of the witness' appearance.

* * * * *

8. Section 702.9 is revised to read as follows:

§ 702.9 Cross-examination at public session.

If the Commission determines that oral testimony of a witness at a public session tends to defame, degrade, or incriminate any person, such person, or through counsel, shall be permitted to submit questions to the Commission in writing, which, in the discretion of the Commission, may be put to such witness by the Chairman or by authorized Commission staff personnel.

9. Section 702.14 (b) and (c) are revised to read as follows:

§ 702.14 Transcript of Commission proceedings.

* * * * *

(b) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that witnesses in a hearing held in executive session may for good cause be limited to inspection of the official transcript of their testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof.

(c) Persons who have presented testimony at a proceeding may ask within 60 days after the close of the proceeding to correct errors in the transcript of their testimony. Such requests shall be granted only to make the transcript conform to their testimony as presented at the proceeding.

10. Section 702.16 is revised to read as follows:

§ 702.16 Attendance of news media at public sessions.

Reasonable access for coverage of public sessions shall be provided to the various communications media, including newspapers, magazines, radio, newsreels, and television, subject to the physical limitations of the room in which the session is held and consideration of the physical comfort of Commission members, staff, and witnesses. However, no witnesses shall be televised, filmed, or photographed during the session nor shall the testimony of any witness be broadcast or recorded for broadcasting, if the witness objects.

11. Section 702.17 is revised to read as follows:

§ 702.17 Communications with respect to Commission proceedings.

During any proceeding held outside Washington, D.C., communications to the Commission with respect to such proceeding must be made to the Chairman or authorized Commission staff personnel in attendance. All requests for subpenas returnable at a hearing, requests for appearance of witnesses at a hearing, and statements or other documents for inclusion in the record of a proceeding, required to be

submitted in advance, must be submitted to the Chairman, or such authorized person as the Chairman may appoint, at an office located in the community where such hearing or proceeding is scheduled to be held. The location of such office will be set forth in all subpenas issued under the rules in this part and in all notices prepared pursuant to § 706.2.

12. Section 702.18 (a)(1) and (a)(3) are revised to read as follows:

§ 702.18 Commission reports.

(a) * * *

(1) Such person shall be served with a copy of the report or relevant portions thereof, with an indication of the section(s) that the Commission has determined tend to defame, degrade, or incriminate such person, a copy of the Act and a copy of the regulations in this part.

* * * * *

(3) The date of sevice for the purposes of this section shall be the day the material is delivered either by the post office or otherwise, to such person or the agent of such person or at the last known residence or business address of such person. The acknowledgement of the party served, or the verified return of the one making service shall be proof of service except that when service is made by certified mail, the return post office receipt may also constitute proof of same.

§§ 702.51, 702.54 and 702.56 [Amended]

13. Sections 702.51, 702.54 and 702.56 are amended by substituting the word *Solicitor* for the words General Counsel.

PART 703—OPERATION AND FUNCTIONS OF STATE ADVISORY COMMITTEES

14. Authority: Sec. 105(c) of the Civil Rights Act of 1957, 71 Stat. 634, as amended.

15. Section 703.1 is revised to read as follows:

§§ 703.1 Name and establishment.

Pursuant to Section 105(c) of the Act, the Commission has chartered and maintains Advisory Committees to the Commission in each State and the District of Columbia. All relevant provisions of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463 as amended) are applicable to the management, membership and operations of such committees and subcommittees thereof.

16. Section 703.2 paragraphs (a) and (b) are revised as follows:

§ 703.2 Functions.

* * * * *

(a) Advise the Commission in writing of any knowledge or information it has of any alleged deprivation of the right to vote and to have the vote counted, by reason of color, race, religion, sex, age, handicap or national origin, or that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination;

(b) Advise the Commission concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution, and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws;

* * * * *

17. Sections 703.4 through 703.9 are revised to read as follows:

§ 703.4 Advisory Committee Management Officer.

(a) The Assistant Staff Director for the Office of Regional Programs is designated as Advisory Committee Management Officer pursuant to the requirements of the Federal Advisory Committee Act of 1972, (Pub. L. 92–463).

(b) Such officer shall carry out the functions specified in Section 8(b) of the Federal Advisory Committee Act.

(c) Such officer shall with respect to each State Advisory Committee, appoint an employee, subject to the supervision of the Regional Director of the Commission having responsibility for the State within which said Committee has been chartered, to provide services to the Committee and to be responsible for supervising the activity of the Committee pursuant to Section 10 of the Federal Advisory Committe Act.

§ 703.5 Membership.

(a) Subject to exceptions made from time to time by the Commission to fit special circumstances, each State Committee shall consist of at least 11 members appointed by the Commission. Members of the State Committee shall serve for a fixed term to be set by the Commission upon the appointment of a member subject to the duration of Advisory Committees as prescribed by the charter, provided that members of the State Committee may, at any time, be removed by the Commission.

(b) Membership on the Advisory Committee shall be reflective of the different ethnic, racial, and religious communities within each State and the membership shall also be representative with respect to sex, political affiliation, age and handicap status.

§ 703.6 Officers.

(a) The officers of each State Advisory Committee shall be a Chairperson, Vice Chairperson and such other officers as may be deemed advisable.

(b) The Chairperson shall be appointed by the Commission.

(c) The Vice Chairperson and other officers shall be elected by the majority vote of the full membership of the Committee.

(d) The Chairperson, or in his/her absence the Vice Chairperson, under the direction of the Commission staff member appointed pursuant to 703.4(b), shall:

(1) Call meetings of the Committee;

(2) Preside over meetings of the Committee;

(3) Appoint all subcommittees of the Committee;

(4) Certify for accuracy the minutes of Committee meetings prepared by the assigned Commission staff member; and

(5) Perform such other functions as the Committee may authorize or the Commission may request.

§ 703.7 Subcommittees—Special Assignments.

Subject to the approval of the designated Commission employee, a State Advisory Committee may:

(a) Establish subcommittees, composed of members of the Committee to study and report upon matters under consideration, and it may authorize such subcommittees to take specific action within the competence of the Committee; and

(b) Designate individual members of the Committee to perform special projects involving research or study on matters under consideration by the Committee.

§ 703.8 Meetings.

(a) Meetings of a Committee shall be convened by the designated Commission employee, or, subject to his/her approval, by the Chairperson, or by a majority of the Committee members. The agenda for such Committee or subcommittee meeting shall be approved by the designated Commission employee.

(b) A quorum shall consist of one-half or more of the members of the Committee, or five members, whichever is the lesser, except that with respect to the conduct of factfinding meetings as authorized in paragraph (e) of this section, a quorum shall consist of three members.

(c) Notice of all meetings of a Committee shall be given to the public.

(1) Notice shall be published in the Federal Register at least 15 days prior to

the meetings, provided that in emergencies, such requirement may be waived.

(2) Notice of meetings shall be provided to the public by press releases and other appropriate means.

(3) Each notice shall contain a statement of the purpose of the meeting, a summary of the agenda, and the time, place, and location of such meeting.

(d) Except as provided for in paragraph (d)(1) of this section, all meetings of committees or subcommittees shall be open to the public.

(1) The Assistant Staff Director for Regional Programs may authorize a committee or subcommittee to hold a meeting closed to the public if he/she determines that the closing of such meeting is in the public interest provided that: prior to authorizing the holding of a closed meeting the Assistant Staff Director will have requested and received the opinion of the Solicitor of the Commission with respect to whether the meeting may be closed under one or more of the exemptions provided in the Government in the Sunshine Act, 5 U.S.C. 552b(c).

(2) In the event that any meeting or portion thereof is closed to the public, the Committee shall publish, at least annually, in summary form a report of the activities conducted in meetings not open to the public.

(e) Advisory Committees and subcommittees may hold factfinding meetings for the purpose of inviting the attendance of and soliciting information and views from government officials and private persons respecting subject matters within the jurisdiction of the Committee or subcommittee.

(f) Any person may submit a written statement at any business or factfinding meeting of a Committee or subcommittee.

(g) At the discretion of the designated Commission employee or his/her designee, any person may make an oral presentation at any business or factfinding meeting, provided that such presentation will not defame, degrade or incriminate any other person as is prohibited by the Act.

§ 703.9 Reimbursement of members.

(a) Advisory Committee members may be reimbursed by the Commission by a per diem subsistence allowance and for travel expenses at rates not to exceed those prescribed by Congress for Government employees, for the following activities only:

(1) Attendance at meetings, as provided for in § 703.8; and

(2) Any activity specifically requested and authorized by the Commission to be reimbursed.

(b) Members will be reimbursed for the expense of travel by private automobile on a mileage basis only to the extent such expense is no more than that of suitable public transportation for the same trip, unless special circumstances justify the additional expense of travel by private automobile.

PART 704—INFORMATION DISCLOSURE AND COMMUNICATIONS

18. Authority: Secs. 101–106, 71 Stat. 634–636 as amended (42 U.S.C. 1975–1975e) 5 U.S.C. 552.

§ 704.1 [Amended]

19. Section 704.1 is amended by substituting the words Solicitor, Solicitor's and Solicitor's Unit for the words General Counsel, General Counsel's Office and Office of General Counsel.

§ 704.2 [Amended]

20. Section 704.2 is amended by substituting the words Office of Federal Civil Rights Evaluation for the words Office of General Counsel.

21. Section 704.3 is revised to read as follows:

§ 704.3 Other requests and communications.

Requests for information should be addressed to Press and Communications Division and requests for Commission literature should be directed to Publications Management Division, U.S. Commission on Civil Rights, Washington, D.C. 20425. Communications with respect to Commission proceedings should be made pursuant to § 702.17 of this chapter. All other communications should be directed to Office of Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425.

PARTS 705 AND 706—[REDESIGNATED]

22. Part 706—*Materials Available Pursuant to 5 U.S.C. 552a* is redesignated as Part 705 and Part 705 *Employee Responsibilities and Conduct* is redesignated as Part 706.

PART 705—MATERIALS AVAILABLE PURSUANT TO 5 U.S.C. 552a

23. Authority: Secs. 101–106, 71 Stat. 634–636 as amended (42 U.S.C. 1975–1975c) 5 U.S.C. 552a.

24. Section numbers of former Part 705 are redesignated as § 705.1 through 705.13 and 705.95.

25. Part 705 is amended by substituting the word Solicitor for the words General Counsel and by revising § 705.4(b) to read as follows:

§ 705.4 Times, places and requirements for identification of individuals making requests and identification of records requested.

* * * * *

(b) An individual making a request to the Solicitor in person may do so at the Commission's headquarters office, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, on any business day during business hours. Persons may also appear for purposes of identification only, at any of the regional offices of the Commission on any business day during business hours. Regional offices are located as follows:

Region I: U.S. Commission on Civil Rights, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671 (8:45 a.m.–5:30 p.m.)

Region II: U.S. Commission on Civil Rights, 26 Federal Plaza, Room 1639, New York, N.Y. 10007, (212) 264–0543 (9:00 a.m.–5:30 p.m.)

Region III: U.S. Commission on Civil Rights, 2120 L Street, N.W., Room 510, Washington, D.C. 20037, (202) 254–6670 (8:45 a.m.–5:30 p.m.)

Region IV: U.S. Commission on Civil Rights, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 221–4344 (9:00 a.m.–5:30 p.m.)

Region V: U.S. Commission on Civil Rights, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371 (8:45 a.m.–5:30 p.m.)

Region VI: U.S. Commission on Civil Rights, Heritage Plaza, 418 South Main, First Floor, San Antonio, Texas 78204, (512) 225–4810 (8:45 a.m.–5:30 p.m.)

Region VII: U.S. Commission on Civil Rights, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374–5253 (8:00 a.m.–5:30 p.m.)

Region IX: U.S. Commission on Civil Rights, 312 North Spring Street, Room 1015, Los Angeles, California 90012, (213) 688–5705 (8:45 a.m.–5:00 p.m.)

Region X: U.S. Commission on Civil Rights, Federal Building, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 442–1246 (8:00 a.m.–5:00 p.m.)

26. Part 706 is revised to read as follows:

PART 706—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Sec.

706.1 Adoption of regulations.
706.2 Purpose.
706.3 Definitions.
706.4 Distribution.
706.5 Counseling.
706.6 Disciplinary and other remedial action.
706.7 Outside employment and other activity.

Sec.

706.8 Prohibition against disclosure of evidence.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

706.9 Proscribed actions.
706.10 Gifts, entertainment and favors.
706.11 Proscribed outside employment and other activities.
706.12 Financial interests.
706.13 Use of Government property.
706.14 Misuse of information.
706.15 Indebtedness.
706.16 Gambling, betting and lotteries.
706.17 General conduct prejudicial to the Government.
706.18 Miscellaneous statutory provisions.

Subpart C—Financial Reporting Requirements

706.19 Statements of financial and property interests and outside employment.
706.20 Time and place for filing reports.
706.21 Exclusion of certain positions from reporting requirements.
706.22 Information required to be reported—reporting forms.
706.23 Review of reports.
706.24 Public access to financial disclosure reports.

Authority: Sections 101–106, 71 Stat. 634–636 as amended (42 U.S.C. 1975–1975e) Pub. L. 95–521 as amended, 5 CFR 735.

Subpart A—General Provisions

706.1 Adoption of regulations.

Pursuant to 5 CFR 735.104(f) and 735.502, the U.S. Commission on Civil Rights (hereinafter referred to as the Commission) hereby adopts, with appropriate modifications, relevant sections of Part 735 of Title 5 of the Code of Federal Regulations as renumbered and set forth below.

706.2 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government's business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the United States Commission on Civil Rights' regulations covering the agency's employees and special Government employees, prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests.

§ 706.3 Definitions.

In this part:

"Commission" means the United States Commission on Civil Rights, an Executive agency as defined by Section 105 of Title 5, United States Code.

"Employee" means an officer or employee of the Commission including a special Government employee, as defined in 18 U.S.C. 202.

"Executive order" means Executive Order 11222 of May 8, 1965.

"Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

§ 706.4 Distribution.

(a) Within 90 days after publication of these regulations in the Federal Register the Commission shall furnish each employee with a copy of the regulations.

(b) The Commission shall furnish all new employees with a copy of the regulations at the time of their entrance on duty.

(c) The Commission shall bring the regulations to the attention of each employee annually, and at such other times as circumstances warrant.

(d) The Commission shall have available for review by employees copies of relevant laws, the Executive order, and pertinent Commission instructions relating to ethical and other standards of conduct.

§ 706.5 Counseling.

The Solicitor of the Commission shall serve as the agency's ethical conduct counselor and is the designated agency official for the purposes of the Ethics in Government Act of 1978, Pub. L. 95–521. The Solicitor shall respond to requests by employees and special Government employees for advice and guidance respecting questions of ethical conduct, conflicts of interest, reporting of financial interests and other matters of law covered by these regulations.

§ 706.6 Disciplinary and other remedial action.

An employee of the Commission who violates any of the regulations in this part may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearance of conflicts of interests may include but is not limited to:

(a) Changes in assigned duties;

(b) Divestment by an employee of any conflicting interest; or

(c) Disqualification for a particular assignment.

§ 706.7 Outside employment and other activity.

Employees of the Commission may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of their Government employment. Employees who wish to engage in outside employment shall first obtain the approval, in writing, of their supervisor.

§ 706.8 Prohibition against disclosure of evidence.

All employees of the Commission are subject to the prohibition on disclosure of evidence taken in executive session contained in Section 102(g) of the Civil Rights Act of 1957, 71 Stat. 634, as amended.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 706.9 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Commission efficiency or economy;

(d) Making a Commission decision outside official channels;

(e) Losing complete independence or impartiality; or

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

§ 706.10 Gifts, entertainment and favors.

(a) Except as provided in paragraphs (b) and (e) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractural or other business or financial relations with the Commission;

(2) Conducts operations or activities that are regulated by the Commission; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

(b) Exceptions from the prohibitions contained in (a) of this section are as follows:

(1) Gifts, entertainment and favors which derive from family or personal relationships (such as those between parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Aceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) Employees shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than themselves. This paragraph, however, does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and 5 U.S.C. 7342.

(e) Neither this section nor § 706.11 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part, for which no Government payment or reimbursement is made. This paragraph, however, does not allow employees to be reimbursed, or payment to be made on their behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits.

§ 706.11 Proscribed outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of conflicts of interest; or

(2) Outside employment which tends to impair mental or physical capacity to perform Governmental duties and responsibilities in an acceptable manner.

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

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, or Commission regulations. An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service, that depends on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by Section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law;

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational public service, or civic organization; or

(3) Outside employment permitted under these regulations.

§ 706.12 Financial interests.

(a) Employees shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with their Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through their Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government, so long as it is not prohibited by law, the Executive order, or Commission regulations.

§ 706.13 Use of Government property.

Employees shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. Employees have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued them.

§ 706.14 Misuse of information.

For the purpose of furthering a private interest, employees shall not directly or indirectly use, or allow the use of, official information obtained through or in connection with their Government employment, which has not been made available to the general public.

§ 706.15 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as the employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Commission to determine the validity or amount of the disputed debt.

§ 706.16 Gambling, betting and lotteries.

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

§ 706.17 General conduct prejudicial to the Government.

Employees shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 706.18 Miscellaneous statutory provisions.

Employees shall acquaint themselves with each statute that relates to their ethical and other conduct as an employee of the Commission and of the Government. The attention of

Commission employees is directed to the following statutory provisions:

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

(b) Chapter II of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned;

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

(d) The prohibitions against disloyalty and striking (5 U.S.C. 73811; 18 U.S.C. 1918);

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784);

(f) The prohibitions against the disclosure of classified information (18 U.S.C. 798; 50 U.S.C. 1905);

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352);

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

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

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

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001);

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

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

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

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

(p) The prohibitions against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608;

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

Subpart C—Financial Reporting Requirements

§ 706.19 Statements of financial and property interests and outside employment.

Pursuant to the Ethics in Government Act of 1978 (Pub. L. 95-521, referred to hereinafter in this Subpart as "the Act"), the following officers and employees of the Commission are required to file annual reports of financial and property interests and outside employment if they have served 61 days or more in their positions during the preceding calendar year:

(a) Officers and employees (including special government employees, as defined in 18 U.S.C. 202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS-16 (step 1);

(b) Employees in the excepted service in positions which are of a confidential or policy-making character, unless their positions have been excluded by the Director of the Office of Government Ethics; and

(c) Each designated agency ethics official.

§ 706.20 Time and place for filing of reports.

(a) Annual reports are to be filed no later than May 15 of each calendar year, except that persons assuming a position for which reports are required who have not immediately prior to this assumption occupied a covered position in another agency, must file a report within 30 days after assuming the position at the Commission. In the event an individual terminates employment with the Commission and does not accept another position for which reporting is required, the report must be filed no later than the 30th day after termination, covering:

(1) The preceding calendar year if the annual May 15 report has not been filed; and

(2) The portion of the present calendar year up to the date of termination.

(b) Reports shall be filed with the designated ethics officer (Solicitor) of the Commission. The reports of the designated ethics officer and nominees to and holders of positions which require confirmation by the Senate shall be transmitted by the Solicitor to the Office of Government Ethics of the Office of Personnel Management.

§ 706.21 Exclusion of certain positions from reporting requirements.

(a) Under Section 201(f)(5) of the Act, a report is required of any person in the executive branch in a position excepted from the competitive service by reason of being of a confidential or policymaker character. An exemption is available, as provided below, for a person in any such position classified below GS-16 (or the rate of basic pay for which is less than the minimum rate of basic pay fixed for GS-16) who has no role in advising or making policy determinations with respect to agency programs or policies. Such persons may include chauffeurs, private secretaries, stenographers and those who hold positions of similar nature, consistent with the basic criterion set forth in the preceding sentence.

(b) The exclusion of any position will be effective as of the time the Commission files with the Office of Government Ethics a list and description of each position for which exclusion is sought, and the identity of its current occupant. Such a list must be filed with the Office of Government Ethics on or before the date on which such reports are due under the Act.

(c) In the event that the Office of Government Ethics finds that one or more positions have been improperly excluded, it will so advise the Commission and set a date for the filing of the report.

§ 706.22 Information required to be reported—reporting forms.

Information required to be reported by the Act shall be set forth in the manner specified in, and in accordance with the instructions contained in, Standard Forms issued by the Office of Personnel Management, to be used as follows:

(a) Standard Form 278—for use by an officer or employee filing (1) an annual report pursuant to Section 201(d) of the Act, or (2) a departure report upon termination of employment, pursuant to Section 201(e) of the Act;

(b) Standard Form 278A—for use by (1) an individual assuming a position for which reporting is required pursuant to Section 201(a) of the Act; or (2) an individual whose nomination has been transmitted by the President to the Senate, pursuant to Section 201(b) of the Act.

§ 706.23 Review of reports.

(a) Financial reports are reviewed by the Commission's designated Ethics official or the Director of the Office of Government Ethics, as appropriate. Reports are to be reviewed within 60 days after the date of their filing or transmittal to the Office of Government Ethics.

(b) After reviewing a report, the reviewing official is required to:

(1) State upon the report that the reporting individual is in compliance with applicable laws and regulations and to sign the report;

(2) Notify the reporting individual that additional information is required to be submitted and the time by which it must be submitted; or

(3) Notify the reporting individual that the report indicates noncompliance and afford the individual a reasonable opportunity for a written or oral response after which the reviewing official reaches an opinion whether the individual is in compliance.

(c) If the reviewing official determines that the reporting individual is not in compliance with applicable laws and regulations, the reviewing official will notify the individual of that opinion, and after an opportunity for personal consultation, notify the individual of the steps which should be taken to assure compliance and the date by which such steps should be taken.

(d) The use of any steps to bring the individual in compliance are to be in accordance with regulations issued by the Director of the Office of Government Ethics.

(e) To assist employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, the designated Commission ethics official is to maintain a list of those circumstances or situations which have resulted or may result in noncompliance and the lists are to be periodically published and furnished to individuals required to file reports under this Act.

§ 706.24 Public access to financial disclosure reports.

(a) Pursuant to Section 205(b) of the Act, each report will be made available for public inspection within 15 days after the report is received by the agency, whether or not the review of the report prescribed by Section 206 of the Act has been completed.

(b) Pursuant to Section 205(b) of the Act, as amended by Pub. L. 96-19, the following rules are applicable to public access to financial reports:

(1) A financial disclosure report may not be made available to any person nor may a copy thereof be provided to any person except upon written application by such person stating:

(i) That person's name, occupation, and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(iii) That such person is aware that it is unlawful to obtain or use a report:

(A) For any unlawful purpose;

(B) For any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) For determining or establishing the credit rating of any individual; or

(D) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. Any application for a report shall be available to the public during the period in which the requested report is available to the public.

(c) Requests for copies of financial disclosure reports of officers appointed by the President by and with the advice and consent of the Senate, as well as nominees to such offices and designated Commission ethics officials, may be directed to the Director of the Office of Government Ethics.

(d) To gain access to or to obtain a copy of a report filed with the Commission, an individual should appear in person at the office of the Solicitor of the Commission, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, during the hours 8:30 A.M. to 4:30 P.M., and complete an application form. Requests by mail should contain the information described in paragraph (b) of this section, together with the signature of the requester. Requests which do not contain the required information will be returned. Notice of the statutory prohibitions on use will be attached to copies of reports provided in response to a request otherwise properly filled out.

Dated: December 12, 1979.

Louis Nunez,
Staff Director.

[FR Doc. 79-38866 Filed 12-18-79; 8:45 am]
BILLING CODE 6335-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 63-64

[CC Docket No. 78-219; FCC 79-775]

Revising the Processing Policies for Waivers of the Telephone Company—Cable Television "Cross Ownership Rules"

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: In 1970, the FCC established rules which preclude the provision of the programming portion of cable television service by telephone companies within their service area. The rules do not restrict the provision of facilities by telephone companies for cable system operation. In this document, waiver of the rules is provided for in areas in which "CATV service demonstrably could not exist except through CATV system related to (or affiliated with) the local telephone common carrier, or upon other showing of good cause * * *" The Commission's action creates a rebuttable presumption that in areas of less than thirty homes per mile density, cable system operation could not exist except through relation to or affiliation with the local telephone common carrier. This presumption may be rebutted by the present intention of an independent entrepreneur to construct a cable system, indicated by the filing of an "Opposition" to the waiver petition.

EFFECTIVE DATE: January 14, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ted Waddell, Common Carrier Bureau (202) 632-6920.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: November 29, 1979.

Released: December 11, 1979.

By the Commission:

Chairman Ferris issuing a separate statement; Commissioner Brown concurring and issuing a statement in which Chairman Ferris joins; Commissioner Jones concurring in the result.

In the matter of revision of the processing policies for waivers of the Telephone Company—Cable Television "Cross Ownership Rules," §§ 63.54 and 64.601 of the Commission's Rules and Regulations, CC Docket No. 78-219; In re petition of National Telephone Cooperative Association, for a general waiver in rural areas of the Telephone Company—Cable Television Cross-Ownership Rules, §§ 63.54 and 64.601 of the Commission's rules and regulations, File No. W-6-2-58.

1. The Commission instituted its telephone-cable cross-ownership rules (47 CFR 63.53, 63.54, 63.55, 63.56, 63.57, 64.601, 64.602) following a series of proceedings in which we found that telephone companies denied cable systems access to utility poles necessary for cable distribution, or provided access on discriminatory terms.[1] Commencing in 1966, the Commission acted to redress the competitive imbalance.[2] We required telephone companies offering facilities for cable

[1] *Applications of Telephone Companies for Section 214 Certificates for Channel Facilities Furnished to Affiliated Community Antenna Television Systems*, 21 F.C.C. 2d 307 (1970), *aff'd. sub. nom., General Telephone of the Southwest v. U.S.*, 449 F.2d 846 (5th Cir. 1971).

[2] *Common Carrier Tariffs for CATV Systems*, 4 F.C.C. 2d 857 (1966).

service to seek approval under Section 214 of the Act, and to file tariffs with us for provision of facilities.[3] We began a proceeding to assess the reasonableness of pole rental rates charged to cable systems.[4] We investigated specific allegations of discriminatory conduct, and found certain of the telephone companies' conduct unjust and unreasonable.[5] Finally, we affected a structural mitigation of the perceived unreasonable conduct by excluding telephone companies from the provision of the over-the-air broadcast signal portion of cable service in their service area.[6] Our action in no way limited telephone company provision of facilities for cable service, or the offering directly to consumers of non-broadcast services. In addition, we explicitly provided for waiver of the restriction against telephone company provision of the non-facilities portion of cable television service in areas in which independent cable system operation "demonstrably could not exist." It was our view that in these areas, in which competition was unlikely, rules premised upon potential adverse effects on competition were inappropriate.

2. The telephone-cable cross-ownership rules generally prohibit telephone common carriers from furnishing directly, or through a subsidiary, the non-facilities portion of cable television system operation to the viewing public within their service areas.[7] Sections 63.55 and 64.602 provide for waiver of this prohibition "in those communities where CATV service demonstrably could not exist except through a CATV system related to (or affiliated with) the local telephone common carrier, or upon other showing of good cause * * *"

3. This proceeding originated in a 1976 request by the National Telephone Cooperative Association (NTCA) for a "general waiver" of these rules. NTCA contended that the substantial costs associated with the waiver procedure, in conjunction with the uncertainty of its outcome, deterred legitimate waiver applications. Pursuant to the petition, on August 15, 1978, the Commission issued a *Clarification and Notice of Proposed Rulemaking* [8] in which we announced a list of standard waiver showings which could be submitted simultaneously with a telephone company's Section 214 application. Acting consistently with the community-by-community waiver approach, the Commission rejected various waiver eligibility restrictions and declared that waivers were appropriate where independent operation was generally infeasible, and that general infeasibility could be best ascertained by the population density criterion.

4. Finally, the Commission initiated this rulemaking proceeding to establish a presumption of infeasibility. This presumption would be predicated on a population density figure which was to be set at a level at or below which independent operation of a cable system was shown to be highly unlikely. Because at or below this population density level, barring rebuttal of the presumption, independent operation was unlikely, it was thought unnecessary to address competitive issues.

The Comments Received

5. Thirteen parties filed formal pleadings: Two government agencies—National Telecommunications and Information Administration (NTIA) and the Rural Electrification Administration (REA); two cable television trade associations—Community Antenna Television Association (CATA) and National Cable Television Association (NCTA); three telephone trade associations—Organization for the Protection and Advancement of Small Telephone Companies (OPASCO), National Telephone Cooperative Association (NTCA), and United States Independent Telephone Association (USITA); two cable television companies—EMCO CATV, Inc. (Emco) and Teleprompter Corporation (Teleprompter); three telephone-related companies—Continental Telephone Corporation (Continental), GTE Service Corporation (GTE), and Telephone & Data Systems, Inc. (TDS); and one manufacturer, the 3M Company (3M). Informal comments on the subject of this proceeding were received from the Lake Mills Telephone Co. (letter dated November 27, 1978); and the Hampden Telephone Co. (letter dated January 15, 1979). The comments essentially differed on the need for our proposal, the choice of an appropriate level of population density and the manner of its implementation. Comments on these major issues are summarized below.[9]

A. Need for Presumption

6. The comments concerning the need for a population density presumption were split along industry lines. The cable television interests generally contended that little, if any, reason existed for waiver procedure refinements, and, should any be adopted, they should be strictly limited to the very lowest density areas. Teleprompter set forth what it views as the anti-competitive history of the telephone industry toward cable systems, and declared that no evidence had been shown to justify changing the present case-by-case waiver procedure. In support of continuing the present waiver policy Teleprompter stated that "the Commission must carefully distinguish between the appropriate role of a common carrier to provide channels of communications—which the rules now permit—and the highly questionable role of engaging in the selection and sale of programming." CATA, too, could find no justification for waiver procedure changes, and urged that the underlying policy issues of rural telecommunications (particularly government loans to rural cable systems) be resolved before any alteration of the cross-ownership rules. NCTA submitted a detailed analysis of past waiver petitions which it claimed demonstrated that waiver requests were processed relatively quickly, did not require burdensome showings, and were liberally granted. NCTA recommended formalizing the waiver process—with a three-tiered procedure, eligibility restrictions, and standard showings—in order to eliminate unnecessary showings and limit telephone company waivers to truly low density areas. NCTA and CATA also conceded that there is some point, in subscriber density terms, at which independent cable television operation is not currently economically feasible.

7. The telephone interests, on the other hand, supported procedural changes. Contending that the cable comments evidenced confusion over the scope of the rulemaking, OPASTCO and USITA stressed that the issue was not a general waiver of the rules, but a

[3] *General Telephone Co. of California*, 13 F.C.C. 2d 488 (1968), 413 F.2d 390 (D.C. Cir.), *cert. denied* 396 U.S. 888 (1969).

[4] *California Water and Telephone Co.*, 5 F.C.C. 2d 229 (1966); *The Associated Bell System Companies*, 5 F.C.C. 2d 357 (1966); *The General Telephone System, et al*, 6 F.C.C. 2d 434 (1967).

[5] *Warrensburg Cable, Inc.*, 27 F.C.C. 2d 727 (1971); *Manatee Cablevision, Inc.*, 22 F.C.C. 2d 841 (1970); *Continental Telephone Corp.*, 24 F.C.C. 2d 841 (1970).

[6] *Supra*, n. 1.

[7] The application of these rules has been limited to cable television systems which retransmit programs broadcast by one or more television stations. *Id.* at 846, 860.

[8] *Clarification and Notice of Proposed Rulemaking*, 69 FCC 2d 1097 (1978).

[9] Formal comments were filed October 18, 1978 by all parties except GTE and TDS, after grant (on September 6, 1978) of an NCTA request for an extension of time. Upon grant (on October 27, 1978) of an NTCA and 3M request for an extension of time, opposition comments were submitted on November 30, 1978, by all but Emco, NTCA, Teleprompter, REA, USITA, and TDS. Reply comments were explicitly authorized on October 27, 1978.

rebuttable presumption with continued community-by-community waiver requests. They claimed that the purpose of this proceeding was simply to establish a population density figure below which telephone company waiver applicants would not be required to conduct initially expensive studies in an effort to prove a negative—namely, that a hypothetical unaffiliated cable system would not be economically viable in a community. Furthermore, NTCA stated that, regardless of technological developments, the existing waiver rules had to be clarified because their "chilling effect" deterred otherwise justifiable waivers, as evidenced by the limited number of recent waiver requests. Continental, 3M, REA, and USITA thought that our proposal would encourage telephone companies to seek waivers in marginal areas. OPASTCO agreed, but expressed disappointment that the rulemaking did not consider outright repeal of the "cross-ownership rules."

8. The National Telecommunications and Information Administration thought that not only did our waiver procedure need to be changed, but that the reasons for our proposed presumption would justify an outright exemption of low density systems from the "cross-ownership rules." Although believing in diverse control of telephone and cable television services, NTIA contended that this principle should not deny rural communities present services while preserving a remote possibility of future benefit. The cable industry, NTIA observed, is almost thirty years old. To the extent it has not offered service to rural communities, a lack of economic incentives should be assumed. Since according to NTIA, these communities are entitled to service, NTIA believed that "there is no apparent risk, and much possible benefit * * *" to an outright rule exemption for small telephone systems in order to test their claim that the present waiver rules inhibit rural cable development.

B. Selection of Population Density Level

9. Except for Teleprompter, which did not discuss the question, all of the parties agreed with our premise that independent cable development was generally infeasible below a certain population density. NTIA stated, for instance, that although the economics of cable television depended upon many factors, it was nevertheless possible to observe a relationship between low population density, one of the factors most closely related to "ruralness," and the success of independent cable operation. Disagreeing with CATA, NTIA contended that the lack of rural cable service was not comparable to the lack of cable service in major markets, where adequate broadcast service, the effects of regulation, and in uncertain marketability of new services were generally recognized as the major inhibitors. The limited revenue potential of low density areas could be assumed to thwart independent cable construction or lease-back operation, particularly since poor broadcast service in rural areas would stimulate—in NTIA's opinion—"virtually 100 percent subscription," so as to permit the discounting of penetration variables. Thus, population density was conceded to be a valid general measurement of economic feasibility, even though unusual circumstances could permit independent operation at very low densities.

10. The suggested "rule of thumb" population density figures varied. Believing that waivers should be strictly limited, for instance, CATA argued that any relaxation of showings necessary for waivers should take place at the lowest limit of feasibility until the Commission had conducted a major policy inquiry into rural telecommunication problems, including such issues as the "media concentration now accumulating in telephone monopolies." This lowest level, CATA contended, was any area where at least 80% of the proposed system had a route mile density of ten homes or less. Below this population density, CATA conceded, "it is no longer feasible for a private cable entrepreneur to build a cable system." Emco, a Vermont cable operator, stated that it operated several marginally profitable systems with fewer than 25 subscribers per mile. They suggested, however, that telephone companies should be permitted to enter the CATV field only where the density was less than 10 homes-per-mile, or where the saturation was less than six subscribers per mile.[10]

11. NCTA suggested a three tiered procedure, which would augment a presumption of general economic infeasibility with standard *prima facie* waiver showings which increased in number with increases in population density. NCTA admitted that the Commission was generally correct in its observation that a density of 30–40 homes per mile was required for independent cable construction. NCTA stated, however, that a significant number of cable systems currently in operation are situated in areas with a population density of 20 or fewer homes passed per mile. Independent operation was feasible in such areas, NCTA contended, under certain conditions, such as the availability of low cost money (from REA or other sources), or the ability to share service personnel or cable facilities with nearby, or extended, cable systems. As evidence, NCTA submitted a list of 141 cable systems with a density of less than 20 homes per mile.[11] Nevertheless, in response to the Commission's request for a "rule-of-thumb" figure, NCTA recommended that areas under 20 homes per mile could qualify for a presumption that independent operation was not feasible. But to do so, a tiered procedure was necessary to account for a "grey area" of infeasibility which existed for population densities of between 6 and 20 homes per mile. NCTA envisioned that waiver requests for areas of up to 6 homes per mile would be authorized with a public notice/opposition opportunity, but without extensive showings. Waiver requests for 6–20 homes per mile would require a public notice/opposition opportunity, coupled with a list of standard showings. Waiver requests for areas above 20 homes per mile would be treated as before, with a telephone company bearing a burden of showing that alternative service was not feasible. Thus, the consensus of the cable comments was that the appropriate population presumption should be between 6 to 10 homes per mile, with reduced showings being acceptable for up to 20 homes per mile if a tiered waiver procedure were adopted.

12. The telephone interests, on the other hand, favored liberal waivers, and essentially thought that the density figure should be where independent operation was considered to be generally infeasible. OPASTCO and USITA, for instance, argued that the purpose of this proceeding would be frustrated if too low a population density figure were adopted. That purpose, they claimed, was to establish a simple presumption for community-by-community waivers, and not a general waiver (or exemption) as some of the cable interests apparently thought. Since the density figure was merely a procedural threshold requirement, a higher figure would neither guarantee entry, nor deprive cable operators of

[10] In informal comments, C. F. Larkin, an engineer with the Vermont Public Service Board, recommended a population density figure of thirty homes/mile because Vermont cable companies have told the Board that they need 60 homes passed per mile, or 35 verified orders for service per mile, before they consider a proposed cable extension to be compensatory.

[11] However, 3M claimed that most of the systems on NCTA's list appeared to be served by a common "head end," or were simply a part of a larger system whose total density level was much higher.

their opposition rights. Consequently, OPASTCO suggested a population density figure of 30 or fewer potential subscribers (homes passed) per mile. OPASTCO justified this figure by stating that 30 is well below the average density level of Kentucky (51 homes per mile), the state with the lowest average density level of the fifty states. Furthermore, OPASTCO claimed that a figure of 30 homes per mile is far below the average of 90.7 subscribers per mile for the cable systems operated by the largest fifty multiple system owners. USITA suggested that the Commission select the 30–40 households per mile range indicated by a Denver Research Institute report. USITA claimed that a range of population density would be more appropriate for an evidentiary presumption, because a spot figure could not consider the positive effect of geography on plant cost variations. REA recommended a population density figure of 30 existing potential cable subscribers (homes passed) per route mile of line in a proposed service area. In support, REA cited a study done by BNR, Inc. of Palo Alto. For this study, BNR constructed a model based on a sample of 47 operating CATV systems in rural areas. The study found that 90% of these rural cable systems passed 40 or more homes per mile of plant. The BNR study concluded that a profitable rural CATV system is unlikely to develop without an average potential subscriber density of 40 or more homes per mile of plant. In addition, REA cites statistics which show that, of the 8,375 cable systems reporting to the Commission, 90% of these systems passed 61 or more homes per plant mile, with the national average being 89 homes per plant mile. Based upon an empirical study of Minnesota cable television systems, 3M suggests a population presumption of 35 subscribers per route mile, although the company thought that a national average of 30 was indicated by the comments here. Finally, NTCA recommended a density of 30 homes per mile based essentially upon the national and lowest state averages of homes passed per mile. Thus, the telephone interests recommended a population density of 30–40 homes per mile.

13. NTIA recommended an exemption for areas under 10 homes per mile, and a simplified procedure for 10–25 homes per mile. Although claiming that the best evidence of independent cable feasibility would seem to be empirical, NTIA based its exemption figure of 10 homes/mile upon the household densities of REA borrowers and NTCA members, apparently to encourage them to serve their rural communities as they claimed they wished to do. NTIA found that the average density for all REA borrowers is 4.7 households per mile, and the NTCA members had an average density of 3.4. NTIA selected an upper limit of 25 homes per mile for its simplified waiver procedure based upon NCTA's list of cable systems operating below 20 homes per mile, and evidence submitted by several of the parties that 10–15 percent of cable systems operate at 30 or fewer households per mile. NTIA felt, however, that the upper limit of household density for the simplified waiver process would not seem to be too critical, as long as the Commission was continuing its case-by-case waiver process with sufficient allowance for regulatory flexibility and public opposition.

C. Procedural Implementation of Density Figure

14. The comments concerning procedural implementation of a density presumption also depended upon the parties' view of the appropriateness of waivers. Of the cable television interests, CATA and Emco urged limited waivers, with strict eligibility restrictions and local franchise requirements. Teleprompter argued that, if the Commission insisted on creating a rural exemption to its "cross-ownership rules," cross subsidization should be guarded against, and system leasing opportunities should be required after a reasonable period of time.

15. NCTA commented in detail upon procedural implementation of a three-tiered approach. Under NCTA's proposal, the major tenet of the "cross-ownership rules"—that telephone company provision of cable television services is a choice of last resort—would remain in full effect. But for density situations of areas under 20 homes per mile, the showings required for waiver petitions would be reduced through the introduction of a presumption that independent cable operation was not generally feasible. For areas of up to six homes per mile, telephone companies would simply be required to file a waiver request, a Section 214 application, and a demonstration of population density, all of which would appear on public notice. To rebut the presumption, an opposing party would have to submit a statement of an intent to begin independent system construction within one year. Telephone companies receiving such waivers would be required to obtain local cable franchises (in areas with franchising authority) and to commence service within a year.

16. For the "grey areas" of 6–20 homes per mile, NCTA would require standard showings, but waivers in this category would still fall within the presumption that independent service was not generally available. Public notice would be required for the telephone companies standard waiver showings and Section 214 application. This would provide an opportunity for an independent operator to rebut the presumption, either through a notice of an intent to provide independent service, or a demonstration that a waiver grant was not otherwise in the public interest. For areas above 20 homes per mile, no presumption of infeasibility would exist, and telephone companies would bear the full burden of proving that independent operation was not possible in the manner described by our *Cross Ownership Rules, supra.*

17. NCTA also suggested a list of major eligibility requirements which it claims are necessary to protect against the intrusion of the "telephone monopoly" into competitive services. First, the parent company of a telephone company receiving a low density waiver must not exceed one million subscribers, because a long history of predatory practices by the larger telephone companies warrants their exclusion no matter what the density of the community to be served. Secondly, the area to be served by the low density waiver recipient must not exceed 1500 homes, which NCTA claims is REA's definition of a rural area for purposes of low cost loan eligibility. Thirdly, low density waivers should be limited to areas receiving inadequate (less than three stations) television service, either over-the-air, or via an existing cable service. This would limit waivers to only those areas truly deprived of television service, and prevent telephone companies from serving suburban type communities. Finally, a review process must be established to permit divestiture of either broadband facilities, or program functions, whenever an area's population density exceeds a ceiling of 20 homes per mile, or the waiver recipient is acquired by a parent with over one million telephone subscribers. This would not be an automatic divestiture requirement, NCTA claimed, but would require a later review of the costs of cross-ownership and the options of independent operation.

18. NTIA also suggested a tiered waiver procedure, standard showings, and some eligibility restrictions. NTIA proposed that areas of less than 10 households per route mile would be exempt from our present rules. Separate waiver petitions would be abolished, and the telephone company's Section 214 application would carry the exemption claim as well as evidence of

at least three months local notice. For areas between 10 and 25 homes per route mile, telephone companies would submit a waiver petition, a Section 214 application, and a list of standard showings sufficient to permit a potential independent cable operator, or a leaseback operator, to oppose the waiver. Such a procedure, NTIA believed, would consider the increased prospects of independent operation, particularly by leaseback, and yet simplify the Commission's waiver process.

19. The telephone interests, on the other hand, did not suggest a detailed waiver procedure. OPASTCO, USITA and 3M stressed that all we proposed was a simple procedural presumption coupled with a combination of the present waiver process. NTCA called the NCTA three-tiered procedure burdensome and unjustified, and thought that it would be inappropriate to grant a special rule change for areas of 6 or 10 homes per mile solely to accommodate NTCA's membership. Both NTCA and OPASTCO questioned whether the Commission had Section 214 authority over intrastate telephone companies seeking to become cable television operators. OPASTCO argued that the Commission should regulate such systems as it does any rural cable television operation, and require only a simple registration statement under § 76.12 of our rules (47 CFR § 76.12). OPASTCO objected to NCTA's suggested standard showings on the grounds that they duplicated present Section 214 application requirements, necessitated disclosure of proprietary financial and technical information, and required joint cost allocations which were relevant only to local ratemaking. OPASTCO also objected to a prior cable franchise requirement as urged by CATA, because many rural areas have no franchising authority, and of those that do, a FCC waiver is a prerequisite. Finally, the telephone interests objected to eligibility restrictions. OPASTCO and NTCA considered telephone company parent size to be irrelevant to a community-by-community analysis. TDS stressed the revenue importance of small "core communities", where switching systems were located, to the service of outlying areas. OPASTCO and NTCA objected to the investment uncertainty which a divestiture review would cause. And finally, NTCA contended that leaseback opportunities, while preferred by many of its members, were not popular with the cable industry. NTCA claimed that under a leaseback arrangement, a cable operator could not shelter his income with accelerated depreciation or investment tax credits; could not benefit from appreciation in value of his plant; and could not control long term costs.

Discussion

20. The comments reflect some confusion as to the scope of the Notice. Some comments apparently assumed that we were proposing a general exemption to our "cross-ownership rules," or that further refinement of our waiver procedures was contrary to the spirit of our "cross-ownership rules." Neither is the case. Our *Clarification and Notice of Proposed Rulemaking, supra* at 1109, rejected NTCA's request for a "general waiver" of our rules, stating that such an approach would appear premature in the absence of a more comprehensive understanding of the likely consequences. We determined to follow our existing individual waiver approach, but clarify our waiver policy and refine further our waiver procedures. *Id.* Thus, this proceeding took the waiver requirement as a "given" and asked only for views concerning narrow questions of what should be the appropriate standards, procedures, and showings required for waivers.

Standard Showings

21. A telephone company seeking to establish a rebuttable presumption favoring a waiver may establish the presumption by the submission of several standard showings. Included among these showings are a general statement justifying the waiver as consistent with the public interest; a demonstration that the waiver is proposed for an area in which fewer than 30 homes per route mile are present; and appropriate affidavits verifying the assertions made.

22. We believe these showings are the minimum necessary to establish a record upon which a waiver grant can be based. Since we are not herein proposing to change a rule, but rather merely to alter a waiver procedure, our concern enunciated in Docket No. 18509,[12] that independent cable television operation not be stifled by the control of distribution facilities by a telephone company remains. We are also aware that if the potential entry of a telephone company competitor is sufficient to spur local cable entrepreneurs to expand into as yet unserved areas, the presumption of infeasibility will have been rebutted. We will require waiver applicants to give notice to the area proposed to be served, by newspaper advertisement or other appropriate means, to ensure that local independent entrepreneurs have an opportunity to consider whether to construct independently.

23. A general statement demonstrating that the proposed waiver grant is in the public interest is necessary in order that we may judge the application against the criteria established for our decisional process in the Communications Act. Applicants should be prepared to indicate ways in which a waiver grant is publicly beneficial.

24. We expect that applicants will file sufficient information to enable us, or outside parties, to independently verify the density level asserted. A density of less than 30 homes per mile must be demonstrated to provide reasonable evidence for assuming that independent cable operation could not exist.[13]

25. The final aspect of the showing required is an affidavit from the person or persons seeking waiver as to the truthfulness of the statements included in the application. This affidavit should be prepared by a person or persons having actual knowledge of the facts contained in the application.

Criteria for Rebuttal

26. The waiver presumption may be rebutted by a demonstration that the proposed service area has a population density greater than 30 homes per mile or the present intention of an entrepreneur to independently construct a cable system. This "present intention" may be communicated to the Commission in the form of an "Opposition" to the grant of a waiver, which must be filed within 30 days from the time the waiver application is placed on public notice. We believe that this time period is adequate for independent entrepreneurs to determine whether they will attempt to construct a system.

27. With the filing of an "Opposition" meeting the above qualifications, it is our intention to grant routine six month extensions of time during which the prospective independent operator must demonstrate a present intention to construct a system. Demonstration of a present intention to construct may be made by the submission of a copy of the franchise application. We will consider

[12] *Supra*, n. 1.

[13] The derivation of this value can be found in Appendix I. We recognize that under different circumstances it may be appropriate to seek comment upon the Park Model prior to issuance of a final decision. In this instance, however, because the study essentially relies only upon data akin to that already in the record combined with the additional delay in reaching a resolution we will not specifically provide for comment. If parties wish to raise issues relating to the model, they may do so in the context of a Petition for Reconsideration of this decision.

extensions of the six month period for good cause shown.

Cross-Subsidy Issues

28. Generally, we believe that two categories of impediments restrict the availability of cable television to consumers. The first of these is regulatory. A local or state political body may determine that authorization to construct a cable television system is not in the interest of its citizens. The Commission has recognized historically that jurisdiction to franchise cable systems lies at the non-federal level.[14] Although we have in the past expressed concern that telephone companies enjoy a competitive advantage over cable systems by means of an ability to circumvent the local franchising process, and have acted to circumscribe that advantage,[15] we nevertheless continue to believe that our role in the franchising process is extremely narrow. Therefore, other than the safeguards imposed at paras. 23–25 *supra*, we will refrain from involvement in this area.

29. The second category is economic. We assume, barring a regulatory impediment, that a cable television system will be built in all areas in which it is economically advantageous for enterpreneurs to risk their capital. For a telephone company to provide service to an area in which independent operation "demonstrably could not exist," it must enjoy advantages not available to the independent operator. Although we are without evidence that telephone companies realize economies not available to independent systems, we do not believe that a rulemaking to alter a waiver procedure is the proper context in which to consider whether the cable service offered by a telephone company is likely to burden the monopoly ratepayer. Applicants for waiver are advised, however, that we will scrutinize applications for authorization of facilities under Section 214 of the Communications Act and tariffs filed for provision of services in the traditional manner pursuant to our order of April 6, 1966.[16]

NTIA Proposal

30. Comments filed by the National Telecommunications and Information Administration suggest the elimination of the cross-ownership rules below a density of ten homes per mile. Without addressing the merits of this proposal, we find that it does not fall within the contemplation of the Notice of Proposed Rulemaking, and is therefore inappropriate at this time. We believe, however, that our new waiver procedures will reduce considerably the filing burden upon telephone companies in rural areas seeking exemption from our cross-ownership rules.

31. Accordingly, it is ordered, Pursuant to Sections 2, 3, 4(j), 205, 214, 303, 307, 308, 309 and 403 of the Communications Act, Parts 63 and 64 of the Commission's rules and regulations are amended, as set forth in the attached Appendix II, effective January 14, 1980.

32. It is further ordered, That the proceedings in CC Docket No. 78–219 are terminated.

Federal Communications Commission.[17]

William J. Tricarico,

Secretary.

Appendix I—Derivation of the Density Level Below Which Independent Cable Operation Presumptively Could not Exist

As explained in the body of this *Report and Order*, the anticompetitive behavior of telephone companies while integrating into the cable television industry led to the adoption of our telephone-cable television cross-ownership rules. We also explained that in areas where independent cable operation presumptively could not exist, our concern with the anticompetitive behavior of telephone companies was alleviated, and hence, waivers to our rules may be appropriate. Therefore, the purpose of this Appendix is to identify areas where independent cable operation presumptively could not exist.

The viability of cable television systems depends importantly upon: (a) The cost of capital; (b) the physical investment required per household passed by the cable; (c) the operating costs for the system; (d) the proportion of households subscribing (penetration); and, (e) the fees that can be charged for the basic service and pay cable services.[18] Concurrently, the values of these parameters for any specific system depend on a myriad of factors which can vary greatly from one community to another. Under all conditions, however, cable television is a capital intensive industry and its distribution costs represent a large portion of the overall investment required for system construction.[19] Therefore, as the number of potential subscribers on a system decreases while holding the size of the cable plant constant *(i.e.,* the household density per route mile decreases), the potential profitability of the system must decrease. This follows directly from the fact that potential revenues (and operating income) in such a case will decrease at a much faster rate than the capital investment. Hence, it is our aim to determine the density level below which independent cable operation is generally unprofitable. Given that such a value can be identified, we will presume for the purposes of the waiver procedure described above that independent cable operation could not exist below this level.

While the thrust of the comments in this proceeding that addressed the selection of a density level was directed at identifying the percentage of existing cable television systems that have been built at various density levels, we have not been persuaded by this analysis to choose a density level below which independent cable operation is infeasible. The assertion that 85–90 percent of all existing cable systems operate at greater than 30 households per mile does not demonstrate the infeasibility of independent cable operation at levels lower than 30 homes per mile. Instead, the percentage of all areas in the nation that have been wired for cable television, disaggregated by household density level, would be more telling. For example, if fewer than one percent of the areas in the nation with less than 30 homes per mile have been wired for cable television compared to 25 percent of those areas with 30–50 homes per mile, we believe these statistics would provide sufficient reason to presume that independent cable operation was infeasible in areas with less than 30 homes per mile. But since this type of information has not been presented to us and could be collected and compiled only at great cost and/or following long delays, we have instead chosen to examine the profitability of systems at various levels of household density. If the financial ratios of cable systems show a marked reduction and a relatively unhealthy stature below a certain density level, we will presume that independent cable operation cannot exist below this level.

The financial status of cable systems at various density levels has been analyzed by two methods. First the financial data on FCC Form 326 have been collected and complied.[20] Second, current values for the various financial

[14] *Cable Television Report and Order*, 36 FCC 2d 143 (1972).

[15] *Supra*, n. 1.

[16] *Supra*, n. 2.

[17] See attached statements of Chairman Ferris and Commissioner Brown.

[18] 71 FCC 2d 632.

[19] See, *e.g.*, W. Comanor and B. Mitchell, "Cable Television and the Impact of Regulation," *The Bell Journal of Economics and Management Science*, Vol. 2, No. 1 (1971).

[20] Information from FCC form 325 was also required to carry out this study. The most current information available from both forms for a complete nationwide record is for 1977.

parameters of rural cable television operation have been programmed into a cable television system financial model developed by Dr. R. E. Park of the Rand Corporation.[21]

The statistics derived from the financial data reported to the FCC by cable systems strongly suggest that the cut-off point for the density level under which independent cable operation presumptively could not exist is 30 homes per mile. These statistics are reported in the following table.

Table I—Cable Television System Financial Data by Density Level

Homes passed per mile	Observations [1]	In percentage		
		Operating margin [2]	Op. In. gross assets [3]	Op. In.-Dep. net assets [4]
0 to 9	0			
10 to 19	10	12	5	−7
20 to 29	34	12	3	−4
30 to 39	112	36	15	8
40 to 49	205	43	17	14
50 to 59	235	42	14	10
60 to 69	286	45	18	15
70 to 79	319	40	14	10
80 to 89	229	41	14	10
90 to 99	185	41	16	11
100 to 149	277	42	15	10
>150	73	27	8	0

[1] The total number of observations accounted for here represent approximately 85 percent of all financial entities reporting to the Commission. The discrepancy arises because the cases having an inconsistency between the Commission's Financial and Community Unit Files and the cases having inaccuracies in the reported data were eliminated from the analysis.

[2] Operating margin equals operating revenue minus operating expenses, the total then divided by operating revenue.

[3] Op. In.=Operating Income. Operating income equals operating revenues minus operating expenses (excluding interest and depreciation expenses). Gross assets equal total assets plus accumulated depreciation and amortization. For further clarification, see FCC Form 326.

[4] Dep.=Depreciation. Net assets equal total assets (which incorporates an allowance for accumulated depreciation and amortization).

As demonstrated by the table, the financial ratios for cable systems drop dramatically for groups with less than 30 homes per mile.[22] Furthermore, these groups also appear unhealthy. For example, the industry rule of thumb has historically been that a cable system with an operating margin of less than 35 percent is probably in financial trouble.[23] The average operating margin for systems with less than 30 homes per mile is 12 percent. Additionally, these systems are earning a rate of return on their investments which is substantially less than their cost of capital. In contrast, all other groups of systems with densities up to 150 homes per mile appear healthy. More specifically, although systems with densities of 30–39 homes per mile are slightly less profitable on average than the higher density groups, they also appear viable. Furthermore, keeping in mind that the financial data are for 1977, we are aware that cable system profitability has since increased [24] and is expected to continue to do so.[25] Hence, based on the financial data reported to the Commission, we do not consider that independent cable operation is presumptively infeasible in areas that contain 30–39 homes per mile. Instead, we conclude that there is sufficient reason to presume that independent cable operation is infeasible in areas with less than 30 homes per mile.

The results derived from employing Park's financial model support the above stated conclusion. We note that Park's "model is very flexible. Any system, from the very smallest to regional systems much larger than any now in operation, can be represented by specifying different input data for the model." [26] To our knowledge, the model has been used to generate financial projections for the Dayton Miami Valley [27] and to illustrate differences as well as similarities among cable system operations.[28] For this analysis, we must specify *current* values for the financial parameters of *rural* cable system operation. Wherever possible, we have incorporated the values previously specified while running the model.[29] For example, the average number of telephone poles per mile and fringe benefits as a fraction of payroll tend to be invariant over time. On the other hand, however, variables such as the interest rates, expected inflation rates and costs of services are likely to change over time (and, in fact, have changed since 1972). Similarly, factors such as the fraction of subscribers who move away each year will differ from urban to rural areas. Finally, the financial ramifications of new technology, such as the delivery of programming via satellite, must be incorporated into the present analysis. The output data for revenues, operating expenses, and capital expenditures for two low density rural cable systems, having taken all of these factors into consideration, are provided in the addendum. It should be noted, however, that there is no specification of input data that will produce a "perfect" or even "right" list of output data. Costs of an earth receive station alone, for example, will vary depending upon geographic location. Hence, the overall financial results from this analysis are relied upon here only to the extent of providing further insight into the previous results derived from the financial data of existing cable systems.

To provide a further test of the density level below which independent cable operation is generally infeasible, we specify the parameter values of the Park model for two rural cable systems with densities of 30 and 40 homes per mile. The basic subscriber penetration is set at 90 percent of the homes passed by cable and the pay subscriber penetration is set at 25 percent of the homes passed.[30] The differentiation by density level (i.e., 30 homes per mile compared to 40 homes per mile) is achieved by increasing the number of homes passed by cable from 500 to 667, while holding the miles of plant constant.[31] The major results from the

[21] R. E. Park, *Computer Code for a Cable Television System Financial Model*, The Rand Corporation, R-1027-MF, April 1972. We have placed Park's report in the docket, along with a listing of the specified imput data, to afford interested parties an opportunity to verify our analysis. The resulting data from our analysis for revenues, operating expenses, and capital expenditures are provided in the Addendum to this Report.

[22] The marked inflection in financial ratios at 30 homes per mile is also evidenced if the density categories are segregated into groups of five. That is, the financial ratios of systems with densities of 25–29 and 30–34 are almost identical to those of the systems with densities of 20–29 and 30–39, respectively.

[23] Walter S. Baer, *Cable Television: A Handbook for Decisionmaking*, the Rand Corporation, R-1133-NSF, February 1973.

[24] See, *e.g.*, *Cablecast*, January 9, 1979; *The Pay TV Newsletter*, April 4, 1979.

[25] Virtually every study of the cable television industry reports it to be a growth industry. See, *e.g.*, the *Report in Docket 21284*, 71 FCC 2d 637.

[26] Park, *supra* at n. 4.

[27] L. L. Johnson, W. S. Baer, R. Bretz, D. Camph, N. E. Feldman, R. E. Park and R. K. Yin, *Cable Communications in the Dayton Miami Valley: Basic Report*, January 1972, R-943-KF/FF.

[28] Baer, *supra* at n. 6. This report employed the Park model to generate financial projections for three systems operating in communities with populations from 25,000 to 750,000.

[29] See notes 10 and 11, supra.

[30] While NTIA suggests that "virtually 100 percent subscription" should be assumed, we do not believe that such an assumption is valid given our objective of establishing a density below which independent cable operation is *generally* infeasible. The average penetrations which can be expected for low-density rural cable systems are slightly less than our specified values, and not 100 percent as NTIA would assume for the basic cable penetration. For example, the average cable penetration for systems in our previous sample with densities of fewer than 30 homes per mile was 82 percent. Approximately 35 percent of those systems had penetrations greater than 90 percent.

[31] We note that there are an infinite number of possibilites in choosing the number of homes passed and the miles of plant while comparing two systems with varying densities. A reasonable bound for comparison is provided by holding either homes passed or miles of plant constant. The variability in system profitability will be greatest within this range while holding miles of plant constant. However, we believe this approach is more appropriate because as mentioned in paragraph 2 of this appendix the critical difference between systems with different densities is the number of potential subscribers, and resultantly, the potential profitability of the system. Holding miles of plant constant in our example results in a change in potential subscribers, while holding homes passed constant does not.

analysis are displayed in the following table.

Table II.—*Financial Ratios for Low Density Rural Cable Television Systems Derived From Park's Financial Model*[1]

	Operating margin	Operating income gross assets	Return on total capital[2]
	Percent		
Homes per mile:			
30	12	5	−4
40	28	15	13

[1]The first three columns in this table correspond identically to those in Table I. The derivation of the values in the final column is presented in note 2.

[2]The rate of return to total investment is calculated as follows: Investors pay in equity and debt capital during the early years of system operations, and then receive interest, loan repayments and dividends in later years. Also, the system is assumed sold after ten years, with the proceeds going to the investors. The sales price has been specified here to be ten times the annual operating income of the system. (Systems generally sell for seven to twelve times annual operating income. See, e.g., Baer, *supra* at 6.) The annual rate of return is the interest rate that discounts this stream of outlays and receipts to zero present value.

The financial ratios in Table II demonstrate that independent rural cable system operation would not be viable at 30 homes per mile for systems with our specified input data, but would be viable at 40 homes per mile. We do not believe that a specifc density level can be determined for the break even density level of system viability from further iterations of the Park model because of the large number of other parameters that will vary from one system to another. For example, the break even density level will vary depending upon the number of homes in the community. However, we do believe the financial ratios derived from the Park model support our previous conclusion of the general infeasibility of cable operation below a density of 30 homes per mile. Additionally, while it may be argued that the financial ratios from the Park model suggest the selection of a density level of slightly greater than 30 homes per mile, we must caution the reader that the expenditures specified for the two cable systems represent our "best estimates." Comparing these estimates to the reported financial data of existing cable operations suggests that cable operators often hold expenses below the levels specified here for marginal operations. Hence, we conclude that the results derived from the Park model are consistent with those derived from compiling the financial data of existing cable systems.

In summary, we believe that there is sufficient reason to presume that independent cable operation is infeasible in areas with less than 30 homes per mile. This conclusion is derived from an analysis of the financial data reported to the Commission from existing cable systems and from an analysis of rural cable system operation employing a computerized financial model developed by Dr. R. E. Park of the Rand Corporation.

Appendix II

Parts 63 and 64 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

1. The Table of Contents to Part 63 is revised to read as follows:

* * * * *

General Provisions Relating to All Applications Under Section 214

Sec.
63.50 Amendment of Applications.
63.51 Additional information.
63.52 Copies required; fees.
63.53 Form. Applications of Telephone Common Carriers To Construct and/or Operate CATV Channel Facilities in Their Service Areas..
63.54 Affiliation showings.
63.55 Furnishing of CATV service to the viewing public.

* * * * *

2. The following new subpart title is inserted after the text of the present § 63.53, and before the headnote of the present § 63.54:

* * * * *

Applications of Telephone Common Carriers To Construct and/or Operate CATV Channel Facilities in Their Service Areas

* * * * *

3. The headnote of the present § 63.54 is revised to read as follows:

§ 63.54 Affiliation showings.

* * * * *

4. The present § 63.55 is revoked and a new headnote and text are added to read as follows:

§ 63.55 Furnishing of CATV services to the viewing public.

(a) No telephone common carrier, subject to whole or in part to the Communications Act of 1934, shall engage in the furnishing of CATV services to the viewing public in its telephone service area, either directly, or indirectly through an affiliate owned, or controlled by, or under common control with the telephone common carrier.

(b) No telephone common carrier subject in whole or in part to the Communications Act of 1934 shall provide channels of communications or pole line conduit space, or other rental arrangements, to any entity which is directly or indirectly owned, operated or controlled by, or under common control with such telephone common carrier, where such facilities or arrangements are to be used for, or in connection with, the provision of CATV services to the viewing public in the service area of the telephone common carrier.

Note.—The provisions of this section will be construed in accordance with the Notes to § 64.601 of this chapter.

(c) In those communities where CATV service demonstrably could not exist except through a CATV system related to (or affiliated with) the local telephone common carrier, or upon other showing of good cause, the provisions of paragraphs (a) and (b) of this section may be waived under the procedure of § 64.602 of this chapter, if the Commission finds that the public interest, convenience and necessity would be served thereby.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Section 64.602 is revised to read as follows:

§ 64.602 Waivers.

(a) In those communities where CATV service demonstrably could not exist except through a CATV system related to (or affiliated with) the local telephone common carrier, or upon other showing of good cause, the provisions of §§ 63.55 and 64.601 may be waived, on the Commission's own motion or on petition for waiver, if the Commission finds that the public interest, convenience and necessity would be served thereby.

(b) Telephone company waiver requests may enjoy a rebuttable evidentiary presumption to the effect that CATV service could not presently exist except through a CATV system related to (or affiliated with) the local telephone common carrier, if the waiver request includes:

(1) A general statement of why the public interest would be served by a waiver, as well as any additional information the Commission may request;

(2) A demonstration that CATV service is proposed for a service area which has a density of fewer than thirty (30) existing potential CATV household subscribers per route mile of coaxial cable trunk and feeder line;

(3) Assertion that waiver applicants have given notice of an intention to construct a cable system to the area to

be served by newspaper advertisement or other appropriate means.

(4) The affidavit of the person (or persons) with actual knowledge of the facts alleged by the waiver request, and the verification of the person (or persons) who prepared the exhibits to the waiver request.

(c) Telephone company waiver requests shall not enjoy the rebuttable evidentiary presumption of paragraph (b) of this section, and shall file the showings required by the Commission, if the proposed CATV service area has a density of thirty (30) existing potential CATV household subscribers per route mile of coaxial cable trunk and feeder line.

(d) Interested persons may submit comments on, or oppositions to, the petition for waiver within thirty (30) days after the Commission gives public notice that the petition has been filed. Upon good cause shown in the petition for waiver, the Commission may specify a shorter time for such submissions. Comments or oppositions shall be served upon the petitioner, and shall contain a complete and detailed showing, supported by affidavit, of any facts or considerations relied upon. In addition, should an opposition seek to rebut the evidentiary presumption of paragraph (b) of this section, the opposition shall include evidence of the financial, technical, and other abilities necessary to institute non-affiliated CATV service essentially as proposed by the waiver petition. To permit the compilation of the information necessary to rebut this evidentiary presumption, the Commission will grant up to a six month extension of time for the filing of opposition comments, if a notice of opposition, filed within the public notice period, shows good cause for a requested extension.

(e) The petitioner may file a reply to the comments, or oppositions, within thirty (30) days after their submission, which shall be served all persons who have filed pleadings.

(f) The Commission, after consideration of the pleadings, will determine whether the public interest, convenience or necessity would be served by the grant or denial of the petition, in whole or in part. The Commission may specify other procedures, such as oral argument, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate.

November 29, 1979.

Separate Statement of Charles D. Ferris, Chairman

Re: Policies for Waivers of the Telephone Company Cable Television Cross Ownership rules.

Today's decision to clarify and streamline our procedures for telephone companies to obtain waivers from our cable system cross ownership rules furthers our goal of furnishing more communications service to more people. Telephone companies serving many of our nation's rural communities may now decide to offer cable service to their telephone customers. For these rural Americans, cable systems operated by local telephone companies may offer access to the world of multiple television choices for the first time.

Moreover, the standards we have adopted will allow the FCC to consider whether alternatives to telephone company ownership in rural situations are realistic. They provide a check on the potential for abuse from cross-ownership that led us to adopt our basic telephone company cable cross ownership rules.

Concurring Statement of Commissioner Tyrone Brown in which Chairman Charles D. Ferris Joins

Re: Revision of the Processing Policies for Waivers of the Telephone Company-Cable Television "Cross Ownership Rules" (C.C. Docket 78-219)

I concur in the Commission's decision to adopt rules providing that a presumption favoring a waiver of our Cable Television-Telephone Company cross-ownership rules in areas which have a density of below 30 homes per mile. This presumption may be rebutted if it is shown that the area in fact has a density greater than 30 homes per mile or that an independent cable entrepreneur has a "present intention" to construct a cable system in the area.

I am troubled, however, by our reliance on a staff study (outlined in Appendix A) which was unavailable to the parties for comment. As a general matter, I am opposed to adopting Commission rules or policies based on material (statistical analyses or otherwise) not available to the parties for comment filing in the proceeding leading up to the Commission's action. I am concurring in this case, however, for several reasons. First, here the study was undertaken following submission and analysis of all of the comments in this proceeding including data similar to that used in the staff study, and following a staff determination that the submissions were inadequate. Second, the staff study was based on FCC Form 376 financial data and a financial model developed by the Rand Corporation in 1972. The model has been publicly available since 1972. Third, parties which take issue with either the methodology or results of the staff study can, on a petition for reconsideration, raise those issues. Since the staff study was not available for comment in the initial go-round, I do not think the parties will hear the normally heavy burden on reconsideration if they take issue with it. I welcome such a showing.

One final point merits comment. The data in the record inclines me toward the view that an exemption is warranted for telephone companies seeking to provide cable service in areas with a density of 10 homes per mile or less. This position was advanced by NTIA in its comments in this proceeding. While I agree that we are not now in a procedural posture to adopt such an exemption, I would hope that parties which support such a proposal would file a petition for rulemaking so that we might begin a proceeding to address that issue.

[FR Doc. 79-38786 Filed 12-18-79; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. 1414]

Detroit & Mackinac Railway Co.; Authorization To Unload Steel Shelving on Hand at West Branch, Mich.

Correction

In FR Doc. 79-38315 appearing at page 72597 in the issue of Friday, December 14, 1979, second column, the first paragraph under § 1033.1414, should read as follows:

"(a) *Detroit and Mackinac Railway Company shall unload one car of steel shelving held at West Branch, Michigan.* The Detroit and Mackinac Railway Company (DM), its agents or employees, shall unload PW 60133 Steel Shelving held at West Branch, Michigan."

BILLING CODE 1505-01-M

49 CFR Part 1033

[Service Order No. 1416]

Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Ottumwa, Iowa

AGENCY: Interstate Commerce Commission

ACTION: Service Order No. 1416.

SUMMARY: This service order authorizes the Burlington Northern Inc. to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Ottumwa, Iowa, in order to provide essential railroad service to shippers which would otherwise be deprived of such service due to track embargoes on the RI.

EFFECTIVE DATE: 12:01 a.m., December 14, 1979, and continuing in effect until 11:59 p.m., March 2, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840

Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Ottumwa, Iowa

Decided: December 13, 1979

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) at Ottumwa, Iowa, is embargoed due to track conditions depriving shippers located adjacent to these tracks in Ottumwa of essential railroad service. The Burlington Northern Inc. (BN) connects with the RI at Ottumwa and has consented to operate over the tracks of the RI in Ottumwa to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the BN.

It is the opinion of the Commission that an emergency exists requiring the operation of BN trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1416 Burlington Northern Inc. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Company at Ottumwa, Iowa.

(a) The Burlington Northern Inc. (BN) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Ottumwa, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the BN over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the BN over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., December 14, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 2, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38841 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Listing of Sarracenia oreophila; "Public Meeting"

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of public meeting and extension of effective date of final rule.

SUMMARY: On September 21, 1979, the Fish and Wildlife Service published in the Federal Register a final rule announcing its determination that *Sarracenia oreophila* (green pitcher plant) is an Endangered Species under the provisions of the Endangered Species Act of 1973, as amended. *See* 44 FR 54922 *et seq.* The final rule indicated that the prohibitions and restrictions applicable to this plant would take effect on October 21, 1979. Prior to that date, the Director of the Fish and Wildlife Service, in the exercise of administrative discretion, took action to extend the effective date of the final rule until February 22, 1980. In a Federal Register notice of October 25, 1979, the Service announced the action and indicated that a public meeting would be held. *See* 44 FR 61351. The Service in this notice announces the date, time, and place of the meeting and extends the effective date of the final rule until April 7, 1980, so the Service can fully evaluate all comments and information received at the February 7, 1980, meeting.

DATES: The effective date of the final rule designating *Sarracenia oreophila* as an Endangered species is extended to April 7, 1980, as opposed to February 22, 1980, as previously announced. The public meeting will be held on February 7, 1980, 2-5 p.m. and 7-9 p.m.

ADDRESS: Public meeting: The Service hereby announces that a public meeting will be held on this matter. The public is invited to attend this meeting. Specific information relating to the public meeting is set out below:

Place, Date, Time and Subject.—Gadsden Convention Hall, Gadsden, Ala., February 7, 1980, 2-5 p.m. and 7-9 p.m. *Sarracenia oreophila* (green pitcher plant).

FOR FURTHER INFORMATION CONTACT: Mr. Ronald E. Lambertson, Associate Director-Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343-4646).

Dated: December 12, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-38353 Filed 12-18-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Extension of Reporting Date for Nonimmigrant Students From Iran

AGENCY: Immigration and Naturalization Service, Department of Justice.

ACTION: Final rule.

SUMMARY: This document amends the regulations of the Immigration and Naturalization Service to extend through December 31, 1979 the reporting requirement for Iranian nonimmigrant students promulgated by the Attorney General on November 13, 1979. Under this requirement, they must provide information as to residence and

maintenance of nonimmigrant status to the Immigration and Naturalization Service on or before December 31, 1979. This amendment is necessary because the Service suspended the program on December 11, 1979 pursuant to an order of the U.S. District Court for the District of Columbia. A stay of that order was obtained from the United States Court of Appeals for the District of Columbia on December 14, 1979. Accordingly, the program will be reinstated and the reporting date extended through December 31, 1979.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr. (202) 633–3048.

SUPPLEMENTARY INFORMATION: On November 14, 1979, the Attorney General issued an order amending Title 8 of the Code of Federal Regulations to add a new § 214.5 which established requirements for maintenance of status for nonimmigrant students from Iran. 44 FR 65727, Nov. 14, 1979. That regulation required a native or citizen of Iran, admitted as an F–1 or J–1 nonimmigrant student to attend a post-secondary school including a vocational school, to report to the INS District Office or suboffice having jurisdiction over his or her school or to an INS representative on campus before December 14, 1979, and to provide information as to residence and maintenance of nonimmigrant status.

On December 11, 1979, the Service was enjoined from enforcing this regulation and suspended the program pursuant to an order of the U.S. District Court for the District of Columbia, *Narenji* v. *Civiletti,* Civ. No. 79–3189 (D.D.C. December 11, 1979).

On December 14, 1979, the U.S. Court of Appeals for the District of Columbia, based on a representation of the Attorney General that he would extend the reporting period, stayed the order of the district court pending a decision on the Government's appeal. *Narenji* v. *Civiletti,* No. 79–2460 (D.C. Cir. December 14, 1979.)

Therefore, the Service will continue the program of interviewing Iranian nonimmigrant students to determine their location and current nonimmigrant status. Iranian nonimmigrant students who do not report on or before December 31, 1979 will be out of status and subject to deportation for failure to comply with the conditions of nonimmigrant status. However, as represented to the court of appeals in *Narenji* v. *Civiletti,* supra, no Iranian nonimmigrant student will be required to depart the United States on the basis of information provided under this program or for failure to report under the program pending decision of that court.

Accordingly, 8 CFR 214.5 will be amended to extend the date by which Iranian nonimmigrant students must report through December 31, 1979.

In the light of the foregoing, and by virtue of the authority vested in me by 8 U.S.C. 1103(a) and 1184(a) and 5 U.S.C. 301, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

In Part 214, § 214.5(a) is amended by revising the first sentence to substitute for "before December 14, 1979," the following language: "on or before December 31, 1979". As amended, the first sentence reads as follows:

§ 214.5 Requirements for maintenance of status for nonimmigrant students from Iran.

(a) An alien admitted as an F–1 or J–1 nonimmigrant student to attend a post-secondary school, including a vocational school, who is a native or citizen of Iran must report to the INS District Office or suboffice having jurisdiction over his or her school or to an INS representative on campus on or before December 31, 1979, and provide information as to residence and maintenance of nonimmigrant status. * * *

* * * * * *

The extension provided in this regulation is ordered pursuant to the Attorney General's representation to the U.S. Court of Appeals and in order to complete the program undertaken in accordance with the Presidential directive of November 10, 1979, issued in the course of, and in response to the international crisis created by the unlawful detention of American citizens in the American Embassy in Tehran. Accordingly, the notice and comment and delayed effective date provisions of Section 553 of Title 5 of the United States Code are hereby waived as impracticable and contrary to the public interest.

EFFECTIVE DATE: The amendments contained in the order become effective on December 17, 1979.

Dated: December 17, 1979.

Benjamin R. Civiletti,

Attorney General of the United States.

[FR Doc. 79–39091 Filed 12–18–79; 9:51 am]

BILLING CODE 4410–10–M

Proposed Rules

Federal Register
Vol. 44, No. 245
Wednesday, December 19, 1979

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed Rule.

SUMMARY: The Nuclear Regulatory Commission, after considering the public record available concerning licensee, State and local government emergency preparedness, and the need to enhance protection of the public health and safety, is proposing to amend its regulations to provide an interim upgrade of NRC emergency planning regulations. In a few areas of the proposed amendments, the Commission has identified two alternatives which it is considering. In each instance both alternatives are presented in the following summary of the proposed changes and in the specific proposed rule changes presented in this notice. The final rule will not necessarily incorporate all of the first alternatives or all of the second alternatives. That is, in some instances the first alternative may be adopted and in others, the second alternative may be adopted. Further alternatives may be adopted as a result of consideration of public comments.

In one alternative (Alternative A), the proposed rule change would not automatically require suspension of operations for lack of concurrence in appropriate State and local government emergency response plans on the date specified in the rule, even if the Commission by that date has not yet determined whether the reactor should be allowed to continue to operate. It would:

1. Require NRC concurrence in the appropriate State and local government emergency response plans prior to operating license issuance, unless the applicant can demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the nuclear power plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for license issuance.

2. For nuclear power reactors already licensed to operate, if appropriate State and local emergency response plans have not received NRC concurrence within 180 days after the effective date of this amendment or by January 1, 1981, whichever is sooner, require the Commission to determine whether to require the licensee to shut down the reactor. If at the time the Commission finds that the licensee has demonstrated that the deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation, then the licensee may continue operation.

If at that time the Commission cannot make such a finding, then the Commission will order the licensee to show cause why the plant should not be shut down. In cases of serious deficiencies, the order to show cause will be made immediately effective and the licensee would be required to shut down the reactor.

3. For nuclear power reactors already licensed to operate, if appropriate State and local emergency response plans do not warrant continued NRC concurrence and the State or locality do not correct the deficiencies within 4 months of notification by the NRC of withdrawal of its concurrence, require the Commission to determine whether to require the licensee to shut down the reactor. Shut down may not be required if the Commission finds that the licensee has demonstrated that the deficiencies in the plan are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.

If at this time the Commission cannot make such a finding, then the Commission will order the licensee to show cause why the plant should not be shut down. In cases of serious deficiencies, the order to show cause will be made immediately effective and the licensee would be required to shut down the reactor.

In the other alternative (Alternative B), the proposed rule change would automatically require nuclear power plant shutdown for lack of concurrence in appropriate State and local government emergency response plans on the date specified in the rule unless an exemption is granted by that date. It would:

1. Requre NRC concurrence in the appropriate State and local government emergency response plans prior to operating license issuance. However, the Commission can grant an exemption from this requirement if the applicant can demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for license issuance. No such operating license will be issued unless NRC finds that appropriate protective actions, including evacuation when necessary, can be taken for any reasonably anticipated population within the plume exporsure EPZ.

2. For nuclear power reactors already licensed to operate, require a licensee to shut down a reactor immediately if appropriate State or local emergency response plans have not received NRC concurrence within 180 days of the effective date of the final amendments or by January 1, 1981, whichever is sooner. However, the Commission may grant an exemption from this requirement if the licensee can demonstrate to the satisfaction of the Commission that the deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation. If there is no concurrence, and the plant is shut down, then it must remain shut down until such an exemption is granted or until concurrence is obtained.

3. For nuclear power reactors already licensed to operate, require a license to shut down a reactor if appropriate State or local emergency response plans do not warrant continued NRC concurrence and the State or locality does not correct the deficiencies within 4 months of notification by the NRC of withdrawal of its concurrence. However, the Commission can grant an exemption to this requirement if the licensee can demonstrate to the satisfaction of the Commission that the deficiencies in the

plan are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation. If there is no concurrence and the plant is shut down, then it must remain shut down until such an exemption is granted or until concurrence is regained.

In both alternatives the proposed rule would:

4. Require that emergency planning considerations be extended to "Emergency Planning Zones."

5. Require that applicants' and licensees' detailed emergency planning implementing procedures be submitted for NRC review.

6. Clarify and expand 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities."

DATES: Comments should be submitted on or before February 19, 1980.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule changes and/or the supporting value/impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of the value/impact analysis and of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and at local Public Document Rooms. Single copies of the value/impact analysis, related regulatory guides, and the NRC staff analysis of the public comments received on the Advance Notice of Proposed Rulemaking may be obtained on request.

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301–443–5966).

SUPPLEMENTARY INFORMATION: In June 1979, the Nuclear Regulatory Commission began a formal reconsideration of the role of emergency planning in assuring the continued protection of the public health and safety in areas around nuclear power facilities. The Commission had begun this reconsideration in recognition of the need for more effective emergency planning and in response to reports issued by responsible offices of government and its Congressional oversight committees.

By memorandum dated July 31, 1979, the Commission requested that the NRC staff undertake expedited rulemaking on the subject of State, local, and licensee emergency response plans. The proposed rulemaking described in this notice responds to that request, and has been prepared on an expedited basis. Consequently, considerations related to the workability of the proposed rule may have been overlooked and significant impacts to NRC, applicants, licensees, and State and local governments may not have been identified. Therefore, the NRC particularly seeks comments addressed to these points and intends to hold workshops prior to preparing a final rule to (a) present the proposed rule changes to State and local governments, utilities, and other interested parties and (b) obtain comments concerning the costs, impacts, and practicality of the proposed rule.

The Nuclear Regulatory Commission is considering the adoption of amendments to its regulation, "Domestic Licensing of Production and Utilization Facilities," 10 CFR Part 50, that would require that emergency response planning considerations be extended to Emergency Planning Zones (discussed in NUREG–0396, EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants"). Both the Commission and EPA have formally endorsed the concepts in that EPA/NRC Report, 44 FR 61123 (October 26, 1979). In addition, the Nuclear Regulatory Commission is considering revising 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities," in order to clarify, expand, and upgrade the Commission's emergency planning regulations.[1] Prior to the conclusion of this rulemaking proceeding, the Commission will give special attention to emergency planning matters, including the need for concurred-in plans, on a case-by-case basis in accordance with the modified adjudicatory procedures of 10 CFR Part 2, Appendix B. Under that Appendix, no new license, construction permit, or limited work authorization may be issued without Commission consideration of issues such as this.[2] Both versions of the proposed amendments call for State and local government emergency response plans to be submitted to and concurred in by the NRC as a condition of operating license issuance.

Under one alternative being considered, the proposed rule would require a determination on continued operation of plants where relevant State and local emergency response plans have not received NRC concurrence. Shutdown of a reactor would not follow automatically in every case. Under the other alternative proposal, shutdown of the reactor would be required automatically where the appropriate State and local emergency response plans have not received NRC concurrence within the prescribed time periods. However, the Commission could grant an exemption to this requirement if the licensee can demonstrate to the satisfaction of the Commission that the deficiencies in the plan are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons. If there is no concurrence and the plant is shut down, then the plant must remain shut down until such an exemption is granted or until concurrence is obtained.

The NRC presently requires that power reactor licensees and applicants plan for radiological emergencies within their plant sites and make arrangements with State and local organizations to respond to accidents that might have consequences beyond the site boundary. In this way, offsite emergency response planning has been related to the nuclear licensing process.

To aid State and local governments in the development and implementation of adequate emergency response plans, the NRC, in conjunction with several other Federal agencies, has attempted, on a cooperative and voluntary basis, to provide for training and instruction of State and local government personnel and to establish criteria to guide the preparation of emergency response plans.[3] However, in the past, the NRC has not made NRC concurrence in State and local emergency response plans a condition of operation for a nuclear powerplant; the proposed rule would do so, as explained above.

[1] Two NRC staff guidance documents are related to this proposed rule change. "Draft Emergency Action Level Guidelines for Nuclear Power Plants," NUREG–0610 was published for interim use and comment on September 19, 1979. It is expected that a final version of the action level guidelines, based on the public comments received, will be issued in early 1980. In addition, in early 1980 upgraded and revised acceptance criteria for evaluating emergency preparedness plans will be issued for comment and may be included in the Commission's regulations.

[2] 44 FR 65049 (November 9, 1979).

[3] NRC staff guidance for the preparation and evaluation of State and local emergency response plans leading to NRC concurrence is contained in NUREG 75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities" (December 1, 1974) and Supplement 1 thereto dated March 15, 1977. The adequacy of this guidance is being reevaluated by the staff and the Commission will consider codification of the upgraded criteria in 1980.

In issuing this rule, NRC recognizes the significant responsibilities assigned to the Federal Emergency Management Agency (FEMA) by Executive Order 12148 on July 15, 1979, to coordinate the emergency planning functions of executive agencies. In view of FEMA's new role, NRC agreed on September 11, 1979, that FEMA should henceforth chair the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness (FICCC). In addition, NRC and FEMA have agreed to exercise joint responsibility for concurring in State emergency response plans prior to NRC issuance of operating licenses. During the next few months NRC and FEMA will continue to reexamine intra-federal relationships and responsibilities regarding radiological emergency response planning. However, the Commission does not believe that the reexamination should serve as a basis for delay in the proposed rule change.

At several places in the proposed amendments, the Commission refers to the roles of State and local governments. Indeed the main thrust of the proposed rule is that prior concurrence in State and local emergency response plans will be a condition for licensing and operation of a nuclear powerplant. The Commission recognizes that it cannot direct any governmental unit to prepare a plan, much less compel its adequacy. However, the NRC can condition a license on the existence of adequate plans.

While the State and local governments have the primary responsibility under their constitutional police powers to protect their public, the Commission, under authority granted to it by the Congress, also has an important responsibility to protect the public in matters of radiological health and safety. Accordingly, with an understanding of its limitations and with a sensitivity to the importance of all levels of governments working together, the Commission will commit to seek and apply the necessary resources to make its part in this venture work.

Rationale for Change

The proposed rule is predicated on the Commission's considered judgment in the aftermath of the accident at Three Mile Island that safe siting and design-engineered features alone do not optimize protection of the public health and safety. Before the accident it was thought that adequate siting in accordance with existing staff guidance coupled with the defense-in-depth approach to design would be the primary public protection. Emergency planning was conceived as a secondary but additional measure to be exercised in the unlikely event that an accident would happen. The Commission's perspective was severely altered by the unexpected sequence of events that occurred at Three Mile Island. The accident showed clearly that the protection provided by siting and engineered safety features must be bolstered by the ability to take protective measures during the course of an accident. The accident also showed clearly that on-site conditions and actions, even if they do not cause significant off-site radiological consequences, will affect the way the various State and local entities react to protect the public from dangers, real or imagined, associated with the accident. A conclusion the Commission draws from this is that in carrying out its statutory mandate to protect the public health and safety, the Commission must be in a position to know that off-site governmental plans have been reviewed and found adequate. The Commission finds that the public can be protected within the framework of the Atomic Energy Act only if additional attention is given to emergency response planning. The Commission recognizes that the increment of risk involved in operation of reactors over the prescribed times in the implementation of this rule does not constitute an unacceptable risk to the public health and safety.

The Commission recognizes that this proposal, to view emergency planning as equivalent to, rather than as secondary to, siting and design in public protection, departs from its prior regulatory approach to emergency planning. The Commission has studied the various proposals and believes that this course is the best available choice. In reaching this determination, the Commission is guided by the findings of its Emergency Planning Task Force which found the need for intensive effort by NRC over the next few years to upgrade the regulatory program in this area. The Commission has also endorsed the findings of the EPA-NRC Joint Task Force for policy development in this area. Implementation of these reports by the NRC in its staff guidance is necessary for the NRC to be as effective as possible in assisting those governmental units and those utilities responsible for execution of the plans.

The Commission acknowledges the input of over one hundred commenters to date on the proposal to adopt new regulations. The staff evaluation of these comments is incorporated by reference herein as part of the record in this rulemaking proceeding.

In addition, the Commission acknowledges the important contributions made this year by various official commenters on the state of emergency planning around nuclear facilities, whose views are included as part of the basis for these reguations. The first of these was the report of the General Accounting Office issued coincident with the TMI accident which explicitly recommended that no new nuclear power plants be permitted to operate "unless offsite emergency plans have been concurred in by the NRC," as a way to insure better emergency protection. GAO Report, EMD-78-110. "Areas Around Nuclear Facilities Should Be Better Prepared for Radiological Emergencies" (March 30, 1979). In addition, the NRC Authorization Bill for FY 1980 (S. 562) would amend the Atomic Energy Act to require a concurred-in State plan as a condition of operation. The policy consideration that underlies this provision would be consistent with the Commission's views of the health and safety significance of emergency planning. One of the Commission's House Oversight Subcommittees developed a comprehensive document on the status of emergency planning which recommended that NRC, in a leadership capacity, undertake efforts to upgrade its licensees' emergency plans and State and local plans. House Report No. 96-413, "Emergency Planning Around U.S. Nuclear Power Plants," 96th Cong., 1st Sess. (August 8, 1979). The Report's recommendations were significant and its findings about the need for improved emergency preparedness lend support to the NRC's own efforts to assure that the public is protected. Finally, the President's Commission on the Accident at Three Mile Island has recently recommended approved State and local plans as a condition for resuming licensing. This Commission's Report and its supporting Staff Reports on emergency responses and preparedness are indicative of many of the problems which the NRC would address in this rule. In this regard the Commission notes that the already extensive record made on emergency planning improvements will be supplemented by the report of its own Special Inquiry Group and other ongoing investigations, by any requirements of the NRC Authorization Act, and by the public comments solicited by this proposed rule.

The proposed rule meets many of the concerns discussed in the above mentioned reports and publications. However, the Commission notes that the proposed rule is considered as an

interim upgrade of NRC emergency planning regulations and, in essence, clarifies and expands areas that have been perceived to be deficient as a result of past experiences. Because the Commission anticipates that further changes in the emergency planning regulations may be proposed as more experience is gained with implementing these revised regulations, as the various Three Mile Island investigations are concluded, and as the results become available from efforts in such areas as instrumentation and monitoring and generic studies of accident models, these proposed rules may require further modifications. Thus the proposed rule changes should be viewed as a first step in improving emergency planning.

Publication of these proposed rule changes in the Federal Register supersedes and thus eliminates the need to continue development of the proposed rule change to 10 CFR Part 50, Appendix E (43 FR 37473), published on August 23, 1978, regarding Emergency Planning considerations outside the Low Population Zone (LPZ).

The Commission is considering whether construction permits which have already been issued should be reconsidered because of the emergency planning considerations of this rule. For plants in operation, NRC teams are now meeting with licensees to upgrade licensee, State and local emergency plans and implementing procedures.

In developing these proposed rule changes, the Commission has considered the potential consequences, social and economic, as well as safety, of the shutdown of an operating nuclear power plant. Under both alternatives, the substantive criteria to be applied in evaluating whether or not a licensee should be allowed to continue to operate the reactor are the same. Thus, both alternatives reflect the view that, while emergency planning is important for public health and safety, the increment of risk involve in permitting operation for a limited time in the absence of concurred-in plans may not be undue in every case.

However, the alternative rule changes differ primarily in the course of action that would follow either non-concurrence, lack of concurrence, or withdrawal of concurrence in relevant State or local emergency plans. Under one alternative (Alternative A) an order to show cause why the licensee should not shut down the plant may be issued in this circumstance, but the order to show cause would not be made immediately effective unless the Commission decided in the particular cases that the safety risks were sufficiently serious to warrant such immediate action. Under the other alternative (Alternative B), the licensee would be required to shut down the plant immediately in this circumstance. Unless and until an exemption is granted, the licensee will not be allowed to operate the reactor.

The NRC contemplates that under Alternative A initial concurrence and subsequent withdrawal, if necessary, would be noted in local newspapers. Under Alternative B, public notice of any initial concurrence or withdrawal of concurrence would be made both in the Federal Register and in local newspapers. Notice in the Federal Register and in local newspapers will also be provided of any required suspension of operation, any request for an exemption from this requirement, and any request that an operating license be exempt from the requirement for concurred-in plans. Public comments will be welcomed. If significant interest in meeting with the staff is expressed, the staff may hold public meetings in the vicinity of the site to receive and discuss comments and to answer questions.

Accordingly, in the discharge of its duties to assure the adequate protection of the public health and safety, the Commission has decided to issue proposed rules for public comment. The proposed changes to 10 CFR 50.33, 50.47, and 50.54 apply to nuclear power reactors only. However, the proposed Appendix E to 10 CFR Part 50 applies to production and utilization facilites in general except as noted in the proposed Appendix E. These proposals, comments, other official reports, and views expressed at the public workshops will be factored into the final rule, which the NRC now anticipates will be published in early 1980.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 and Appendix E to 10 CFR Part 50 is contemplated.

Copies of comments received on the proposed amendments may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, and at local Public Document Rooms.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. Paragraph (g) of § 50.33 is revised to read as follows:

§ 50.33 Contents of applications; general information.

* * * * *

(g) If the application is for an operating license for a nuclear power reactor, the applicant shall submit radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway Emergency Planning Zone (EPZ), as well as the plans of State governments wholly or partially within the ingestion pathway EPZ.[1] Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles in radius and the ingestion pathway EPZ shall consist of an area about 50 miles in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. The plans for the ingestion pathway shall focus on such less immediate actions as are appropriate to protect the food ingestion pathway.

2. A new § 50.47 is added. Alternative versions of the first paragraph are presented.

§ 50.47 Emergency plans.

[Alternative A: (a) No operating license for a nuclear power reactor will be issued unless the emergency response plans submitted by the applicant in accordance with § 50.33(g) have been reviewed and concurred in by the NRC.[2] In the absence of one or more concurred-in plans, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit operation.] OR

[Alternative B: (a) No operating license for a nuclear power reactor will be issued unless the emergency response plans submitted by the applicant in accordance with § 50.33(g) have been reviewed and concurred in by the NRC.[2] An applicant may request an exemption from this requirement based

[1] Emergency Planning Zones (EPZs) are discussed in NUREG-0396, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants."

[2] NRC staff guidance for the preparation and evaluation of State and local emergency response plans leading to NRC concurrence is contained in NUREG 75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities" (December 1, 1974) and Supplement 1 thereto dated March 15, 1977.

upon a demonstration by the applicant that any deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit operation. No such operating license will be issued unless NRC finds that appropriate protective actions, including evacuation when necessary, can be taken for any reasonably anticipated population within the plume exposure EPZ.]

(b) Generally, the plume exposure pathway EPZ for nuclear power plants shall consist of an area about 10 miles in radius and the ingestion pathway EPZ shall consist of an area about 50 miles in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. The plans for the ingestion pathway shall focus on such less immediate actions as are appropriate to protect the food ingestion pathway.

3. Section 50.54 is amended by adding four new paragraphs, (s), (t), (u) and (v). Alternative passages for paragraphs (s) and (t) are provided:

§ 50.54 Conditions of licenses.

* * * * *

(s) Each licensee who is authorized to possess and/or operate a nuclear power reactor shall submit within 60 days of the effective date of this amendment the radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway EPZ, as well as the plans of State governments wholly or partially within the ingestion pathway EPZ.[1] Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles in radius and the ingestion pathway EPZ shall consist of an area about 50 miles in radius. The exact size and configuration of the EPZs for a particular nuclear power reactor shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, and land characteristics, access routes, and local jurisdictional boundaries. The plans for the ingestion pathway shall focus on such less immediate actions as are appropriate to protect the food ingestion pathway. [Alternative A: If the appropriate State and local government emergency response plans have not been concurred in [2] within 180 days of the effective date of the final amendments or by January 1, 1981, whichever is sooner, the Commission will make a determination whether the reactor should be shut down. The reactor need not be shut down if the licensee can demonstrate to the Commission's satisfaction that the deficiencies in the plan are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.] OR [Alternative B: If the plans submitted by the licensee in accordance with the subsection have not been concurred in by NRC within 180 days of the effective date of this amendment or by January 1, 1981, whichever is sooner, the reactor in question will be shut down until the concurrences have been obtained. The licensee may request an exemption from this requirement based upon a demonstration that any deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation. However, unless and until this exemption has been granted by the Commission, the plant shall be maintained in the shutdown condition.]

[Alternative A: (t) If, after 180 days following the effective date of these amendments or January 1, 1981, whichever is sooner, and during the operating license period of a nuclear power reactor the Commission determines that the appropriate State and local government emergency response plans do not warrant continued NRC concurrence and such State or local government fails to correct such deficiencies within 4 months of the date of notification of the defects, the Commission will make a determination whether the reactor shall be shut down until the plan is submitted and has again received NRC review and concurrence. The reactor need not be shut down if the licensee can demonstrate to the Commission's satisfaction that the deficiencies in the plan are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.] OR

[Alternative B: (t) If, after 180 days following the effective date of these amendments or after January 1, 1981, whichever is sooner, and during the operating license period of a nuclear power reactor, the Commission determines that the appropriate State or local government emergency response plans do not warrant continued NRC concurrence and such State or local government fails to correct such deficiencies within 4 months of the date of notification of the defects, the reactor in question will be shut down. The licensee may request an exemption from this requirement based upon a demonstration that any deficiencies in the plans are not significant for the plant in question, that alternative compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation. However, unless and until this exemption has been granted by the Commission, the plant shall be maintained in the shutdown condition.]

(u) The licensee of a nuclear power reactor shall provide for the development, revision, implementation and maintenance of its emergency preparedness program. To this end, the licensee shall provide for an independent review of its emergency preparedness program at least every 12 months by licensee, employees, contractors, or other persons who have no direct responsibility for implementation of the emergency preparedness program. The review shall include a review and audit of licensee drills, exercises, capabilities, and procedures. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of five years.

(v) Within 180 days after the effective date of the final rules or by January 1, 1981, whichever is sooner, each licensee who is authorized to possess and/or operate a production or utilization facility shall have plans for coping with emergencies which meet the requirements of Appendix E of this Chapter.

4. 10 CFR Part 50, Appendix E, is amended as follows:

* * * * *

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities[1]

I. Introduction

Each applicant for a construction permit is required by § 50.34(a) to include in its

[1] NRC staff has developed three regulatory guides: 1.101, "Emergency Planning for Nuclear Power Plants," 2.6, "Emergency Planning for Research Reactors," and 3.42, "Emergency Planning in Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70"; and NUREG-0610, "Draft Emergency Level Action Guidelines for Nuclear Power Plants" (September 1979) to help applicants establish adequate plans required pursuant to

Footnotes continued on next page

preliminary safety analysis report a discussion of preliminary plans for coping with emergencies. Each applicant for an operating license is required by § 50.34(b) to include in its final safety analysis report plans for coping with emergencies.

This appendix establishes minimum requirements for emergency plans for use in attaining a state of emergency preparedness. These plans shall be described in the preliminary safety analysis report and submitted as a part of the final safety analysis report. The potential radiological hazards to the public associated with the operation of research and test reactors are considerably less than those involved with nuclear power reactor. Consequently, the size of the EPZs for Research and Test reactors and the degree to which compliance with the requirements of this section and sections II, III, IV and V is necessary will be determined on a case-by-case basis using Regulatory Guide 2.6 as a standard for acceptance. State and local government emergency response plans, which may include the plans of offsite support organizations, shall be submitted with the applicant's emergency plans.

II. The Preliminary Safety Analysis Report

The Preliminary Safety Analysis Report shall contain sufficient information to ensure the compatibility of proposed emergency plans both for onsite areas and the EPZs with facility design features, site layout, and site location with respect to such considerations as access routes, surrounding population distributions, and land use for the Emergency Planning Zones [2] (EPZs).

As a minimum, the following items shall be described:

A. Onsite and offsite organizations for coping with emergencies, and the means for notification, in the event of an emergency, of persons assigned to the emergency organizations;

B. Contacts and arrangements made and documented with local, State, and Federal governmental agencies with responsibility for coping with emergencies, including identification of the principal agencies.

[Alternative A: C. Protective measures to be taken in the event of an accident within the site boundary and within each EPZ to protect health and safety; corrective measures to prevent damage to onsite and offsite property; and the expected response, in the event of an emergency, of offsite agencies] OR

[Alternative B: C. Protective measure to be taken in the event of an accident within the site boundary and within each EPZ to protect health and safety; procedures by which these measures are to be carried out (*e.g.*, in the case of an evacuation, who authorizes the evacuation, how the public is to be notified and instructed, how the evacuation is to be carried out); and the expected response, in the event of an emergency, of offsite agencies];

D. Features of the facility to be provided for onsite emergency first aid and decontamination, and for emergency transportation of onsite individuals to offsite treatment facilities;

E. Provisions to be made for emergency treatment at offsite facilities of individuals injured as a result of licensed activities;

F. Provisions for a training program for employees of the licensee, including those who are assigned specific authority and responsibility in the event of an emergency, and for other persons not employees of the licensee whose assistance may be needed in the event of a radiological emergency;

G. Features of the facility to be provided to ensure the capability for actuating onsite protective measures and the capability for facility reentry in order to mitigate the consequences of an accident or, if appropriate, to continue operation;

H. A preliminary analysis which projects the time and means to be employed in the notification of State and local governments and the public in the event of an emergency. A preliminary analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

III. The Final Safety Analysis Report

The Final Safety Analysis Report shall contain the emergency plans for coping with emergencies. The plans shall be an expression of the overall concept of operation, which describe the essential elements of advance planning that have been considered and the provisions that have been made to cope with emergency situations. The plans shall incorporate information about the emergency response roles of supporting organizations and offsite agencies. That information shall be sufficient to provide assurance of coordination among the supporting groups and between them and the licensee.

[Alternative A: The plans submitted must include a description of the elements set out in Section IV to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety and minimize damage to property within the Emergency Planning Zones (EPZs).[2]] OR

[Alternative B: The plans submitted must include a description of the elements set out in Section IV to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency to protect public health and safety within the Emergency Planning Zones (EPZs).[2]]

IV. Content of Emergency Plans

The applicant's emergency plans shall contain, but not necessarily be limited to, the following elements: organization for coping with radiation emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. The applicant shall also provide an analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

A. Organization

The organization for coping with radiological emergencies shall be described including definitions of authorities, responsibilities and duties of individuals assigned to licensee's emergency organization, and the means of notification of such individuals in the event of an emergency. Specifically, the following shall be included:

1. A description of the normal plant operating organization.

2. A description of the onsite emergency response organization with a detailed discussion of:

a. Authorities, responsibilities and duties of the individual(s) who will take charge during an emergency;

b. Plant staff emergency assignments;

c. Authorities, responsibilities, and duties of an onsite emergency coordinator who shall be in charge of the exchange of information with offsite authorities responsible for coordinating and impelementing offsite emergency measures.

3. A description of the licensee headquarters personnel that will be sent to the plant site to provide augmentation of the onsite emergency organization.

4. Identification, by position, of persons within the licensee organization who will be responsible for making offsite dose projections and a description of how these projections will be made and the results transmitted to State and local authorities, NRC, FEMA and other appropriate governmental entities.

5. Identification, by position and function, of other employees of the licensee with special qualifications for coping with emergency conditions which may arise. Other persons with special qualifications, such as consultants, who are not employees of the licensee and who may be called upon for assistance for short- or long-term emergencies shall also be identified. The special qualifications of these persons shall be described.

6. A description of the local offsite services to be provided in support of the licensee emergency organization.

7. Identification of and expected assistance from appropriate State, local, and Federal agencies with responsibilities for coping with emergencies.

8. Identification of the State and/or local officials responsible for planning for, ordering, notification of, and controlling

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Footnotes continued from last page
§ 50.34 and this Appendix for coping with emergencies. Copies of the guides are available at the Commission's Public Document Room. 1717 H Street, NW., Washington, D.C. 20555. Copies of guides may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

[2] The size of the EPZs for a nuclear power plant shall be determined in relation to the emergency response needs and capabilities as they are affected by such local conditions as demography, topography, land characteristics, access routes, and local jurisdictional boundaries. Generally, the plume exposure pathway EPZ for light water nuclear power plants shall consist of an area about 10 miles radius and the ingestion pathway EPZ an area about 50 miles in radius. EPZs are discussed in NUREG–0396. The size of the EPZ's for non-power reactors shall be determined on a case-by-case basis.

appropriate protective actions, including evacuations when necessary.

B. Assessment Actions

The means to be provided for determining the magnitude and continued assessment of the release of radioactive materials shall be described including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies and the Commission and other Federal agencies, and the emergency action levels that are to be used as criteria along with appropriate meteorological information for determining when protective measures should be considered within the outside the site boundary to protect health and safety and prevent damage to property. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. These emergency action levels shall be discussed and agreed upon by the applicant and State and local governmental authorities and approved by NRC. They shall also be reviewed with the State and local governmental authorities on an annual basis.

C. Activation of Emergency Organization

The entire spectrum of emergency conditions which involve the alerting or activation of progressively larger segments of the total emergency organization shall be described. The communication steps taken to alert or activate emergency personnel under each class of emergency shall be described. Emergency action levels (based not only on onsite and offsite radiation monitoring information but also on readings from a number of sensors that indicate a potential emergency such as the pressure in containment and the response of the Emergency Core Cooling System) for notification of offsite agencies shall be described. The existence, but not the details, of a message authentication scheme shall be noted for such agencies.

D. Notification Procedures

1. Administrative and physical means for notifying, and agreements reached with, local, State, and Federal officials and agencies for the early warning of the public and for public evacuation or other protective measures, should they become necessary, shall be described. This description shall include identification of the principal officials, by title and agencies, for the Emergency Planning Zones [2] (EPZs).

2. Provisions shall be described for the yearly dissemination to the public within the plume exposure pathway EPZ of basic emergency planning information such as the possibility of nuclear accidents, the potential human health effects of such accidents and their causes, methods of notification, and the protective actions planned if an accident occurs, as well as a listing of local broadcast network that will be used for dissemination of information during an emergency.

3. Administrative and physical means, and the time required, shall be described for alerting and providing prompt instructions [3] to the public within the plume exposure pathway Emergency Planning Zone. It is the applicant's responsibility to ensure that such means exist, regardless of who implements this requirement.

E. Emergency Facilities and Equipment

Provisions shall be made and described for emergency facilities and equipment, including:

1. Equipment at the site for personnel monitoring;

2. Equipment for determining the magnitude of and for continuously assessing the release of radioactive materials to the environment;

3. Facilities and supplies at the site for decontamination of onsite individuals;

4. Facilities and medical supplies at the site for appropriate emergency first aid treatment;

5. Arrangements for the services of a physician and other medical personnel qualified to handle radiation emergencies;

6. Arrangements for transportation of injured or contaminated individuals from the site to treatment facilities outside the site boundary;

7. Arrangements for treatment of individuals injured in support of licensed activities on the site at treatment facilities outside the site boundary;

8. One onsite technical support center and one near-site emergency operation center from which effective direction can be given and effective control can be exercised during an emergency;

9. At least one onsite and one offsite communications system, including redundant power sources. This will include the communication arrangements for emergencies, including titles and alternates for those in charge at both ends of the communication links and the primary and backup means of communication. Where consistent with function of the governmental agency, these arrangements will include:

a. Provision for communications with contiguous State/local governments within the plume exposure pathway Emergency Planning Zone. Such communications shall be tested monthly.

b. Provision for communications with Federal emergency response organizations. Such communications systems shall be tested annually.

c. Provision for communications between the nuclear facility, State and/or local emergency operations centers, and field assessment teams. Such communications systems shall be tested annually.

F. Training

The program to provide for (1) the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and (2) the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

a. Directors or coordinators of the plant emergency organization.

b. Personnel responsible for accident assessment, including control room shift personnel.

c. *Radiological monitoring teams.*

d. Fire control teams (fire brigades).

e. Repair and damage control teams.

f. First aid and rescue teams.

g. Local services personnel, *e.g.*, local Civil Defense, local law enforcement personnel, and local news media persons.

h. Medical support personnel.

i. Licensee's headquarters support personnel.

j. Security personnel.

The plan shall describe provisions for the conduct of yearly drills and exercises to test the adequacy of timing and content of implementing procedures and methods, to test emergency equipment and communication networks, and to ensure that emergency organization personnel are familiar with their duties. Such provisions shall specifically include participation by offsite personnel as described above as well as other State and local governmental agencies. The plan shall also describe provisions for a joint exercise involving the Federal, State, and local response organizations. The scope of such an exercise should test as much of the emergency plans as is reasonably achievable without involving full public participation. Definitive performance criteria shall be established for all levels of participation to ensure an objective evaluation. This joint Federal, State, and local exercise shall be:

1. For presently operating plants, initially within one year of the effective date of this amendment and once every [Alternative A: three years] or [Alternative B: five years] thereafter.

3. For a plant for which an operating license is issued after the effective date of this amendment, initially within one year of the issuance of the operating license and once every [Alternative A: three years] or [Alternative B: five years] thereafter.

All training provisions shall provide for formal critiques in order to evaluate the emergency plan's effectiveness and to correct weak areas through feedback with emphasis on schedules, lesson plans, practical training, and periodic examinations.

G. Maintaining Emergency Preparedness

Provisions to be employed to ensure that the emergency plan, its implementing procedures and emergency equipment and supplies are maintained up to date shall be described.

H. Recovery

Criteria to be used to determine when to the extent possible, following an accident, reentry of the facility is appropriate or when operation should be continued.

V. Implementing Procedures

No less than 180 days prior to scheduled issuance of an operating license, 10 copies each of the applicant's detailed implementing procedures for its emergency plan shall be submitted to NRC Headquarters and to the appropriate NRC Regional Office: Provided that, in cases where the operating license is

[3] It is expected that the capability will be provided to essentially complete alerting of the public within the plume exposure pathway EPZ within 15 minutes of the notification by the licensee of local and State officials.

scheduled to be issued less than 180 days after the effective date of this rule, such implementing procedures shall be submitted as soon as practicable. Within 60 days after the effective date for compliance under § 50.54(v) with the revised Appendix E, licensees who are authorized to operate a nuclear power facility shall submit 10 copies each of the licensee's emergency plan implementing procedures to NRC Headquarters and to the appropriate NRC Regional Office. As necessary to maintain them up to date thereafter, 10 copies each of any changes to these implementing procedures shall be submitted to NRC Headquarters and to the same NRC Regional Office within 30 days of such changes.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5341).)

Dated at Washington, D.C. this 13th day of December 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-38905 Filed 12-18-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 570

[Docket No. ERA-R-79-54]

Standby Gasoline Rationing Plan

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Additional Public Hearing.

SUMMARY: On December 7, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearings to receive comments on its proposed Standby Gasoline Rationing Plan (44 FR 70799, December 10, 1979). Public hearings are scheduled for Boston, MA, San Francisco, CA, Chicago, IL, New Orleans, LA and Washington, DC.

The purpose of this notice is to schedule a additional public hearing on the proposed Standby Gasoline Rationing Plan in Seattle, WA.

DATES: Hearing: January 3 and 4, 1980, beginning at 9:30 a.m. Requests to speak must be received by December 28, 1979.

ADDRESSES: Hearing location: New Federal Building, 915 2nd Avenue, South Auditorium (4th Floor), Seattle, WA 98174.

Requests to speak should be addressed to: Department of Energy, Attn: Janet Marcan, 1992 Federal Building, 915 2nd Avenue, Seattle, WA 98174.

FOR FURTHER INFORMATION CONTACT: Benton F. Massell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7112, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-7303.

Issued in Washington, D.C., December 13, 1979.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-38904 Filed 12-17-79; 10:58 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Reg. J; Docket No. R-0266]

Collection of Checks and Other Items and Transfer of Funds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rules.

SUMMARY: By this action the Board proposes to clarify and simplify its regulations on the collection of checks and other items and for wire transfers of funds. It is not intended that any substantive changes be made in the duties and responsibilities that are set forth in these regulatory provisions.

DATE: Comments must be received on or before February 15, 1980.

ADDRESS: Comments, which should refer to Docket No. R-0266, may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Lee S. Adams, Senior Attorney (202/452-3594), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: As part of its Regulatory Improvement Project, the Board has reviewed the regulatory framework for the collection of checks and other items and for wire transfers of funds that are set forth in Subparts A and B of Regulation J. The Board has determined that, while substantive changes in the regulation were not required, it was desirable to redraft the regulation to clarify and simplify the language. In redrafting Regulation J, the Board was aware that much of the terminology of the regulation is common and legally recognized through its consistency with the Uniform Commercial Code. Although language improvements were made to achieve brevity and clarity, care was taken not to alter legal concepts through stylistic change.

The Board notes that the revised material was drafted to conform generally with the new part of Regulation J, Subpart C (Automated Clearing House Items) which the Board recently approved for public comment (44 FR 67995). Only minor editorial changes will be required to conform a final version of Subpart C with the revised Subparts A and B.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors. The proposal is made under the authority of sections 11 and 16 of the Federal Reserve Act (12 U.S.C. 248 (j), (o)), which authorize the Board to promulgate rules governing the transfers of funds through Federal Reserve Banks. To aid in the consideration of this material by the Board, interested persons are invited to submit relevant data, views, comments, or arguments.

To implement its proposal, the Board is considering amending Regulation J (12 CFR Part 210) as set forth below:

[Reg. J]

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS

Subpart A—Collection of Checks and Other Items

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210.29 Transferor's agreement.
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210.35 Revocation of transfer items and requests.
210.36 Final payments; use of funds.
210.37 Timeliness of action.
210.38 Reserve Bank liability.

Authority: Federal Reserve Act, sec. 13, as Amended (12 U.S.C. 342); sec. 16 (12 U.S.C. 248(o); sec. 11(i) (12 U.S.C. 248(i), and other laws.

Subpart A—Collection of Checks and Other Items

§ 210.1 Authority, purpose, and scope.

The Board of Governors of the Federal Reserve System ("Board") has issued this subpart pursuant to the Federal Reserve Act, section 13, as amended (12 U.S.C. 342), section 16 (12 U.S.C. 248(o), 360), section 11(i) (12 U.S.C. 248(i)), and other laws. This subpart governs the collection of checks and other cash and noncash items by Federal Reserve Banks ("Reserve Banks"). Its purpose is to provide rules for collecting items and settling balances.

§ 210.2 Definitions.

As used in this subpart, unless the context otherwise requires:

(a) "Actually and finally collected funds" means cash or any other form of payment that is, or has become, final and irrevocable.

(b) "Bank draft" means a check drawn by one bank on another bank.

(c) "Banking day" means a day during which a bank is open to the public for carrying on substantially all its banking functions.

(d) "Cash item" means:

(1) A check other than one classified as a noncash item under this section; or

(2) Any other item payable on demand and collectible at par that the Reserve Bank of the District in which the item is payable is willing to accept as a cash item.

(e) "Check" means a draft, as defined in the Uniform Commercial Code, that is drawn on a bank and payable on demand.

(f) "Item" means an instrument for the payment of money, whether negotiable or not, that is:

(1) Payable in a Federal Reserve District [1] ("District");

(2) Sent by a sender to a Reserve Bank for handling under this subpart; and

(3) Collectible in funds acceptable to the Reserve Bank of the District in which the instrument is payable.

Unless otherwise indicated, "item" includes both cash and noncash items, "Item" does not include a check that cannot be collected at par, [2] or an "item" as defined in § 210.26 that is handled in accordance with Subpart B of this part.

(g) "Nonbank payor" means a payor of an item, other than a bank.

(h) "Noncash item" means an item that a receiving Reserve Bank classifies in its operating circulars as requiring special handling. The term also means an item normally received as a cash item if a Reserve Bank decides that special conditions require that it handle the item as a noncash item.

(i) "Paying bank" means:

(1) The bank by which an item is payable, unless the item is payable or collectible through another bank and is sent to the other bank for payment or collection; or

(2) The bank through which an item is payable or collectible and to which it is sent for payment or collection.

(j) "Sender" means a member bank, a nonmember clearing bank, a Reserve Bank, an international organization, or a foreign correspondent that sends an item.

(1) "Nonmember clearing bank" means:

(i) A bank that is not a member of the Federal Reserve System, but maintains with a Reserve Bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act; or

(ii) A corporation that maintains an account with a Reserve Bank in conformity with § 211.4 of this chapter (Regulation K).

(2) "International organization" means an international organization for which the Reserve Banks are empowered to act as depositaries or fiscal agents and for which a Reserve Bank maintains an account.

(3) "Foreign correspondent" means any of the following for which a Reserve Bank maintains an account: a foreign bank or banker, a foreign state as defined in section 25(b) of the Federal Reserve Act (12 U.S.C. 632), or a foreign correspondent or agency referred to in section 14(e) of that Act (12 U.S.C. 358).

(k) "State" means a State of the United States, the District of Columbia, Puerto Rico, or a territory, possession, or dependency of the United States.

§ 210.3 General provisions.

(a) *General.* Each Reserve Bank shall receive and handle items in accordance with this subpart, and shall issue operating circulars governing the details of its handling of items and other matters deemed appropriate by the Reserve Bank. The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, and provide different closing times for the receipt of different classes or types of items.

(b) *Binding effect.* This subpart and the operating circulars of the Reserve Banks are binding on the sender of an item and on each collecting bank, paying bank, and nonbank payor, to which a Reserve Bank (or a subsequent collecting bank) presents or sends an item.

(c) *Government Items.* As depositaries and fiscal agents of the United States, Reserve Banks handle certain items as cash or noncash items. To the extent provided by regulations issued by, and arrangements made with, the United States Treasury Department and other Government departments and agencies, the handling of such items by the Reserve Banks is governed by this subpart. The Reserve Banks shall include in their operating circulars such information regarding these regulations and arrangements as the Reserve Banks deem appropriate.

(d) *Government Senders.* Except as otherwise provided by statutes of the United States, or regulations issued or arrangements made thereunder, this subpart and the operating circulars of the Reserve Banks apply to the following when acting as a sender: A department, agency, instrumentality, independent establishment, or office of the United States, or a wholly owned or controlled Government corporation, that maintains or uses an account with a Reserve Bank.

§ 210.4 Sending Items to Reserve Banks.

(a) A sender may send any item to the Reserve Bank with which it maintains or uses an account, but that Reserve Bank may permit or require the sender to send direct to another Reserve Bank an item payable within the other Reserve Bank's District.

(b) With respect to an item sent direct, the relationships and the rights and liabilities between the sender, the Reserve Bank of its District, and the Reserve Bank to which the item is sent are the same as if the sender had sent the item to the Reserve Bank of its District and that Reserve Bank had sent the item to the other Reserve Bank.

(c) The Reserve Banks shall receive cash items and other checks at par.

[1] For purposes of this subpart, the Virgin Islands and Puerto Rico are deemed to be in the Second District, and Guam and American Samoa in the Twelfth District.

[2] The Board publishes a "Memorandum on Exchange Charges," listing the banks that would impose exchange charges on cash items and other checks forwarded by Reserve Banks and therefore would not pay at par.

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) *Sender's agreement.* By sending an item to a Reserve Bank, the sender:

(1) Authorizes the receiving Reserve Bank (and any other Reserve Bank or collecting bank to which the item is sent) to handle the item subject to this subpart and to the Reserve Banks' operating circulars, and warrants its authority to give this authorization;

(2) Warrants to each Reserve Bank handling the item that: (i) The sender has good title to the item or is authorized to obtain payment on behalf of one who has good title (whether or not this warranty is evidenced by the sender's express guaranty of prior endorsements on the item); and (ii) to the extent prescribed by State law applicable to a Reserve Bank or subsequent collecting bank handling the item, the item has not been materially altered; but this subparagraph (2) does not limit any warranty by a sender arising under State law; and

(3) Agrees to indemnify each Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from (i) the sender's lack of authority to make the warranty in paragraph (a)(1) of this section; (ii) any action taken by the Reserve Bank within the scope of its authority in handling the item; or (iii) any warranty made by the Reserve Bank under § 210.6(b).

(b) *Recovery by Reserve Bank.* If an action or proceeding is brought against a Reserve Bank that has handled an item, based on:

(1) The alleged failure of the sender to have the authority to make the warranty and agreement in paragraph (a)(1) of this section;

(2) Any action by the Reserve Bank within the scope of its authority in handling the item; or

(3) Any warranty made by the Reserve Bank under § 210.6(b),

the Reserve Bank may, upon the entry of a final judgment or decree, recover from the sender the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay under the judgment or decree, together with interest thereon.

(c) *Methods of recovery.* The Reserve Bank may recover the amount stated in paragraph (b) of this section by charging any account on its books that is maintained or used by the sender (or if the sender is another Reserve Bank, by entering a charge against the other Reserve Bank through the Interdistrict Settlement Fund), if:

(1) The Reserve Bank made seasonable written demand on the sender to assume defense of the action or proceeding; and

(2) The sender has not made any other arrangement for payment that is acceptable to the Reserve Bank.

A Reserve Bank that has been charged through the Interdistrict Settlement Fund may recover from its sender in the manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (a)(3) of this section.

§ 210.6 Status, warranties, and liability of Reserve Bank.

(a)(1) *Status and liability.* A Reserve Bank shall act only as the sender's agent in respect of an item. This agency terminates not later than the time the Reserve Bank receives payment for the item in actually and finally collected funds and makes the proceeds available for use by the sender. A Reserve Bank shall not act as agent or subagent of an owner or holder of an item other than the sender. A Reserve Bank shall not have or assume any liability to the sender in respect of an item or its proceeds except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

(2) *Reliance on routing designation appearing on item.* A Reserve Bank may present or send an item based on the routing number or other designation of a paying bank or nonbank payor appearing in any form on the item when the Reserve Bank receives it. A Reserve Bank shall not be responsible for any delay resulting from its acting on any designation, whether inscribed by magnetic ink or by other means, and whether or not the designation acted on is consistent with any other designation appearing on the item.

(b) *Warranties and liability.* By presenting or sending an item, a Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor:

(1) That the Reserve Bank has good title to the item (or is authorized to obtain payment on behalf of one who either (i) has good title or (ii) is authorized to obtain payment on behalf of one who has good title), whether or not this warranty is evidenced by the Reserve Bank's express guaranty of prior endorsements on the item; and

(2) That the item has not been materially altered to the extent prescribed by State law applicable to a Reserve Bank or subsequent collecting bank holding the item.

The Reserve Bank shall not have or assume any other liability to the paying bank or other payor, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

§ 210.7 Presenting items for payment.

(a) *Presenting or sending.* As provided under State law or as otherwise permitted by this section: (1) A Reserve Bank or a subsequent collecting bank may present an item for payment or send the item for presentment and payment; and (2) a Reserve Bank may send an item to a subsequent collecting bank with authority to present it for payment or to send it for presentment and payment.

(b) *Place of presentment.* A Reserve Bank or subsequent collecting bank may present an item:

(1) At a place requested by the paying bank;

(2) At a place requested by the nonbank payor, if the item is payable by a nonbank payor other than through a paying bank;

(3) Under a special collection agreement consistent with this subpart; or

(4) Through a clearing house and subject to its rules and practices.

(c) *Presenting or sending direct.* A Reserve Bank or subsequent collecting bank may, with respect to an item payable in the Reserve Bank's District:

(1) Present or send the item direct to the paying bank, or to a place requested by the paying bank; or

(2) If the item is payable by a nonbank payor other than through a paying bank, present it direct to the nonbank payor. Documents, securities, or other papers accompanying a noncash item shall not be delivered to the nonbank payor before the item is paid unless the sender specifically authorizes delivery.

(d) *Item payable in another district.* A Reserve Bank receiving an item payable in another District ordinarily sends the item to the Reserve Bank of the other District, but with the agreement of the other Reserve Bank, may present or send the item as if it were payable in its own District.

§ 210.8 Presenting noncash items for acceptance.

A Reserve Bank or a subsequent collecting bank may, if instructed by the sender, present a noncash item for acceptance in any manner authorized by law if: (a) the item provides that it must be presented for acceptance; (b) the item is payable elsewhere than at the residence or place of business of the payor; or (c) the date of payment of the item depends on presentment for acceptance. Documents accompanying a

noncash item shall not be delivered to the payor upon acceptance of the item unless the sender specifically authorizes delivery. A Reserve Bank shall not have or assume any other obligation to present or to send for presentment for acceptance any noncash item.

§ 210.9 Payment.

(a) *Cash items.* A paying bank becomes accountable for the amount of a cash item received directly or indirectly from a Reserve Bank, at the close of the paying bank's banking day on which it receives [3] the item if it retains the item after the close of that banking day, unless, prior to that time, it pays for the item by:

(1) Debit to an account on the Reserve Bank's books;

(2) Cash; or

(3) In the discretion of the Reserve Bank, any other form of payment.

The proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank. If the banking day of receipt is not a banking day for the Reserve Bank, payment shall be made on the next day that is a banking day for both the Reserve Bank and the paying bank.

(b) *Noncash items.* A Reserve Bank may require the paying or collecting bank to which it has presented or sent a noncash item to pay for the item in cash, but the Reserve Bank may permit payment by a debit to an account on the Reserve Bank's books or by any of the following that is in a form acceptable to the Reserve Bank: bank draft, transfer of funds or bank credit, or any other form of payment authorized by State law.

(c) *Nonbank payor.* A Reserve Bank may require a nonbank payor to which it has presented an item to pay for it in cash, but the Reserve Bank may permit payment in any of the following that is in a form acceptable to the Reserve Bank: cashier's check, certified check, or other bank draft or obligation.

(d) *Handling of payment.* A Reserve Bank may handle a bank draft or other form of payment it receives in payment of a cash item as a cash item. A Reserve Bank may handle a bank draft or other form of payment it receives in payment of a noncash item as either a cash item or a noncash item.

(e) *Liability of Reserve Bank.* A Reserve Bank shall not be liable for the failure of a collecting bank, paying bank, or nonbank payor to pay for an item, or for any loss resulting from the Reserve Bank's acceptance of any form of payment other than cash authorized in paragraphs (a), (b), and (c) of this section. A Reserve Bank that acts in good faith and exercises ordinary care shall not be liable for the nonpayment of, or failure to realize upon, a bank draft or other form of payment that it accepts under paragraphs (a), (b), and (c).

§ 210.10 Time schedule and availability of credits for cash items.

(a) Each Reserve Bank shall include in its operating circulars a time schedule for each of its offices indicating when the amount of any cash item received by it (or sent direct to another Reserve office for the account of that Reserve Bank) is counted as reserve for purposes of Part 204 of this chapter (Regulation D) and becomes available for use by the sender. The Reserve Bank shall give either immediate or deferred credit in accordance with its time schedule to a sender other than a foreign correspondent. A Reserve Bank ordinarily gives credit to a foreign correspondent only when the Reserve Bank receives payment for the item in actually and finally collected funds, but, in its discretion, a Reserve Bank may give immediate or deferred credit in accordance with its time schedule.

(b) Notwithstanding its time schedule, a Reserve Bank may refuse at an time to permit the use of credit given for any cash item for which the Reserve Bank has not yet received payment in actually and finally collected funds.

§ 210.11 Availability of proceeds of noncash items; time schedule.

(a) *Availability of credit.* A Reserve Bank shall give credit to the sender for the proceeds of a noncash item when it receives payment in actually and finally collected funds (or advice from another Reserve Bank of such payment to it). The amount of the item is counted as reserve for purposes of Part 204 of this chapter (Regulation D) and becomes available for use by the sender when the Reserve Bank receives the payment or advice, except as provided in paragraph (b) of this section.

(b) *Time schedule.* A Reserve Bank may give credit for the proceeds of a noncash item subject to payment in actually and finally collected funds in accordance with a time schedule included in its operating circulars. The time schedule shall indicate when the proceeds of the noncash item will be counted as reserve for purposes of Part 204 of this chapter (Regulation D) and become available for use by the sender. A Reserve Bank may, however, refuse at any time to permit the use of credit given for a noncash item for which the Reserve Bank has not yet received payment in actually and finally collected funds.

(c) *Handling of payment.* If a Reserve Bank receives, in payment for a noncash item, a bank draft or other form of payment that it elects to handle as a noncash item, the Reserve Bank shall neither count the proceeds as reserve for purposes of Part 204 of this chapter (Regulation D) nor make the proceeds available for use unitl it receives payment in actually and finally collected funds.

§ 210.12 Return of cash items.

(a) *Recovery of payment.* A paying bank that receives a cash item directly or indirectly from a Reserve Bank, other than for immediate payment over the counter, and that pays for the item as provided in § 210.9(a) may recover the payment if, before it has finally paid the item, it:

(1) Returns the item before midnight of its next banking day following the banking day of receipt; or

(2) Takes any other action to recover the payment within the times and by the means provided by State law.

These return times may not be extended. If the rules or practices of a clearinghouse through which the item was presented, or a special collection agreement under which the item was presented, provides for a shorter return time, the shorter time governs.

(b) *Paying bank's warranties and agreement.* A paying bank that obtains a credit or refund for the amount of a payment it has made for a cash item:

(1) Warrants to the Reserve Bank (and to a subsequent collecting bank, and to the sender and all prior parties) that it took all action necessary to entitle it to recover its payment within the time limits of: (i) This subpart; (ii) State law, unless a longer time is afforded by this subpart; (iii) the rules or practices of any clearing house through which the item was presented; and (iv) any special collection agreement under which the item was presented; and

(2) Agrees to indemnify the Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) resulting from the Reserve Bank's giving the credit or refund to the paying bank, or charging, or obtaining a refund from, the sender.

A Reserve Bank shall not have or assume any responsibility for

[3] A paying bank is deemed to receive a cash item on its next banking day if it receives the item:

(1) On a day other than a banking day for it; or

(2) On a banking day for it, but

(i) After its regular banking hours;

(ii) After a "cut-off hour" established by it in accordance with State law; or

(iii) During afternoon or evening periods when it is open for limited functions only.

determining whether the action taken by a paying was timely.

§ 210.13 Chargeback of unpaid items.

(a) *Right of chargeback.* If a Reserve Bank does not receive payment in actually and finally collected funds for an item for which the Reserve Bank gave credit subject to payment in actually and finally collected funds, the Reserve Bank shall charge back the amount of the item to the sender, whether or not the item itself can be returned. In the event of chargeback, neither the owner or holder of the item nor the sender shall have any interest in any reserve balance or other funds of the paying bank or a collecting bank in the Reserve Bank's possession.

(b) *Suspension or closing of bank.* A Reserve Bank shall not pay or act on a draft, authorization to charge, or other order on a reserved balance or other funds in its possession after it receives notice of suspension or closing of the bank making the payment for that bank's own or another's account.

§ 210.14 Extension of time limits.

If, because of interruption of communication facilities, suspension of payments by a bank or nonbank payor, war, emergency conditions or other circumstances beyond its control, a bank (including a Reserve Bank) or nonbank payor is delayed in acting on an item beyond applicable time limits, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

§ 210.15 Direct presentment of certain warrants.

If a Reserve Bank elects to present direct to the payor a bill, note, or warrant that is issued and payable by a State or a political subdivision and that is a cash item not payable or collectible through a bank: (a) Sections 210.9, 210.12, and 210.13 and the operating circulars of the Reserve Banks apply to the payor as if it were a paying bank; (b) § 210.14 applies to the payor as if it were a bank; and (c) under § 210.9 each day on which the payor is open for the regular conduct of its affairs or the accommodation of the public is considered a banking day.

Subpart B—Wire Transfers of Funds

§ 210.25 Authority, purpose, and scope.

The Board of Governors of the Federal Reserve System ("Board") has issued this subpart pursuant to the Federal Reserve Act, section 13, as amended (12 U.S.C. 342), paragraph (f) of section 19, as amended (12 U.S.C. 464), paragraph 14 of section 16 (12 U.S.C. 248(o)), paragraphs (i) and (j) of section 11 (12 U.S.C. 248(i) and (j)), and other laws. This subpart governs the handling by Federal Reserve Banks ("Reserve Banks") of transfer items and transfer requests. Its purpose is to provide rules for the wire transfer of funds.

§ 210.26 Definitions.

As used in this subpart, unless the context otherwise requires:

(a) "Beneficiary" means a person or organization, other than the transferee, designated in a transfer item or request to receive the amount of the item or request from the transferee.

(b) "Interoffice transaction" means a transfer between a transferor and transferee that do not maintain or use accounts at the same office of a Reserve Bank.

(c) "Item" means a writing evidencing a right to the payment of money, that is handled in accordance with this subpart.

(d) "Transfer item" means an item in a format provided for in a Reserve Bank operating circular: (1) Sent by a transferor (other than a Reserve Bank) to a Reserve Bank for debit to the transferor's account at the Reserve Bank and for credit to a transferee named in the item; or (2) sent by a Reserve Bank to another Reserve Bank for credit to the latter or to any other transferee; or (3) issued by a Reserve Bank at the request of a transferor for credit to a transferee.

(e) "Transfer request" or "request" means a request by telephone that a Reserve Bank issue a transfer item.

(f) "Transferee" means a member bank, a Reserve Bank, or other institution that maintains or uses an account at a Reserve Bank and that is designated in a transfer item or request to receive the amount of the item or request.

(g) "Transferor" means a member bank, a Reserve Bank, or other institution that maintains or uses an account at a Reserve Bank and that is authorized by that Reserve Bank to send a tranfer item or request to it.

(h) "Transferor's account" or "transferee's account" means that account at its Reserve Bank maintained or used by the transferor or transferee, respectiviely.

(i) "Transferor's Reserve Bank" or "transferee's Reserve Bank" means the Reserve office at which the transferor or transferee, respectively, maintains or uses an account.

§ 210.27 General provisions.

(a) *General.* Each Reserve Bank shall receive and handle transfer items, and shall itself issue transfer items, in accordance with this subpart. Each Reserve Bank shall issue an operating circular governing the details of its funds transfer operations and other matters deemed appropriate by the Reserve Bank. The circulars may, among other things: Set minimum and maximum dollar amounts; specify format requirements for transfer items and requests; and impose reasonable funds transfer charges.

(b) *Binding effect.* This subpart and the operating circulars of the Reserve Banks are binding on transferors and transferees.

(c) *Government transferors and transferees.* Except as otherwise provided by statutes of the United States, or regulations issued or arrangements made thereunder, this subpart and the operating circulars of the Reserve Banks apply to the following when acting as a transferor or transferee: A department, agency, instrumentality, independent establishment, or office of the United States, or a wholly owned or controlled Government corporation, that maintains or uses an account with a Reserve Bank.

§ 210.28 Media for transfer items and requests.

(a) *Transfer items.* A transferor may issue and send a transfer item in any of the following media, if specified in the operating circular of the transferor's Reserve Bank:

(1) A letter, memorandum, or similar writing

(2) A telegram (including TWX, TELEX, or similar form of communication); and

(3) Any form of communication, other than voice, registered on (or in form suitable for being registered on) magnetic tape, disc, or other medium designed to contain in durable form conventional signals used for electronic communication of messages.

(b) *Transfer requests.* A transferor may make transfer requests only under special arrangements with its Reserve Bank. The Reserve Bank may record these telephone messages.

§ 210.29 Transferor's agreement.

A Transferor, by sending a transfer item or making a transfer request to its Reserve Bank authorizes:

(a) Its Reserve Bank to debit the amount to the transferor's account, and to handle the transfer item or request in accordance with this subpart and the operating circulars of the Reserve Banks; and

(b) The transferee's Reserve Bank to handle a matching transfer item (matching as to amount, transferee, and beneficiary, if any) in accordance with

this subpart and the operating circulars of the transferee's Reserve Bank.

§ 210.30 Transferee's agreement.

(a) A transferee (other than a Reserve Bank), by maintaining or using an account at a Reserve Bank, authorizes its Reserve Bank to credit the amount of the transfer item to its account.

(b) A transferee (other than a Reserve Bank) that receives the amount of a transfer item designating a beneficiary, agrees:

(1) To credit promptly the beneficiary's account or otherwise make the amount available to the beneficiary; or

(2) To notify promptly its Reserve Bank if it is unable to do so because of circumstances beyond its control.

§ 210.31 Sending transfer items and requests.

(a) A transferor (other than a Reserve Bank) may send a transfer item to, or make a transfer request of, its Reserve Bank only if it arranges to have in its account, at the end of its Reserve Bank's banking day, a balance of actually and finally collected funds sufficient to cover the amounts of transfer items debited to the account during that day. The Reserve Bank has a security interest in the transferor's assets in the possession of, or held for the account of, the Reserve Bank if:

(1) The balance in the transferor's account at the end of its Reserve Bank's banking day is not sufficient to cover the amounts debited to the account during that day; or

(2) The transferor suspends payment or is closed at any time during the Reserve Bank's banking day, and does not have a balance sufficient to cover the amounts debited to its account.

A Reserve Bank may, in its discretion, refuse to act on a transfer item or request if it has reason to believe that the balance in the transferor's account is not sufficient to cover the item or request.

(b) A Reserve Bank may send a transfer item to, or make a transfer request of, another Reserve Bank.

§ 210.32 Handling transfer items and requests.

(a) *Intraoffice transactions.* If the transferor and transferee maintain or use accounts at the same Reserve office, that office shall act on a transfer item by debiting and crediting their accounts. The Reserve office shall act on a transfer request by issuing a transfer item, and debiting and crediting the accounts.

(b) *Interoffice transactions.* The transferor's Reserve Bank shall handle an interoffice transaction by debiting the transferor's account and, acting as a transferor, issuing and sending to the transferee's Reserve Bank a matching transfer item (matching as to amount, transferee, and beneficiary, if any). The transferee's Reserve Bank shall transfer funds to the transferee by debiting the account of the transferor's Reserve Bank, and crediting the transferee's account.

(c) *Notice of delay.* If a Reserve Bank learns that it is unable to effectuate a transfer of funds on a timely basis for any reason, it shall notify the transferor of the delay within a reasonable time.

§ 210.33 Time limits.

(a) *Time schedule.* Each Reserve Bank shall include in its operating circular a schedule showing the hours during which it handles transfer items and requests.

(b) *Acting seasonably.* A Reserve Bank acts seasonably if it takes proper action on the day it receives a transfer item or request. Taking proper action within a reasonably longer time may be seasonable but the Reserve Bank has the burden of so establishing. No Reserve Bank shall represent that it will complete a transfer of funds on the day requested.

(c) *Transfers after closing hour.* A Reserve Bank is not required to act on the day it receives an item or request if it receives the item or request after the time shown in its schedule. In emergency or other unusual circumstances, a Reserve Bank may handle a transfer item or request after the time shown in its schedule. The completion of an interoffice transaction in these circumstances is also discretionary with the transferee's Reserve Bank.

(d) *As of adjustments.* If a Reserve Bank fails to credit the amount of a transfer item or request to the transferee's account on the day requested, the Reserve Bank shall, unless otherwise instructed, complete the transfer on its next banking day and make adjustments for reserve accounting purposes as of the day the transfer was to have been made.

§ 210.34 Advices of credit and debit.

(a) *Advice of credit.* The transferee's Reserve Bank shall give advice of credit to the transferee for an executed transfer of funds.

(b) *Advice of debit.* Ater receiving a transfer item or request, the transferor's Reserve Bank shall send an advice of debit to the transferor. A transferor is deemed to approve the accuracy of an advice of debit unless it sends to its Reserve Bank written objection within 10 calendar days of receiving the advice of debit.

§ 210.35 Revocation of transfer items and requests.

(a) *Request for revocation.* A Reserve Bank may cease acting on a transfer item or request if it receives from the transferor a request for revocation in time to give the Reserve Bank a reasonable opportunity to comply. If funds have been transferred, the Reserve Bank may, on request from the transferor, ask the transferee to return the funds. In an interoffice transaction, the Reserve Bank may ask the transferee's Reserve Bank to ask the transferee to return the funds.

(b) *Erroneous transfer.* In an errorneous or irregular transfer of funds, a Reserve Bank may, on its own initiative or at the request of another Reserve Bank, ask the transferee to return funds previously transferred.

§ 210.36 Final payment; use of funds.

(a) *Final payment.* A transfer item is finally paid when the transferee's Bank sends the transfer item or sends or telephones the advice of credit for the item to the transferee, whichever occurs first.

(b) *Right to use funds.* Credit given by a Reserve Bank for a transfer of funds becomes available for use when the transfer item is finally paid, subject to the Reserve Bank's right to apply the transferred funds to an obligation owed to it by the transferee.

§ 210.37 Timeliness of action.

If, because of circumstances beyond its control, a Reserve Bank is delayed beyond the time limit provided in this subpart, in its operating circular, or by law in acting on a transfer item or request, the time for acting is extended for the time necessary to complete the action, if the Reserve Bank exercises such diligence as the circumstances require.

§ 210.38 Reserve Bank liability.

(a) *Limitations on liability.* A Reserve Bank shall not have or assume any responsibility to a transferee, beneficiary, or other party, except its immediate transferor. A Reserve Bank shall not be liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person, including a transferor, except as provided in this section. A Reserve Bank shall not have or assume any liability except for its own or another Reserve Bank's lack of good faith or failure to exercise ordinary care.

(b) *Damages.* A Reserve Bank is liable for damages proximately caused by a failure to credit the amount of a transfer

item or request to the transferee's account caused by a Reserve Bank's failure to exercise ordinary care or to act in good faith. Whether damages are proximately caused by a Reserve Bank's failure to exercise ordinary care or to act in good faith is a question of fact to be determined in each case.

(c) *Right to indemnity.* The transferee's Reserve Bank shall indemnify the transferor's Reserve Bank for any loss or expense sustained (including attorneys' fees and expenses of litigation) as a result of the failure of the transferee's Reserve Bank to exercise ordinary care or to act in good faith in an interoffice transaction.

Board of Governors of the Federal Reserve System, December 13, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-38852 Filed 12-18-79; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration.

ACTION: Publication of Semi-Annual Agenda of Regulations.

SUMMARY: Pursuant to Executive Order No. 12044: Improving Government Regulations, NCUA is publishing a list of regulations under consideration by NCUA as of December 13, 1979.

DATE: Effective December 17, 1979.

ADDRESS: National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: (a) On the Executive Order or the Agenda, Robert Monheit, Senior Attorney/ Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration at the above address. Telephone: (202) 357–1030. (b) On a particular regulation, contact the person named in the listing for that regulation at the above address.

SUPPLEMENTARY INFORMATION: On March 23, 1978, Executive Order No. 12044 was issued, directing each executive agency to publish a report on procedures to improve government regulations. The Executive Order also directed each agency to publish, twice a year, a list of significant regulations being considered, along with a description of the regulation, its need and legal basis, its status, the name and telephone number of an agency official familiar with the regulation and whether a regulatory analysis is required for that regulation. On May 31, 1978, NCUA published its draft report for public comment (43 FR 23688); NCUA's final report was published on March 23, 1979 (44 FR 17954).

The first Semi-Annual Agenda was published on December 15, 1978 (43 FR 58654). Twelve regulations were listed as being under development (from the stage of preliminary review through the issuance of a final regulation). In addition, the first Agenda listed twenty existing regulations to be reviewed in the future, set forth a brief description of the aim of the review, and gave the name of an agency official to contact for further information.

The second Semi-Annual Agenda was published on July 2, 1979 (44 FR 38560). Nineteen regulations were listed as being under development. (Those regulations listed in the first Agenda as having been issued in final form were not listed in the second Agenda.) The list of existing regulations to be reviewed was divided into two categories. The first ("Regulations Reviewed") contained a list of nine regulations where substantial progress had been made in the review process (from preliminary review through the issuance of a final, revised, regulation). The second group ("Regulations to be Reviewed") listed eleven regulations yet to be reviewed.

The division of categories ("Regulations Under Development", "Regulations Reviewed", and "Regulations to be Reviewed") is continued in this third Semi-Annual Agenda. Those regulations listed in the second Agenda as having been issued in final have not been included.

Agenda: Regulations Under Development

1. a. Section 703.3, *Investment Activities of Federal Credit Unions,* restricting involvement in investment activities that are unauthorized or otherwise unsafe or unsound.

b. *Need:* To curb abuses, and resulting substantial losses, arising from certain speculative investment transactions, and to clarify the permissible range of authorized investment transactions.

Legal basis: 12 U.S.C. 1757, 1766, and 1789.

c. *Status:* Final regulation issued July 20, 1979 (44 FR 42673), effective July 20, 1979.

d. *For Further Information Contact:* Robert F. Schafer, Office of Examination and Insurance, telephone: (202) 357–1055.

2. a. Section 701.31, *Nondiscrimination Requirements,* anti-"redlining" regulation prohibiting the sole consideration of the age or location of a dwelling, and the consideration of the race, color, religion, sex, or national origin of persons living in the vicinity, when a Federal credit union decides on granting a mortgage loan.

b. *Need:* To prevent the discriminatory practice of "redlining."

Legal Basis: 12 U.S.C. 1757(5)(A)(i), 1766, and 1789.

c. *Status:* Final regulation issued August 31, 1979 (44 FR 51191) effective October 29, 1979.

d. *For Further Information Contact:* Edward J. Dobranski, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

3. a. Part 747, *Rules of Practice and Procedure,* for involuntary termination of insured status, issuance of cease and desist orders, issuance of orders of removal and prohibition, issuance of orders for involuntary liquidation, and imposing civil penalties for violations of cease and desist orders.

b. *Need and Legal Basis:* Title I, Pub. L. 95–630; 12 U.S.C. 1766, 1786, and 1787.

c. *Status:* Final regulation issued July 18, 1979 (44 FR 41760), effective July 18, 1979.

d. *For Further Information Contact:* Jay Keithley, Attorney-Advisor, Office of General Counsel, telephone: (202) 357–1030.

4. a. Part 711, *Management Interlocks,* to regulate the practice of management officials of credit unions serving as management officials of other depository institutions.

b. *Need and Legal Basis:* "Depository Institutions Management Interlocks Act," Title II, Pub. L. 95–630.

c. *Status:* Final regulation issued July 19, 1979 (44 FR 42163); effective July 19, 1979. Proposed amendments issued July 19, 1979 (44 FR 42212), comment period closed September 17, 1979.

d. *For Further Information Contact:* Ross P. Kendall, Attorney-Advisor, Office of General Counsel, telephone: (202) 357–1030.

5. a. *NCUA Restructuring,* to revise NCUA's internal procedures and NCUA regulations in light of the creation of a three person Board to manage the agency.

b. *Need and Legal Basis:* Title V, Pub. L. 95–630, and 5 U.S.C. 552b.

c. *Status:* Final regulations drafted.

d. *For Further Information Contact:* Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

6. a. Part 725, *National Credit Union Central Liquidity Facility,* to govern

membership in, access to, and the internal procedures of the Central Liquidity Facility.

b. *Need and Legal Basis:* Title XVIII, Pub. L. 95-630.

c. *Status:* Final regulation issued August 23, 1979 (44 FR 49431), effective August 23, 1979.

d. *For Further Information Contact:* V. "Mike" Fischer, Chief Accountant, Office of Examination and Insurance, and Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance, telephone (202) 357-1055; Mark S. Medvin, Senior Attorney, Office of General Counsel, telephone: (202) 357-1030.

e. *Regulatory Analysis* is available.

7. a. Section 740.3, *Mandatory Requirements* with Regard to the Official Sign and Its Display, and § 745.13 Notification of Depositors/Shareholders, amendments to except automated teller machines (ATM's) and point of sale (POS) terminals from the "Advertisement of Insured Status" requirements.

b. *Need:* To reduce regulatory requirements and to prevent confusion in situations where several financial institutions insured by different Federal and/or State agencies share the same ATMs or POS terminals.

Legal Basis: 12 U.S.C. 1766 and 1789.

c. *Status:* Final regulation issued August 23, 1979 (44 FR 49441), effective August 23, 1979.

d. *For Further Information Contact:* Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance, telephone: (202) 357-1055.

8. a. *Debt Collection Practices,* to impose uniform and comprehensive restrictions on collection of debts.

b. *Need:* To protect credit union members from abusive debt collection practices; to provide credit union management with guidance as to permissible debt collection practices.

c. *Status:* Final Notice issued August 29, 1979 (44 FR 50607) announcing decision not to issue comprehensive regulation at this time.

d. *For Further Information Contact:* Joseph F. Myers, Consumer Affairs Specialist, Division of Consumer Affairs, Office of Examination and Insurance, telephone: (202) 357-1055; John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 357-1030.

9. a. Part 742, *Liquidity Reserves of Insured Credit Unions,* to require federally insured credit unions to maintain liquid asset holdings in amounts not less than 5% of total member accounts and notes payable.

b. *Need:* To ensure that federally insured credit unions can meet significant and, perhaps, unexpected outflows of funds without liquidating valuable investment and loan assets; to provide protection against untimely sale of valuable assets possibly leading to insolvency and credit union failures.

Legal Basis: 12 U.S.C. 1762(b), and 1781(b)(6).

c. *Status:* Final regulation issued August 31, 1979 (44 FR 51200), effective October 31, 1979. Technical amendment issued October 4, 1979 (44 FR 57071), effective October 31, 1979.

d. *For further information Contact:* Robert H. Dugger, Director, Office of Policy Analysis, telephone: (202) 357-1090; Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 357-1030.

e. *Regulatory analysis* is available.

10. a. Sections 701.2, 701.14, and 701.15 *Incorporation by Reference,* listing description of NCUA manuals having the force and effect of regulations.

b. *Need:* To give important technical requirements the force and affect of law, and to review the status of existing manuals.

Legal Basis: 5 U.S.C. 552(a)(1).

c. *Status:* Final regulation issued July 6, 1979 (44 FR 39383), effective August 3, 1979.

d. *For Further Information Contact:* Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 357-1030.

11. a. Section 701.21-6A *Agency Relationship with Approved Mortgage Lender,* to permit Federal credit unions to act as agents for approved mortgage lenders.

b. *Need:* To provide mortgage loans to members of those Federal Credit unions that are unable to otherwise provide such loans.

Legal Basis: 12 U.S.C. 1757(5)(A) and (15); 12 U.S.C. 1766.

c. *Status:* Proposed regulation issued August 30, 1979 (44 FR 50850); comment period closed November 7, 1979.

d. *For Further Information Contact:* Robert M. Fenner, Assistant General Counsel or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 357-1030.

12. a. Part 704, *Corporate Central Federal Credit Unions,* amendments concerning operations and requirements of corporate central Federal credit unions that differ from natural person credit unions.

b. *Need:* To permit greater flexibility in capital structure; to ensure representation of member credit unions on the board of directors and on the credit committee of a corporate central Federal credit union; and to require an independent audit.

Legal Basis: 12 U.S.C. 1761, 1762, 1766, and 1789.

c. *Status:* Final regulation issued October 10, 1979 (44 FR 58496), effective November 10, 1979.

d. *For Further Information Contact:* V. "Mike" Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 357-1055.

13. a. Section 700.1(j), *Definition of Non-Risk Assets,* amendment expanding the difinition to include loans insured or guaranteed by the Federal or a State government, and guarantee accounts established under 12 U.S.C. 1788(a)(1).

b. *Need:* To relieve unnecessary restrictions and to thereby reduce credit union reserve requirements.

Legal Basis: 12 U.S.C. 1762 and 1766.

c. *Status:* Final regulation issued September 27, 1979 (44 FR 5554), effective September 27, 1979.

d. *For Further Information Contact:* Jerry L. Courson, Office of Examination and Insurance, telephone: (202) 357-1055; or Edward J. Dobranski, Senior Attorney Office of General Counsel, telephone: (202) 357-1030.

14. a. 701.1 *Organizing a Federal Credit Union,* setting forth the requirements for chartering a Federal credit union.

b. *Need:* To review, update, and revise NCUA's chartering policies and practices.

Legal Basis: 12 U.S.C. 1753, 1754, 1758, 1759, 1766 and 1789.

c. *Status:* Proposed regulation issued July 26, 1979 (44 FR 43737); comment period closed October 1, 1979; final regulation drafted.

d. *For Further Information Contact:* Jon W. Lander, Office of Examination and Insurance, telephone: (202) 357-1055.

15. a. Part 708, *Mergers of Credit Unions,* amendment relieving certain restrictions on the process of mergers of credit unions.

b. *Need:* To provide for a more democratic process by eliminating the requirement that at least 20% of the total membership participate in the merger vote; and to permit the NCUA Board to approve a merger as an alternative to liquidation due to insolvency, without membership approval.

Legal Basis: 12 U.S.C. 1766 and 1789.

c. *Status:* Proposed regulation issued October 24, 1979 (44 FR 611189); comment period closed November 26, 1979. Final regulation approved by NCUA Board and forwarded to the Federal Register on December 6, 1979.

d. *For Further Information Contact:* James J. Engel, Assistant General

Counsel, Office of General Counsel, telephone: (202) 357–1030.

16. a. Section 725.7, *Special Share Accounts of Agent Members,* allowing the agent members of the NCUA Central Liquidity Facility to require their natural person credit union members to maintain special share accounts to cover CLF stock subscription costs attributable to the natural person credit union.

b. *Need:* To provide agent members with the funds to pay the CLF stock subscription without substantially, adversely affecting their other financial activities.

Legal Basis: 12 U.S.C. 1795c(b)(3) and 1795f(2).

c. *Status:* Proposed regulation drafted.

d. *For Further Information Contact:* V. "Mike" Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 357–1055; or Mark S. Medvin, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

17. a. Section 700.1 *Definition of Risk Assets and Gross Income,* amendment excluding from the definition of "risk asset" any investment in the shares of the NCUA Central Liquidity Facility, and excluding from the definition of "gross income" dividends received on shares of the NCUA Central Liquidity Facility, and interest received on CLF loans up to the amount of interest paid by Agent members on loans from the Facility.

b. *Need:* To relieve unnecessary restrictions and thereby reduce the reserve requirements of Agent members of the NCUA Central Liquidity Facility.

Legal Basis: 12 U.S.C. 1766, 1789, and 1795f(2).

c. *Status:* Proposed regulation drafted.

d. *For Further Information Contact:* V. "Mike" Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 357–1055; or Mark S. Medvin, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

REVIEW OF REGULATIONS

The following is a list of regulations to be reviewed in the future. The purpose of the review will be to update, clarify, and simplify existing regulations, and to eliminate redundant and unnecessary provisions. These regulations are divided into two groups. The first grouping contains those regulations in which substantial progress has been made (since the last publication of the Agenda) and includes a statement concerning the status of the review. The second grouping contains those regulations yet to be reviewed.

A. Regulations Reviewed

1. a. Sections 701.2, 701.14, and 701.15, *Incorporation By Reference,* review to determine whether the manuals listed should have the force and effect of law.

b. *Status:* Final regulation (eliminating the incorporation by reference status of certain manuals) issued, see: Regulations Under Development, No. 10. Review of remaining manuals is continuing.

c. *For Further Information Contact:* Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 357–1030.

2. a. Section 701.1 *Organizing a Federal Credit Union,* review to update and revise NCUA's chartering policies and practices.

b. *Status:* Proposed regulation issued, see: Regulations Under Development, No. 14 (above).

c. *For Further Information Contact:* Jon W. Lander, Office of Examination and Insurance, telephone: (202) 357–1055.

3. a. Part 710, *Voluntary Liquidation,* review to determine whether regulations on this subject are necessary or whether the subject may be covered in a manual.

b. *Status:* Final edit of manual has been drafted.

c. *For Further Information Contact:* William Berens, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 357–1055.

4. a. Part 747, Subparts B, C, and D, *Rules of Practice and Procedure for Involuntary Termination of Insured Status,* for Cease and Desist Orders, and for Suspension and Removal Orders, review to determine whether to eliminate provisions that merely duplicate the Federal Credit Union Act.

b. *Status:* Final regulation issued, see: Regulation Under Development, No. 3.

c. *For Further Information Contact:* James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 357–1030.

B. Regulations To Be Reviewed

1. Sections 701.3 and 701.4, *Standard Form of Bylaws and Amendment of Bylaws,* review to determine whether the regulations on this subject are necessary.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 357–1055.

2. Section. 701.10, *Establishment of Cash Fund,* review to determine whether a regulation is necessary on this subject.

For Further Information Contact: Jerry L. Courson, Division of Examination, Office of Examination and Insurance, telephone: (202) 357–1055.

3. Sections 701.11, and 701.13, *Election Report, and Financial and Statistical and Other Reports,* review to determine whether the regulation is necessary to require submission of needed reports.

For Further Information Contact: Jerry L. Courson, Division of Examination, Office of Examination and Insurance, telephone: (202) 357–1055.

4. Section 701.12, *Supervisory Committee Audit,* review to determine whether the regulation on this subject is necessary or whether the subject might be covered in a manual.

For Further Information Contact: V. "Mike" Fischer, Chief Accountant, Office Examination and Insurance, telephone: (202) 357–1055.

5. Sections 701.22 and 701.23, *Selling and Cashing Checks and Money Orders,* review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

For Further Information Contact: Thomas A. Straslicka, Division of Examination, Office of Examination and Insurance, telephone: (202) 357–1055.

6. Section 701.30, *Safe Deposit Box Service,* review to consolidate with regulations on Minimum Security Devices and Procedures, part 748 of NCUA's Rules and Regulations.

For Further Information Contact: Wilmer Theard, Division of Examination, Office of Examination and Insurance, telephone: (202) 357–1055.

7. Part 703, *Investments and Deposits,* review to update in light of § 703.3.

For Further Information Contact: Robert Schafer, Division of Examination, Office of Examination and Insurance, telephone: (202) 357–1055.

8. Parts 706 and 707, *Conversion from Federal to State Credit Union, and Conversion from State to Federal Credit Union,* review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 357–1055.

9. Parts 708 and 709, *Mergers of Credit Unions,* Division of Assets, Liabilities, and Capital, review to determine whether regulations on these subjects are necessary or whether they may be covered in a manual.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 357–1055.

10. Part 735, *Employee Responsibility and Conduct,* review to update.

For Further Information Contact: James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 357–1030.

11. Part 748, *Minimum Security Device and Procedures,* review to update and simplify in view of the needs of Federal credit unions.

For Further Information Contact: Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, telephone: (202) 357–1055.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 79-38854 Filed 12-18-79; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Naval Architecture and Marine Engineering Size Standard Proposal

AGENCY: Small Business Administration.

ACTION: Notice of extension of comment period.

SUMMARY: The time for comment on the proposal (44 FR 60746) to change the current definition of small business 13 CFR 121.3–8(e)(6) expired on November 21, 1979. This proposal would change the current standrd of $9 million in average annual receipts to 1,000 employees.

A number of individuals and companies have requested an additional period in which to supply their comments. In order to assure the widest possible participation on this proposal, the time for comment will be extended for 30 days following the publication of this notice.

DATE: Written comments must be submitted by January 18, 1980.

ADDRESS: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: John D. Whitmore, (202) 653–6373.

Dated: December 13, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-38926 Filed 12-18-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-194-78]

Unemployment Compensation

AGENCY: Internal Revenue Service, Treasury.

ACITON: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the taxation of unemployment compensation. Changes to the applicable law were made by the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with that Act and would affect all taxpayers who receive unemployment compensation under a governmental unemployment compensation plan.

DATES: Written comments and requests for a public hearing must be delivered by February 18, 1980. The Amendments are proposed to be effective for taxable years beginning after December 31, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR–194–78), Washington,D.C., 20224.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, (LR–194–78), 202–566–3432, not a toll-free number.

SUPPLEMENTARY INFORMATION

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 85 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 112 (a) and (c) of the Revenue Act of 1978 (92 Stat. 2777) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

In general, section 112 (a) of the Revenue Act of 1978 provides that unemployment compensation paid pursuant to governmental programs must be included in gross income if the taxpayer's adjusted gross income, after certain modifications, exceeds a statutory base amount. The amount of unemployment compensation included in gross income, however, is limited to the lesser of (1) one-half of the excess of a taxpayer's modified adjusted gross income over the statutory base amount or (2) the amount of the unemployment compensation. If a taxpayer's modified adjusted gross income does not exceed the applicable base amount, all of the unemployment compensation may be excluded from gross income.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was John G. Schmalz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Immediately after § 1.83–8, there is added the following new section:

§ 1.85–1 Unemployment compensation.

(a) *Introduction.* Section 85 prescribes rules relating to the inclusion in gross income of unemployment compensation (as defined in paragraph (b)(1) of this section) paid in taxable years beginning after December 31, 1978 pursuant to governmental programs. In general, these rules provide that unemployment compensation paid pursuant to governmental programs is includible in the gross income of a taxpayer if the taxpayer's modified adjusted gross income (as defined in paragraph (b)(2) of this section) exceeds a statutory base amount (as defined in paragraph (b)(3) of this section). If there is such an excess, however, the amount included in gross income is limited under paragraph (c)(1) of this section to the lesser of one-half of such excess or the amount of the unemployment compensation. If such taxpayer's modified adjusted gross income does not exceed the applicable statutory base amount, none of the

unemployment compensation is included in the taxpayer's gross income.

(b) *Definitions*—(1) *Unemployment compensation*—(i) *General rule.* Except as provided in paragraph (b)(1)(iii) of this section, the term "unemployment compensation" means any amount received under a law of the United States, or of a State, which is in the nature of unemployment compensation. Thus, section 85 applies only to unemployment compensation paid pursuant to governmental programs and does not apply to amounts paid pursuant to private nongovernmental unemployment compensation plans (which are includible in income without regard to section 85). Generally, unemployment compensation programs are those designed to protect taxpayers against the loss of income caused by involuntary layoff. Ordinarily, unemployment compensation is paid in cash and on a periodic basis. The amount of the payments is usually computed in accordance with a formula based on the taxpayer's length of prior employment and wages. Such payments, however, may be made in a lump sum or other than in cash or on some other basis.

(ii) *Disability and worker's compensation payments.* Amounts in the nature of unemployment compensation also include cash disability payments made pursuant to a governmental program as a substitute for case unemployment payments to an unemployed taxpayer who is ineligible for such payments solely because of the disability. Usually these disability payments are paid in the same weekly amount and for the same period as the unemployment compensation benefits to which the unemployed taxpayer otherwise would have been entitled. Amounts received under workmen's compensation acts as compensation for personal injuries or sickness are not amounts in the nature of unemployment compensation. See section 104(a)(1) relating to the exclusion from gross income of such amounts.

(iii) *Employee contributions to a governmental plan.* If a governmental unemployment compensation program is funded in part by an employee's contribution which is not deductible by the employee, an amount paid to such employee under the program is not to be considered unemployment compensation until an amount equal to the total nondeductible contributions paid by the employee to such program has been paid to such employee.

(iv) *Examples of governmental unemployment compensation programs.* Governmental unemployment compensation programs include (but are not limited to) programs established under:

(A) A State law approved by the Secretary of Labor pursuant to section 3304 of the Internal Revenue Code of 1954.

(B) Chapter 85 of Title 5, United States Code, relating to unemployment compensation for Federal employees generally and for ex-servicemen.

(C) Trade Act of 1974, sections 231 and 232 (19 U.S.C. 2291 and 2292).

(D) Disaster Relief Act of 1974, section 407 (42 U.S.C. 5177).

(E) The Airline Deregulation Act of 1978 (49 U.S.C. 1552 (b)).

(F) The Railroad Unemployment Insurance Act, section 2 (45 U.S.C. 352).

(2) *Modified adjusted gross income.* The term "modified adjusted gross income" means the sum of the following amounts:

(i) Adjusted gross income (as defined in section 62);

(ii) All disability payments of the type that are eligible for exclusion from gross income under section 105(d); and

(iii) All amounts of unemployment compensation (as defined in paragraph (b)(1) of this section).

(3) *Base amount.* The term "base amount" means—

(i) $25,000 in the case of a joint return under section 6013.

(ii) Zero in the case of a taxpayer who—

(A) Is married (within the meaning of section 143) at the close of the taxable year,

(B) Does not file a joint return for such taxable year, and

(C) Does not live apart (as defined in paragraph (b) (4) of this section) from his or her spouse at all times during the taxable year.

(iii) $20,000 in the case of all other taxpayers.

(4) *Living apart.* A taxpayer does not "live apart" from his or her spouse at all times during a taxable year if for any period during the taxable year the taxpayer is a member of the same household as such taxpayer's spouse. A taxpayer is a member of a household for any period, including temporary absences due to special circumstances, during which the household is the taxpayer's place of abode. A temporary absence due to special circumstances includes a nonpermanent absence caused by illness, education, business, vacation, or military service.

(c) *Limitations*—(1) *General rule.* If for a taxable year, a taxpayer's modified adjusted gross income does not exceed the applicable statutory base amount, no amount of unemployment compensation is included in gross income for the taxable year. If there is such an excess, the taxpayer includes in gross income for the taxable year the lesser of the following:

(i) One-half of the excess of the taxpayer's modified adjusted gross income over such taxpayer's base amount, or

(ii) The amount of unemployment compensation.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). H and W are married taxpayers who for calendar year 1979 file a joint income tax return. During 1979 H receives $4,500 of disability income that is eligible for an exclusion under section 105(d). W works for part of 1979 and receives $20,000 as compensation and also receives $5,000 of unemployment compensation in 1979. Assume that H and W's adjust gross income is $20,000. The modified adjusted gross income of H and W is $29,500 ($4,500 + $20,000 + $5,000). Since their modified adjusted gross income ($29,500) is greater than their base amount ($25,000), some of the unemployment compensation received by W must be included in their gross income on their 1979 joint income tax return. Under paragraph (c) (1) of this section, of the $5,000 which is unemployment compensation, the lesser of $2,250 (($29,500—25,000) ÷ 2) or $5,000 must be included in their gross income. Thus, $2,250 of the $5,000 received by W in 1979 is included in the gross income of H and W on their joint income tax return for 1979.

Example (2). Assume the same facts in example (1) except H receives $5,000 of disability income that is eligible for an exclusion under section 105 (d) and W receives $28,000 as compensation, and $4,000 which is unemployment compensation. Assume that H and W's adjusted gross income is $28,000. The modified adjusted gross income of H and W is $37,000 ($4,000 + $28,000 + $5,000). Since their modified adjusted gross income ($37,000) is greater than their base amount ($25,000), all of the unemployment compensation received by W must be included in their gross income on their 1979 joint income tax return. Under paragraph (c)(1) of this section, of the $4,000 which is unemployment compensation, the lesser of $6,000 (($37,000—$25,000) ÷ 2) or $4,000 must be included in their gross income. Thus, all of the $4,000 unemployment compensation received by W is included in the gross income of H and W on their joint income tax return for 1979.

(d) *Cross reference.* See section 6050B, relating to the requirement that every person who makes payments of unemployment compensation aggregating $10 or more to any individual during any calendar year file an information return with the Internal Revenue Service.

Par. 2. Immediately after § 1.6050–1, there is added the following new section:

§ 1.6050B-1 Information returns by person making unemployment compensation payments.

For taxable years beginning after December 31, 1978, every person who makes payments of unemployment compensation (as defined in section 85 (c)) aggregating $10 or more to any individual during any calendar year shall file a Form 1099UC in accordance with the instructions to such form.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-38890 Filed 12-18-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 25 and 301

[LR-215-76]

Filing of Gift Tax Returns; Furnishing Statement Explaining Estate or Gift Valuation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the time for filing gift tax returns and for requesting a statement explaining valuation for estate, gift or generation-skipping transfer tax purposes. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act. In addition, this document contains a proposed change to an example that relates to the definition of a general power of appointment.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 18, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, LR-215-76, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, LR-215-76, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Gift Tax Regulations (26 CFR Part 25) under section 6075(b), and the Procedure and Administration Regulations (26 CFR Part 301) under section 7517 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2008 (a) (2) and (b) of the Tax Reform Act of 1976 (90 Stat. 1891 and 2) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). Section 25.2514-1 of the Gift Tax Regulations is also amended to clarify the definition of a general power of appointment.

This regulation does not meet the Treasury criteria for a significant regulation.

Correction of an Example Relating to the Definition of a General Power of Appointment

Section 25.2514-1 is amended to correct an erroneous conclusion made in an example. Under the example, as revised, an individual who exercises a nongeneral power of appointment over property will be treated as having exercised a general power of appointment to the extent that the individual also possesses a presently exercisable general power of appointment over the same property.

Filing Gift Tax Returns

In general, for calendar years beginning after December 31, 1976, a gift tax return must be filed by the 15th day of the second month following the close of the first calendar quarter during which the total amount of taxable gifts made during the calendar year exceeds $25,000, and must include all taxable gifts made in that quarter and any preceding calendar quarters.

A return is also required following the close of each subsequent calendar quarter during which $25,000 is again exceeded by the total amount of taxable gifts made during the calendar year for which no return has yet been made.

If the total amount of taxable gifts made during the calendar year does not exceed $25,000, or if a return is filed following one or more calendar quarters and the total amount of taxable gifts made in subsequent calendar quarters does not exceed $25,000, the return with respect to such gifts must be filed by February 15 of the following calendar year.

If the donor is a nonresident not a citizen of the United States, the rules are to be applied by substituting $12,500 for $25,000.

Furnishing on Request of Statement Explaining Estate or Gift Valuation

In general, the request described in section 7517, relating to the Service's furnishing to the taxpayer at the request of the taxpayer a statement explaining valuation for estate, gift or generation-skipping transfer tax purposes, must be made before the statutory period for assessment has expired. Section 7517 applies to estates of decedents dying after and gifts made after December 31, 1976, and to generation-skipping transfers subject to chapter 13.

Drafting Information

The principal author of these proposed regulations is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 25 and 301 are as follows:

Paragraph 1. Section 25.2514-1 is amended by revising the last two sentences of paragraph (c) (1) to read as set forth below.

§ 25.2514-1 Transfers under power of appointment.

* * * * *

(c) *Definition of "general power of appointment".*—(1) *In general.* * * * For example, a beneficiary may have a general power to withdraw a limited portion of trust corpus during his/her life, and a further power exercisable during his/her lifetime to appoint the corpus among his/her children. The latter power is not a general power of appointment only as to that part which is in excess of the limited portion of trust corpus which may be withdrawn by the beneficiary.

Par. 2. Sections 25.6075 and 25.6075-1 are deleted and the following new section is inserted in lieu thereof.

§ 25.6075-1 Returns; time for filing gift tax returns for gifts made after December 31, 1976.

(a) *Gifts in a calendar quarter totaling more than $25,000.* If the total amount of taxable gifts (as defined in section 2503) made by a donor during a calendar quarter beginning after December 31, 1976, exceeds $25,000, the gift tax return required by section 6019 shall be filed on or before the fifteenth day of the second month following the close of the calendar quarter. The return shall include (1) gifts made during such a calendar quarter, and (2) gifts made during all preceding calendar quarters of the same calendar year for which a return has not yet been required to be filed.

(b) *Gifts in a calendar quarter totaling $25,000 or less.* If the total amount of taxable gifts (as defined in section 2503) made by a donor during a calendar

quarter beginning after December 31, 1976, is $25,000 or less, a return shall be filed on or before the applicable date set forth in this paragraph. If the sum of taxable gifts made by a donor during the current calendar quarter of a calendar year and all preceding calendar quarters of that calendar year for which a return has not yet been required exceeds $25,000, then a return with respect to gifts made during such calendar quarters shall be filed on or before the fifteenth day of the second month following the close of the current calendar quarter. If, during a calendar year beginning after December 31, 1976, a donor has made any gifts for which a return is required to be filed under section 6019 and for which no return has been required to be filed under the preceding sentence or under paragraph (a) of this section, a return shall be filed with respect to all such gifts made during such calendar quarters not later than February 15 of the following calendar year. See section 7503 and § 301.7503–1 of 26 CFR Part 301 for the due date of a return that falls on a Saturday, Sunday, or a legal holiday. As to additions to the tax for failure to file the return within the prescribed time, see section 6651 and § 301.6651–1 of this chapter. See also section 6081 and § 25.6081–1 for rules relating to extensions of time for filing returns.

(c) *Nonresident not citizens of the United States.* In the case of a donor who is a nonresident not a citizen of the United States, paragraphs (a) and (b) of this section shall be applied by substituting "$12,500" for "$25,000" each place it appears. For rules relating to whether certain residents of possessions are considered nonresidents not citizens of the United States, see section 2501(c) and § 25.2501–1 (d).

(d) *Effective date.* This section is effective for gifts made after December 31, 1976.

26 CFR PART 301

Par. 3. A new § 301.7517–1 is added to read as set forth below.

§ 301.7517–1 Furnishing on request of statement explaining estate or gift valuation.

(a) *In general.* The request described in section 7517, relating to the Service's furnishing to the taxpayer at the request of the taxpayer a statement explaining the estate, gift or generation-skipping transfer valuation, should be filed with the district director's office that has audit jurisdiction over the return to which the request relates and must be filed before the statutory period for assessment of tax has expired.

(b) *Effective date*—(1) *Estates of decedents.* Section 7517 applies to estates of decedents dying after December 31, 1976.

(2) *Gifts.* Section 7517 applies to gifts made after December 31, 1976.

(3) *Generation-skipping transfer.* Section 7517 applies to any generation-skipping transfer subject to chapter 13.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79–38891 Filed 12–18–79; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[Notice No. 331]

Definition of the Phrase "Engaged in the Business"

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering amending the regulations in 27 CFR Part 178 to include a definition of the phrase "engaged in the business" when referring to a dealer of firearms or ammunition. Persons engaged in the business of dealing in firearms or ammunition are required to have Federal firearms licenses. ATF wishes to gather information by inviting comments from the public and industry on how the phrase "engaged in the business" should be defined. ATF also desires public comment on the feasibility and desirability of defining the phrase.

DATE: Comments must be received on or before March 18, 1980.

ADDRESS: Comments must be submitted in duplicate to Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044 (Attn: Chief, Regulations and Procedures Division).

FOR FURTHER INFORMATION CONTACT: Thomas L. Minton, Research and Regulations Branch, 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

Title I of the Gun Control Act of 1968 established procedures for the licensing of persons who intended to engage in the business of dealing in firearms or ammunition. Specifically, it is unlawful for anyone except a licensed dealer to engage in the business of dealing in firearms or ammunition (18 U.S.C. 922(a)(1) and 923(a)). The term "dealer" is defined in 18 U.S.C. 921(a)(11) and 27 CFR 178.11 to mean, among others, any person engaged in the business of selling firearms or ammunition at wholesale or retail. The law does not prohibit an unlicensed person from disposing of personal firearms as long as he or she is not engaging in the business of dealing in firearms.

The definition of the phrase "engaged in the business" is not defined in the law or the regulations. In fact, the courts have stated that the phrase does not seem susceptible to a rigid definition but turns on the facts and circumstances of each case. The phrase clearly connotes an element of continual or habitual practice. It implies an activity involving more than occasional participation or more than a single act. On the other hand, a single firearms transaction, under certain circumstances, has been held to be engaging in the business of dealing in firearms. For example, a person who makes a single sale and represents that he is ready, willing and able to procure firearms for future sales has been held to be engaging in the business.[1] Some United States courts of appeals have defined the term as that which occupies the time, attention and labor of men for the purpose of livelihood or profit.[2]

On the other hand, certain courts of appeals have taken the position that expectations of profit are not determinative of whether one is engaged in the business of selling firearms.[3] In lieu of a profit motive, they have looked to factors such as the continuing or repeated nature of the sales or representations made to prospective buyers as sufficient to prove engagement in the business.[4] In another case[5] the court stated that persons are engaged in the business of dealing in firearms if they have guns on hand or

[1] *United States* v. *Swinton*, 521 F.2d 1255 (10th Cir. 1975).

[2] *United States* v. *Gross*, 451 F.2d 1355 (7th Cir. 1971); *United States* v. *Huffman*, 518 F.2d 80 (4th Cir. 1975); *United States* v. *King*, 532 F.2d 505 (5th Cir. 1976); *United States* v. *Day*, 476 F.2d 562 (6th Cir. 1973); *United States* v. *Williams*, 502 F.2d 581 (8th Cir. 1974); *United States* v. *Van Buren*, 593 F.2d 125 (9th Cir. 1979).

[3] *United States* v. *Shirling*, 572 F.2d 532 (5th Cir. 1978).

[4] *United States* v. *Zeidman*, 444 F.2d 1051 (7th Cir. 1971); *United States* v. *Wilkening*, 485 F.2d 234 (8th Cir. 1973).

[5] *United States* v. *Jackson*, 352 F. Supp. 672, 674 (S.D. Ohio 1972), *aff'd without opinion*, 480 F.2d 927 (6th Cir. 1973).

are ready and able to procure them for the purpose of selling some or all of them to such persons as they might from time to time decide to accept as customers.

For a comprehensive discussion of how the term has been interpreted by the courts, see 32 A.L.R. Fed. 946 (1977).

Public Participation

ATF is studying the problem associated with the issue of "engaged in the business." While courts have continually found that the current situation is adequate for enforcement purposes, if possible, we would like to develop a workable, commonly understood definition of the phrase. At the same time we recognize that an analysis of the comments may indicate that a regulatory definition is not possible or not desirable. Therefore, we ask that interested persons submit pertinent comments, opinions, or data on the issue. We specifically request information from the public and the industry on the feasibility and the desirability of defining the phrase. We also request comments on how the phrase "engaged in the business" should be defined.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for further ATF action. Copies of this notice and of the comments will be available for public inspection during normal business hours at the following location:

Public Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

Drafting Information

The principal author of this document is Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This advance notice of proposed rulemaking is issued under the authority of 18 U.S.C. 926, as amended (82 Stat. 1226).

Signed: October 31, 1979.

G. R. Dickerson,

Director.

Approved: December 10, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-38836 Filed 12-18-79; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1377-7]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rulemaking: Proposed Approval of Revision.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to approve a Michigan Air Pollution Control Commission Order submitted by the Commission as a proposed revision to the Michigan State Implementation Plan (SIP). The Order was issued to the Detroit Edison Company on October 11, 1978 and extends the date that the company is required to meet the opacity limitation contained in the Federally approved Michigan SIP. The Order extends the date to December 31, 1981 and applies to Unit 6 at the Detroit Edison Company's generating facility in the City of St. Clair, East China Township, St. Clair County, Michigan. Any Order which has been issued to a major source and extends the date for meeting the opacity limitations contained in the SIP must be approved by USEPA before it becomes effective as a SIP Revision under the Clean Air Act (CAA), 42 U.S.C. 7410. If approved by USEPA, the extension will constitute a revision to the SIP. The purpose of this notice is to invite public comment on USEPA's proposed approval of the Order.

DATE: Comments must be received on or before January 18, 1980.

ADDRESSES: Send comments to: Steve Rothblatt, Chief, Air Programs Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the above address during normal business hours or at: Michigan Department of Natural Resources, Air Quality Division, State Secondary Complex, General Office Building, 7150 Harris Drive, P.O. Box 30028, Lansing, Michigan 48909.

FOR FURTHER INFORMATION: Joel Morbito, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6059.

SUPPLEMENTARY INFORMATION: The Detroit Edison Company (Edison) operates power generation facilities in the City of St. Clair, East China Township, St. Clair County, Michigan. The plant is commonly known as the St. Clair Plant. In accordance with Rule 336.41(c) of the Michigan Administrative Code, Edison requested authorization from the Michigan Air Pollution Control Commission (Commission), to operate Unit 6 at the St. Clair Plant until September 31, 1981, at an opacity greater than that otherwise authorized under the rule. Rule 336.41 prohibits the discharge into the atmosphere from a single source of emission, a visible air contaminant of a density darker than No. 1.0 of the Ringelmann chart or not more than 20% opacity, except that a visible contaminant of a density not darker than No. 2 of the Ringelmann chart or not more than 40% opacity may be emitted for not more than three minutes in any 60 minute period. This emission shall not be permitted on more than three occasions during any 24 hour period. Rate 336.41(c) authorizes an exception to the rule where compliance is not feasible and all other requirements of the Commission's rules are being met.

A public hearing was held on Edison's request on May 18, 1978, in conformity with the notice and hearing requirements set forth in 40 CFR 51.4 and 51.6. The only individuals testifying at the hearing were those testifying on behalf of the petitioners. The Commission's Final Order granting the request for extension of the compliance date was issued after the company and the Air Quality Division of the MDNR entered into a Stipulation For Entry of a Consent Order.

The Order requires the Company to complete installation of an electrostatic precipitator for Unit 6 by April 1, 1982. The order also requires the company to be in compliance with Rule 336.41 after December 31, 1981. The company has informed USEPA that the discrepancy in the date for the completion of the installation of the electrostatic precipitator and the date of compliance is due to the fact that the unit will be shut down December 31, 1981 to enable the Company to complete the installation of the electrostatic precipitator.

During a malfunction of the existing precipitator the company is authorized to operate Unit 6 in accordance with the provisions of the company's St. Clair Power Plant order #194 as revised January 18, 1978. When there is no

precipitator malfunction the company is authorized under the Order, to operate Unit 6 at an opacity of not greater than 55% computed as a six minute average, when the scrubber is operating; when the scrubber is not operating the company is authorized to operate that unit at an opacity not greater than 65%, computed on a six minute average.

The Final Order was submitted to USEPA in June, 1979, as a proposed revision to the Michigan SIP. Additional information was submitted August 14, 1979. USEPA reviewed the Order and the technical support material submitted in support of the Order. A review of the stack test data showed that all six stacks of the St. Clair Power Plant were in compliance with the allowable maximum emission rate for particulates and all stacks with exception of No. 3 were in compliance with the allowable emission opacity limits. No. 3 exceeded the allowable opacity limit of 40%. As a result, Edison will install a new electrostatic precipitator to achieve compliance by December 31, 1982.

USEPA determined that the proposed revision will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards. Pursuant to 110 of the CAA, the Administrator of USEPA must approve the final order as a revision to the Michigan SIP before it may become effective. 42 U.S.C. 7410. Today's action proposes approval of that Final Order as a revision to the Michigan SIP.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether USEPA will approve the revision. After the public comment period, the Administrator of USEPA will publish in the Federal Register the Agency's final action on the proposed SIP revision.

(42 U.S.C. 7410)

Dated: December 5, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-38908 Filed 12-18-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 169

[FRL 1377-6]

Pesticide Enforcement; Books and Records of Pesticide Production and Distribution; Notification to the Secretary of Agriculture of a Proposed Regulation

AGENCY: Environmental Protection Agency (EPA), Office of Enforcement.

ACTION: Notification to Secretary of Agriculture of Proposed Regulation.

SUMMARY: Notice is given as required by Section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed amendment to regulations which impose certain record keeping requirements upon producers of pesticides and devices. This amendment will add new record keeping requirements to those currently required to be kept by producers who manufacture pesticides and devices for export. It would also extend the record keeping requirements to producers who manufacture active ingredients used in producing pesticides.

FOR FURTHER INFORMATION CONTACT: John J. Neylan III, Pesticides and Toxic Substances, Enforcement Division (EN-342), Office of Enforcement, EPA, Room 3632, 401 M Street, S.W., Washington, D.C. 20460, telephone 202/755-0630.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary, if requested, and the response of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulations, the Administrator may sign such regulation for publication in the Federal Register any time after the 30 day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this proposed regulation has been forwarded the the Committee on Agriculture of the House of Representatives and the Committee on Agricuture, Nutrition, and Forestry of the Senate. The proposed regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: December 14, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 79-38956 Filed 12-18-79; 8:45 am]

BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1041

[Ex Parte MC-132]

Interpretation—Certificates and Permits; Intermediate Point Restrictions

AGENCY: Interstate Commerce Commission.

ACTION: Correction to Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission served a notice on December 6, 1979 (44 FR 71438, December 11, 1979) instituting a rulemaking proceeding to establish a temporary rule of construction (effective for a period of 180 days) permitting (but not requiring) regular route motor common carriers of property to serve all intermediate points on their authorized regular service routes. The following corrections should be made to that document:

(1) Page 71439, 4th full paragraph, following the word "authorities" in the last sentence add "contained restrictions and confined service only to specified points."

(2) Page 71439, 2nd column, 1st paragraph, last line, the word, "their" should read "the".

FOR FURTHER INFORMATION CONTACT: Karlheinz Morell (202) 275-7905, or Donald J. Shaw (202) 275-7292.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38842 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1125

[Ex Parte No. 293 (Sub No. 2)]

Standards for Determining Rail Service Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Rail Services Planning Office (RSPO) proposes three amendments to the Standards for Determining Rail Service Continuation Subsidies (Standards). These are: (1) An amendment that will ensure that all charges to accounts are just and reasonable; (2) an amendment in the calculation of the management fee; (3) an amendment that a rail carrier entitled to reimbursement for General Administrative Expenses shall not be entitled to the additional compensation of an Administrative Fee. These

amendments would clarify and refine the costs and revenues attributable to the operation of subsidized rail lines.

DATE: RSPO invites comments on the proposed amendments on or before January 25, 1980.

ADDRESS: Submit an original and six copies to: Interstate Commerce Commission, Section of Rail Services Planning, Room 7383, Washington, D.C. 20423, Attn: RSPO Regional Subsidy Standards.

FOR FURTHER INFORMATION CONTACT: Stephen M. Grimm (202) 275–0838.

SUPPLEMENTARY INFORMATION: RSPO believes that certain amendments to the Standards are necessary to clarify and refine the costs and revenues attributable to the operation of subsidized rail lines. The proposed amendments are discussed below.

Charges to Accounts Should be Just and Reasonable

It has been the intent of RSPO that all charges incurred in the provision of subsidized rail service be just and reasonable, as that term is defined by the Interstate Commerce Commission's Uniform System of Accounts (USOA), Title 49 of the Code of Federal Regulations, Part 1201. The Standards require that all operators of subsidized lines follow the directions of the USOA. A definition of a just and reasonable charge is contained in the General Instructions, paragraph 1–6, of the USOA. In that paragraph, a just and reasonable charge is defined as one which does ". . . not exceed amounts necessary to the honest and efficient operation and management of carrier business. . . ." RSPO proposes to incorporate this definition directly into the Standards.

Management Fee

The Michigan Department of Transportation (MDOT) has requested RSPO to amend the procedure for determining the management fee paid to shortline operators of subsidized rail lines. MDOT believes that a shortline railroad which exist primarily to operate subsidized lines should not receive any statutorily mandated management fee. MDOT apparently believes that the subsidizer and the operator should have total discretion to negotiate a management incentive program.

RSPO has evaluated the MDOT request and believes that MDOT has raised a valid issue. The requirement for a management fee was added to the subsidy program by the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The 4R Act established that the operator of a subsidized line should receive a "reasonable management fee" in addition to the reimbursement of the difference between the "attributable revenues" and the "avoidable costs" of the service. In response to the Congressional mandate, RSPO conducted a rulemaking proceeding and, after considering a variety of proposals, RSPO published an amendment to the Standards on March 26, 1976. RSPO ruled that the management fee should be set at an amount equal to 4.5 percent of the revenues attributable to the subsidized line. At that time, RSPO noted that this method would be simple to calculate and would encourage both the operator and the subsidizer to increase the traffic and thus the revenues on the subsidized line. RSPO also indicated that the method for the calculation of the management fee would be amended, if warranted based upon the experience with the actual subsidy program. RSPO now believes that a change in the management fee calculation is necessasry because of changes in certain aspects of the subsidy program.

The RSPO rulemaking proceeding establishing the management fee was concluded prior to the commencement of operation on any lines governed by the regulations. In 1976, RSPO assumed that, in general, subsidized lines would be operated as an ancillary service by large rail carriers such as Conrail. RSPO believed that the implicit intent of the Congress in providing for a management fee was to supply a profit incentive that would encourage high level railroad management officials to work towards reduce costs and improved service on the subsidized lines. Without the inducement of a profit, RSPO believed these officials could justifiably be expected to devote their energies and resources to the carrier's operations that would produce a return for their corporation. This is especially true for a large carrier where the salaries and expenses for the high level management personnel are not normally includable as an avoidable cost of providing the subsidized service.

However, since April 1, 1976 numerous shortline railroad companies have been established exclusively to operate subsidized lines. These carriers are reimbursed for all operating costs including the salaries and expenses for all management personnel. Since the management personnel are already dedicated to the operation of the subsidized service, RSPO is concerned that the continued use of a management fee based solely on the attributable revenues may not provide the incentive necessary for reduced costs and improved service.

RSPO has provided that the original management fee would serve as a "floor" and that the operator and the subsidizer could agree on an additional incentive program. RSPO believed that a properly constructed incentive agreement would work to the advantage of the operator, by increasing the profit potential, and the subsidizer, by reducing the operating expenses. However, this goal has not been realized.

RSPO therefore proposes to restructure the method for the determination of the management fee. The amendment proposed by RSPO provides that a carrier whose entire rail operations are conducted under a subsidy agreement will receive a reduced management fee based on two percent of the revenues attributable to the subsidized operation. RSPO believes that such a change may result in reduced subsidy costs while continuing to assure the operator of a reasonable profit and should provide a greater impetus for the subsidizer and the operator to initiate incentive agreements.

Administrative Fee

The administrative fee was originally incorporated into the Standards on March 28, 1975. At that time RSPO ruled that the costs of administering the subsidy program were an avoidable expense. However, rather than require the operator to develop these costs on an actual basis, which would in and of itself be an additional avoidable administrative expense, it was decided that a flat fee would be a more appropriate method. The administrative fee was originally set at one half of one percent of the attributable revenues since RSPO believed that the cost of administering the subsidy program would undoubtably be related to the volume of traffic. After the subsidy program was in effect, RSPO increased the level of the fee to one percent, based on an audit of Conrail's actual expenses.

However, as covered previously in the discussion of the management fee, numerous shortline railroads have been established solely to operate subsidized rail lines. As such, all of their costs, including those for administering the subsidy program, are includable as avoidable expenses under the heading of General Administrative Expenses. RSPO never intended the regulations to allow a carrier to recover both its actual administrative costs and an administrative fee. RSPO therefore proposes a remedial amendment that provides tha a carrier would not receive

an administrative fee if its costs include its actual administrative expenses.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

This proposed rule is published under the authority of 49 U.S.C. 10362.

Issued: December 14, 1979 by Alexander Lyall Morton, Director, Rail Services Planning Office.

By the Commission.

Agatha Mergenovich,

Secretary.

Proposed amendments to Part 1125, Subchapter B, Chapter X, Title 49, Code of Federal Regulations

1. Section 1125.2 is amended by adding a new definition as follows:

§ 1125.2 Definitions of terms used in the standards.

* * * * *

"Just and Reasonable Charge" means that a charge to an account shall not exceed an amount necessary to the honest and efficient operation and management of carrier business.

2. Section 1125.7(b) (j) and (o) are amended to read as follows:

§ 1125.7 Calculation of avoidable costs and management fee.

* * * * *

(b) The avoidable costs of providing freight service on a branch shall be the total of the just and reasonable charges assigned to the branch in accordance with this section. Those expenses apportioned under this section shall be derived from the latest Form R–1 or R–2 or R–3 of the railroad filed with the ICC prior to the conclusion of the subsidy year, and assigned to the branch according to the procedures set forth in § 1125.8 of these regulations.

* * * * *

(j) *Administrative Fee.* A carrier shall be entitled to receive an administrative fee only if the carrier is not entitled to include General Administrative Expenses, § 1125.7(d), as an avoidable cost. The administrative fee shall be calculated as one percent of the total revenues attributed to the branch under § 1125.6 and shall be allowed as an avoidable cost to the railroad to cover all costs of administering the subsidy program.

* * * * *

(o) *Reasonable management fee.* A railroad whose entire rail operations are conducted under a subsidy agreement shall be entitled to a management fee based on two percent of the total revenues attributable to the branch under § 1125.6. A railroad that conducts a rail operation under a subsidy agreement in addition to other rail operations shall be entitled to a management fee based on four and one-half percent of the total revenues attributable to the branch under § 1125.6. If the railroad and the person offering the subsidy agree to an additional fee designed to maximize revenues, and minimize expenses, promote efficient service, or otherwise achieve public interest objectives, the railroad shall be paid such fee as determined in accordance with such agreement.

[FR Doc. 79-38896 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1125

[Ex Part 293, Sub-2)

Standards for Determining Rail Service Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Further Notice of Proposed Rulemaking.

SUMMARY: On March 16, 1979 the Rail Services Planning Office (RSPO) Served a notice of proposed rulemaking [44 FR 17534, March 22, 1979] that requested comments on and procedures to account for the impact of inflation on costs that are incurred between the end of the calendar year and the conclusion of the subsidy year. RSPO requested that any proposals also recognize changes that occur in productivity.

After reviewing the comments and proposals, RSPO proposes to amend the Standards For Determining Rail Services Continuation Subsidies (Standards) to provide for a single composite index for off-branch costs and individual indices for specific on-branch costs. The costs reflecting inflation will be calculated as part of the year-end adjustment of the subsidy payments which is required under § 1125.5(a).

No. proposals were received that would account for changes in productivity. After conducting its own analysis, RSPO believes that no valid statistical measure is currently available by which real change in productivity could be determined. The proposed amendments to the Standards can be applied by Class I, II, and III railroads. RSPO proposes to make the amendments effective for subsidy periods commencing after January 1, 1980.

DATE: Comments on the proposed amendments are due on or before January 22, 1980.

ADDRESS: Submit an original and six copies to: Interstate Commerce Commission, Section of Rail Services Planning, Washington, DC 20423, Attn: Regional Subsidy Standards.

FOR FURTHER INFORMATION CONTACT: James Wells, 202–275–0838.

SUPPLEMENTARY INFORMATION: On March 16, 1979, RSPO published a notice of proposed ruemaking that requested comments and proposed procedures to account for the impact of inflation on costs that are incurred between the end of the calendar year and the conclusion of the subsidy year. RSPO further requested that any proposed solutions recognize changes in productivity that would occur during this period.

RSPO has reviewed the comments received. Appended to this report are proposed amendments to the Standards which would allow railroads to recover cost increases caused by inflation. However, RSPO has not received any submissions that would measure changes in railroad productivity.

The Impact of Inflation on Railroad Costs

Light density lines operated under the subsidy provisions of the Regional Rail Reorganizational Act of 1973 (3R Act) have an accounting or subsidy year that does not correspond to the calendar year. The Standards currently require that off-branch and certain on-branch cost components be developed using the latest Annual Report (Form R–1) filed with the Interstate Commerce Commission (ICC). This approach does not reflect any cost escalations which may occur after December 31. As a result, the cost of operations for the remainder of the subsidy year are reimbursed at the average cost for the preceding calendar year.

The proposed amendments to the Standards would allow the off-branch costs to be updated using a single composite index. In many instances, these off-branch costs, which are the sum of the terminal, line-haul, and interchange costs, comprise the majority of the total operating costs of a branch line. The proposed amendments would also allow certain on-branch costs which are determined by allocations of system-wide costs to be adjusted to reflect inflation. These costs include: repairs to equipment; fuel; power purchased and produced; and train supplies. Each cost category will be updated by an individually-determined ratio applicable to that element. The proposed amendments for both off-branch and on-branch costs are discussed in detail below.

Off-Branch Costs

The Consolidated Rail Corporation (Conrail) submitted two alternative approaches for the updating of off-branch costs. Conrail's first approach suggested the development of a subsidy year Rail Form A. This would require the preparation of numerous Form R–1 report schedules as well as other data on a subsidy year basis. This procedure could be costly and cumbersome. For these reasons, RSPO has not proposed adopting this approach.

Conrail also suggested the use of an indexing procedure. The Conrail proposal is similar to ICC statement No. 1E 3–78, which is used to update regional cost factors. Conrail suggested that a composite index be calculated and applied to the total off-branch operating costs incurred between the end of the calendar and subsidy years. RSPO believes that this second suggestion would be administratively simple and reasonable inexpensive to employ.

In Conrail's second proposal, the composite index is to be calculated by dividing the railroad's total operating expenses, including taxes except Federal Income taxes, for the subsidy year by those expenses for the calendar year. The calendar year expenses are available from the railroad's latest annual report, Form R–1. The subsidy year expenses are based upon the calendar year totals, with certain selected cost categories being increased for inflation. The cost categories are:

1. Employee compensation charged to operating expenses;
2. Payroll taxes;
3. Health and Welfare benefits;
4. Fuel costs;
5. Power costs; and
6. Materials and supplies costs.

These selected cost categories are those that are highly sensitive to inflationary pressures, and, under existing practices are increased by individually-calculated indices, developed from the following sources.

The employee compensation cost update ratio is developed from the annual and monthly Report of Employees, Service and Compensation as submitted to the ICC. The payroll taxes cost update ratio is developed from statistical data developed by the Bureau of the Actuary of the Railroad Retirement Board and the National Railway Labor Conference. The health and welfare cost update ratio is developed from the railroad's records. The fuel cost and electric power cost update ratios are both developed from statistical data in the R–1 and the railroad's internal records. The material and supplies update cost ratio is developed from the Association of American Railroads' (AAR) series Quarterly Material Price and Wages (QMPW).

The individual indices for each cost element are calculated as follows:

1. The employee compensation index is developed by dividing the average straight-time hourly rate of all employees for the calendar year by that of the subsidy year.

2. The payroll taxes index is developed by dividing subsidy year employer contribution rate per employee per hour by the calendar year employer contribution rate per employee per hour. The employer contribution rate per employee per hour is developed by adding together the maximum annual tax per employee for Railroad Unemployment Insurance and Railroad Retirement and then dividing by 2080, the number of working hours per year. The contribution rate per hour for Railroad Retirement and Railroad Unemployment Insurance is then added to supplemental annuity contribution rate per hour. The contribution rate per hour is calculated on the same basis for both the calendar and subsidy year.

3. The Health and Welfare costs index is developed by dividing the employer's total Health and Welfare monthly costs per employee for the subsidy year by the employer's total Health and Welfare monthly costs per employee for the calendar year. The monthly costs per employee are developed by dividing employer's total monthly costs by total employees, using the middle of the month count of employees.

4. The fuel cost index is developed by dividing the average cost of diesel fuel per gallon for the twelve months of the subsidy year by the average cost of diesel fuel per gallon for the twelve months of the calendar year.

5. The electric power cost index is developed by dividing the average price of electric power per kilowatt hour for the subsidy year by the average price of electric power per kilowatt hour for the calendar year.

6. The materials and supplies cost index is developed by dividing the subsidy year's most recent quarterly index from the AAR's series QMPA by the calendar year's last quarterly index from the same series.

After the individual indices have been developed, they are applied against the base calendar year expenses. An employment level adjustment is then applied against the subsidy year total of employee compensation, payroll taxes, and Health and Welfare costs. The employment level adjustment is developed by dividing the Mid-month employee counts for the subsidy year by the mid-month employee counts for the calendar year. The employment level mid-month employee counts are determined from the railroad's annual and monthly report of employees, service and compensation. The adjusted employment level accounts plus the other indexed amounts are totalled, developing a *pro forma* total operating expense amount for the subsidy period. The total subsidy year *pro forma* operating expenses are then divided by the total calendar year operating expenses to develop the composite index.

The total off-branch costs for the twelve months of subsidy year as determined in section 1125.7(n) are multiplied by the composite index in order to update this cost to reflect the inflationary impact.

On-Branch Costs

RSPO found that certain on-branch costs that are charged to the branch line on an assignment basis rather than on a direct cost basis should also be updated for the inflation that occurs between the end of the calendar year and the end of subsidy year. These items (equipment repairs, fuel, electric power and train supplies) are assigned to the branch line on the basis of usage. Since the unit costs are system average costs developed from the annual report, Form R–1, they do not reflect inflationary effects that occur after the close of the calendar year. The same indices that are employed to calculate the composite index are also used to update the applicable categories on-branch costs. The individual cost index that is applicable to a category of on-branch cost is multiplied against the operating cost in that category in order to update the costs to reflect inflation.

Changes In Productivity

RSPO did not receive any proposals that addressed the issue of productivity. RSPO did develop some productivity factors for Conrail, based on operating statistics. The factors that were investigated by RSPO were: gross ton-miles per freight train-hour, net ton-miles per freight train-mile, and revenue ton-miles per employee. The table below contains the results of RSPO's analysis and shows the fluctuations in Conrail's operations on an annualized basis.

	1976	1977	1976 to 1977 percent change	1978	1977 to 1978 percent change
Gross ton-miles per freight train-hour	69,311	68,745	−0.8	67,191	−2.2
Net ton-miles per freight train mile	1,666	1,803	+8.2	1,870	+3.7
Revenue ton-miles per employee	981	955	−2.7	1,018	+6.6

RSPO determined that the fluctuations reflected for the individual items in the table above were caused by seasonal traffic patterns or weather conditions. RSPO found that the annual cycle, when broken into quarters, was repetitive. For the years studied, the first quarter traffic was down, traffic peaked in the second and third quarters, and declined again the late fall and early winter months. The analysis further reflects inconsistent gains in the movement of traffic, and shows that the weight of the trains is increasing while the distance covered per hour is decreasing. This situation results in measures that would tend to offset one another. RSPO believes that no valid statistical measures are available at this time by which any real change in productivity could be applied to the individual indices or to the composite index. Therefore, no productivity index is incorporated in the proposed adjustment for inflationary impact.

RSPO requests comments on the proposed amendments. This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

This proposed rule is published under the authority of 49 U.S.C. 10362.

Issued December 14, 1979 by Alexander Lyall Morton, Director, Rail Services Planning Office.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Proposed Regulations

1. Section 1125.7(n)(5) shall be added as follows:

§ 1125.7 Calculation of avoidable costs and management fee.

* * * * *

(n)* * *

(5) The railroad shall be entitled to recover increases in off-brush costs that result from inflation occurring between the end of the calendar year and the end of the subsidy year, calculated as follows:

(i) The railroad shall determine the following calendar year items from the railroad's latest Form R–1 and company records, (Class II and III railroads shall adapt the procedure using similar data from Form R–2 or R–3 or company records):

(A) Total, railroad's Salaries and Wages, [Schedule 410, col (b)];

(b) U.S. Government 4old-age retirement and unemployment insurance taxes (including medicare and supplemental annuities), [Schedule 451, Section (B);]

(C) Employee Health and Welfare expenses, [company records];

(D) Transportation: Train Operations; Locomotive Fuel, Materials, tools, supplies and lubricants; plus Transportation: Yard Operations; Locomotive Fuel, Materials, tools, supplies, fuels and lubricants, [Schedule 410, col. (c)];

(E) Transportation: Train Operations; Electric Power Purchased or Produced for Motive Power, Materials tools, fuel and lubricants and Purchased Services; plus Transportation: Yard Operations; Electric Power, Purchased or Produced for Motive Power, Materials, tools, fuels and lubricants and Purchased Services, [Schedule 410 col. (c) and (d)];

(F) Equipment: Locomotives; Repair and Maintenance, Materials, tools, supplies, fuels and lubricants; Freight Cars; Repair and Maintenance, Materials, tools, supplies and lubricants; plus Transportation; Train Operations; Train Inspection and Lubrication, Materials, tools, supplies, fuels and lubricants; Train Crews, Materials tools, supplies, fuels and lubricants; Servicing Locomotives, Materials, tools, supplies, fuels and lubricants; plus Yard Operations; Switch Crews, Materials, tools, supplies, fuels and lubricants; Servicing Locomotives, Materials, tools, supplies, fuels and lubricants, [Schedule 410, Col. (c)];

(G) Railway Tax Accruals (excluding Federal Income Taxes and Payroll Taxes), [Schedule 451, Section (b)];

(H) Total operating expenses, freight portion, [Schedule 410, col. (f)];

(I) Total—All other operating expenses, paragraphs (N)(5)(i)(H) minus the sum of paragraphs (n)(5)(i)(A), (n)(5)(i)(B), (n)(5)(i)(C), (n)(5)(i)(D), (n)(5)(i)(E), and (n)(5)(i)(F).

(ii) The Railroad shall determine the following ratios:

(A) Employee Compensation Update Ratio. (*1*) The calendar year average straight-time compensation per hour is determined by: adding the total straight-time compensation for transportation employees to the total straight-time compensation for train and engine employees; divided by the total straight-time service hours for transportation employees plus the total straight-time service hours for train and engine employees, [ICC *Annual Report of Employees, Service and Compensation Forms A and B*];

(*2*) The subsidy year average straight-time compensation per hour is determined by: adding the total straight-time compensation for transportation employees to the total straight-time compensation for train and engine employees, for the twelve months of the subsidy year; divided by the total straight-time service hours for transportation employees plus the total straight-time service hours for train and engine employees, for the twelve months of the subsidy, year [ICC *Monthly Report of Employees, Service and Compensation Forms A and B];*

(*3*) The Employee Compensation Update ratio is determined by dividing the subsidy year average straight-time compensation per hour, paragraph (n)(5)(ii)(A)(2); by the calendar year average straight-time compensation per hour, paragraph (n)(5)(ii)(A)(1) above.

(B) Payroll Taxes Update Ratio.

(*1*) The calendar year employer contribution rate per hour is determined by: adding the employer maximum annual tax per employee for Railroad Retirement to the employer paid maximum annual tax per employee for Railroad Unemployment Insurance, [Bureau of the Actuary, U.S. Railroad Retirement Board]; divided by 2080, the average annual number of working hours per year. The quotient is added to the hourly rate for supplemental annuities, [National Railway Labor Conference];

(*2*) The subsidy year employer contribution rate per hour is determined by: multiplying the employer's monthly rate for railroad retirement and railroad unemployment insurance by the maximum monthly individual employee's wage base, respectively, for the twelve months of the subsidy year, [Bureau of the Actuary, U.S. Railroad Retirement Board]; and dividing by 2080, the average annual number of working hours per year. The quotient is added to the hourly rate for supplemental annuities, [National Railway Labor Conference];

(*3*) The Payroll Taxes Update Ratio is determined by: dividing the subsidy year contribution rate per hour, paragraph (n)(5)(ii)(B)(2) by the calendar year contribution rate per hour, paragraph (n)(5)(ii)(B)(1) above.

(C) Health and Welfare Costs Update Ratio. (*1*) Calendar year Health and Welfare Costs are determined by: dividing total calendar year monthly costs, company records, by total employees, middle of the month count, [ICC *Monthly Report of Employees, Service and Compensation, Forms A and B*]. All monthly costs per employee are then totalled;

(*2*) Subsidy year Health and Welfare costs are determined by: dividing total subsidy year monthly costs, company records, by total employees, [ICC *Monthly Report of Employees, Service, and Compensation, Forms A and B*]. All monthly costs per employee are then totalled;

(*3*) The Health and Welfare Costs Update Ratio is determined by: dividing the subsidy year costs per employee, paragraph (n)(5)(ii)(C)(2) by the calendar year costs per employee, paragraph (n)(5)(ii)(C)(1) above.

(D) Employment Level Adjustment Ratio. (*1*) The calendar year middle of the month employee counts are determined by: Summing the middle of the month counts, [ICC *Monthly Report of Employees, Service and Compensation, Form A and B*], for the twelve months of the calendar year;

(*2* The subsidy year middle of the month employee counts are determined by: summing the middle of the month counts, [ICC *Monthly Report of Employees, Service and Compensation Forms A and B*], for the twelve months of the subsidy year;

(*3*) The Employment Level Adjustment Ratio is determined by: dividing the subsidy year middle of the month counts, paragraph (n)(5)(ii)(D)(2), by the calendar year middle of the month counts, paragraph (n)(5)(ii)(D)(1) above.

(E) Fuel Cost Update Ratio. (*1*) The calendar year average fuel cost per gallon is determined by: dividing the cost of Fuel, Diesel Oil, Schedule 750, col(b), by the number of gallons, Diesel Oil, consumed in freight, passenger and yard switching service, schedule 750, col (b);

(*2*) The subsidy year average fuel cost per gallon is determined by: dividing the cost of fuel, diesel oil, company records, for the subsidy year, by the number of gallons, diesel oil consumed in freight, passenger and yard switching operations, company records, for the subsidy year.

(*3*) The Fuel Cost Update Ratio is determined by: dividing the subsidy year fuel cost per gallon, paragraph (n)(5)(ii)(E)(2) by the calendar year fuel cost per gallon, paragraph (n)(5)(ii)(E)(1) above.

(F) Electric Power Cost Update Ratio. (*1*) The calendar year cost per kilowatt hour is determined by: dividing the cost of Electric Kilowatt Hours, [schedule 750, col. (c)] by the Kilowatt Hours consumed by freight, passenger, and yard switching operations, [schedule 750, col(c)];

(*2*) The Subsidy year cost per kilowatt hour is determined by: dividing the cost of electric kilowatt hours, [company records], by the kilowatt hours consumed by freight, passenger, and yard switching operations, [company records];

(*3*) The Electric Power Cost Ratio is determined by: dividing the subsidy year cost per kilowatt hour, paragraph (n)(5)(ii)(F)(2) by the calendar year cost per kilowatt hour, paragraph (n)(5)(ii)(F)(1) above.

(G) Materials and Supplies Costs Update Ratio. (*1*) The calendar year materials and supplies ratio is determined for the final quarter; calendar year, [Association of American Railroads (AAR), Economics and Finance Department, Series Quarterly Material, Price and Wages (QMPW), applicable region];

(*2*) The subsidy year materials and supplies ratio is determined from the latest full quarter subsidy year, [AAR, Economics, and Finance Department Series QMPW, applicable region];

(*3*) The Materials and Supplies Cost Update Ratio is determined by: dividing the subsidy year ratio, paragraph (n)(5)(ii)(G)(2) by the calendar year ratio, paragraph (n)(5)(ii)(G)(1) above.

(iii) The Railroad shall determine the following subsidy year expense items:

(A) Total subsidy year salaries and wages, [calendar year total railroad salaries and wages, paragraph (n)(5)(i)(A) multiplied by the Employee Compensation Update ratio, paragraph (n)(5)(ii)(A)(3)].

(B) U.S. Government old-age retirement and unemployment insurance (including medicare and supplemental annuities), [calendar year U.S. Government old-age retirement and unemployment insurance (including medicare and supplemental annuities), paragraph (n)(5)(i)(B) multiplied by the Payroll Taxes Update Ratio, paragraph (n)(5)(ii)(B)(3)].

(C) Employee Health and Welfare Expenses, [calendar year, Employee Health and Welfare expenses, paragraph (n)(5)(i)(C) multiplied by the Health and Welfare Costs Update Ratio, paragraph (n)(5)(ii)(C)(3)].

(D) Total employee compensation adjusted for employment changes, [subsidy year total railroad's salaries and wages paragraph (n)(5)(iii)(A); plus U.S. Government old-age retirement and unemployment insurance (including medicare and supplemental annuities), paragraph (n)(5)(iii)(B) plus Employee Health and Welfare Expenses, paragraph (n)(5)(iii)(C) multiplied by the employment level adjustment ratio, paragraph (n)(5)(ii)(D)(3)].

(E) Transportation: Train Operations; Locomotive Fuel, Materials, tools, supplies, fuels and lubricants; plus Transportation: Yard Operations: Locomotive Fuel, Materials, tools, supplies, fuels and lubricants, [calendar year expenses, paragraph (n)(5)(i)(D) multiplied by the Fuel Cost Update Ratio, paragraph (n)(5)(ii)(E)(3)].

(F) Transportation: Train Operations; Electric Power Purchased or Produced for Motive Power, Materials, tools, supplies, fuels and lubricants and Purchased Services; plus Transportation: Yard Operations: Electric Power Purchased or Produced for Motive Power, Materials, tools, supplies, fuels and lubricants, and Purchased Services, [calendar year expenses, paragraph (n)(5)(i)(E) multiplied by the Electric Power Cost Update Ratio, paragraph (n)(5)(ii)(F)(3)].

(G) Equipment: Locomotives; Repair and Maintenance, Materials, tools, supplies, fuels and lubricants; Freight Cars; Repair and Maintenance, Materials, tools, supplies, fuels and lubricants; plus Transportation: Train Operations; Train Inspection and Lubrication, Materials, tools, supplies, fuels and lubricants; Train Crews, Materials, tools, supplies, fuels and lubricants; Servicing Locomotives, Materials, tools supplies, fuels and lubricants; plus Transportation yard Operations; Switch Crews, Materials, tools, supplies, fuels and lubricants; Servicing Locomotives, Materials, tools, supplies, fuels and lubricants; [calendar year expenses, paragraph (n)(5)(i)(F) multiplied by the Materials and Supplies Costs Update Ratio, paragraph (n)(5)(ii)(G)(3)].

(H) Railway Tax Accruals (excluding Federal Income Taxes and Payroll taxes), [calendar year expenses, paragraph (n)(5)(i)(G) multiplied by 1.0].

(I) Total all other operating expenses, [Total calendar year all other operating expenses, paragraph (n)(5)(i)(I) multiplied by 1.0].

(iv) The railroad shall develop a composite index as follows:

(A) Total calendar year expenses [paragraph (n)(5)(i)(H)] plus calendar year Railway Tax Accruals (excluding Income Taxes and Payroll Taxes), paragraph (n)(5)(i)(G)];

(B) Total subsidy year expenses [sum of paragraphs (n)(5)(iii)(D), (n)(5)(iii)(E), (n)(5)(iii)(F), (n)(5)(iii)(G), (n)(5)(iii)(H), and (n)(5)(iii)(I)].

(C) Composite Index [Total subsidy year expenses, paragraph (n)(5)(iv)(B),

divided by total calendar year operating expenses, paragraph (n)(5)(iv)(A).

(V) The composite index, paragraph (n)(5)(iv)(C) above, shall be applied to the off-branch costs for twelve months of the subsidy year, as provided in § 1125.7(n). The difference between the off-branch costs as increased for inflation and the off-branch costs previously calculated by the railroad shall be included in the railroad's year-end Financial Status Report, as provided in § 1125.5(a).

2. § 1125.8(e) is added as follows:

§ 1125.8 Apportionment rules for the assignment of expenses to on-branch costs.

* * * * *

(e) The railroad shall be entitled to recover increases in certain on-branch costs that result from inflation occurring between the end of calendar year and the end of the subsidy year, calculated as directed below.

(1) The updating procedures described in paragraphs (e)(1)(A), (e)(1)(B) and (e)(1)(C), below, shall be applied to the applicable categories of total on-branch costs as provided in § 1125.8(b) and (C). The on-branch updated costs shall be calculated as follows:

(A) The increase in fuel costs shall be determined by multiplying the on-branch costs for Locomotive Fuel-Materials, [account 21–31–67 plus account 21–32–67] by the Fuel Cost Update Ratio, [§ 1125.7(n)(5)(ii)(E)(3) above, minus one].

(B) The increase in the Electric Power Costs shall be determined by: multiplying the on-branch costs for Electric Power Purchased or Produced-Materials, and Purchased Services, [accounts, 21–31–68, 21–32–68, 41–31–68 and 41–32–68] by the Electric Power Cost Update Ratio, [§ 1125.7(n)(5)(ii)(F)(3) above, minus one].

(C) The increase in materials and supplies costs shall be determined by multiplying the on-branch materials and supplies costs, [the sum of accounts: Engine Crews-Materials (21–31–56); plus Train Crews-Materials (21–31–57); plus Train Inspection and Lubrication-Materials (21–31–62); plus Locomotive Repairs and Maintenance-Materials (21–21–41); plus Servicing Locomotives-Materials (21–31–69); plus Switch Crews-Materials (21–32–64); plus Yard Operations: Servicing of Locomotives-Material (21–32–69)] by the Materials and Supplies Costs Update Ratio, [§ 1125.7(n)(5)(ii)(G)(3) above, minus one].

(2) The railroad shall recalculate on-branch car-day and car-mile costs as described in § 1125.7(g) to reflect inflation occurring in Materials-Freight Cars-Repairs and Maintenance Account (21–22–42) for the period between the end of the calendar year and the end of the subsidy year. The updated costs shall be calculated as follows:

(A) The increase in freight car repairs and maintenance costs shall be determined by multiplying the on-branch costs for these materials [Account 21–22–42-Materials-Freight Cars-Repairs and Maintenance] by the Materials and Supplies Cost Update Ratio [§ 1125.7 (n)(5)(ii)(G)(3)].

(B) The amount in paragraph (e)(1)(A) is substituted for Account 21–22–42-Freight Train Car-Repair and Maintenance calculated in § 1125.7(g). Then, the total freight train car costs per car-day and car-mile are recalculated. The recalculated car-day and car-mile costs are then applied to the appropriate service units incurred during the subsidy year, using the procedure described in § 1125.7(g).

(C) The railroad shall calculate the net increase in freight train car costs by subtracting the on-branch freight train car costs, as provided in § 1125.7(G), for the adjusted amount described in paragraph (e)(2)(B).

(3) The net inflationary in on-branch costs described paragraphs (e)(1)(A), (e)(1)(B), (e)(1)(C) and (e)(2)(C) shall be included in the railroad's year-end Financial Status Report as provided in § 1125.5(a).

[FR Doc. 79-38897 Filed 12-18-79; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-34)]

Household Goods Transportation, (Storage-in-Transit Charges)

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed rule.

SUMMARY: By this notice, the Commission is revising its prior notice of proposed rule in this proceeding to include reference to the legal authority under which the rule is proposed. The reference was inadvertently omitted in the earlier notice. The revision provided by this notice will bring this proceeding into compliance with requirements of the Administrative Procedure Act.

DATES: Comments are due January 18, 1980.

ADDRESS: An original and 15 copies, if possible, of comments should be sent to: Secretary, Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION, CONTACT: MARTIN E. FOLEY, TEL. (202) 275-7348.

SUPPLEMENTARY INFORMATION: It has come to the Commission's attention that its May 25, 1979, notice of proposed rule in this proceeding (44 FR 30387) failed to provide a reference to the legal authority under which the rule was proposed. The purpose of this revised notice is simply to state that the proceeding is proposed under the authority of Section 553 of the Administrative Procedure Act (5 U.S.C. 553) and Section 10321 of the Interstate Commerce Act (49 U.S.C. 10321). The comments which the Commission has received to date in this proceeding will be considered when the Commission formulates its final decision. The refiling of comments previously submitted is not necessary. However, and additional 30-day comment period is being provided for those wishing to submit initial or further comments. The appendix to this notice contains the supplementary information portion of the Commission's earlier notice of proposed rule in this proceeding. The only change which has been made is the inclusion of the reference to the legal authorities under which the rule is proposed.

Decided: November 30, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gaskins not participating.

Agatha L. Mergenovich,

Secretary.

Appendix

Each year the Commission receives a number of complaints concerning the storage-in-transit (SIT) charges of household goods carriers and freight forwarders opeating in interstate or foreign commerce. The SIT charges complained of are assessed on a minimum 30-day basis, even if the goods are only stored for one day. Furthermore, each time the storage period exceeds a 30-day period a charge is incurred for another 30-day period. The complaints allege that the practice is unfair and contend that charges should only be assessed for the number of days which the goods are actually stored.

We are aware of the fact that the present method of assessing SIT charges has been in existence for a number of years, but this in itself is no assurance that the practice is fair or reasonable. A fundamental principle of ratemaking is that a transportation charge can only be collected as compensation for a

corresponding service. When no service is performed, no charge is warranted.

We propose to amend the Commission's rules to provide that SIT charges be assessed on a daily basis. Under the proposed new rule, chages could only be assessed for the number of days that the goods are actually stored in transit. The proposed change would affect SIT valuation charges, which are based on the storage charge, but it would not affect other related charges such as pickup charges to move the goods to storage point or warehouse handling charges.

In preparing this proposal, the Commission has been unable to determine any justification for the present practice. Carriers and forwarders of household goods are being made parties to this proceeding and are requested to furnish any justification which they might have for the continued use of the present practice. In addition, the Commission would like to receive any information regarding the financial impact which adoption of the proposal would have on these carriers and forwarders. The public is requested to comment on whether adoption of the proposal would benefit it. In order to assure that the interest of members of the public who use the services of carriers and forwarders of household goods is represented, the Commission's Special Counsel is directed to participate in this proceeding.

If the proposed regulation is adopted as a result of this proceeding, it will be necessary to determine if all existing provisions inconsistant with the new rule should be removed from tariffs. The Commission would like to receive comments on this issue and suggestions as to how it could be resolved.

The rule in this proceeding is proposed under the authority of section 553 of the Aministrative Procedure Act (5 U.S.C. 553) and section 10321 of the Interstate Commerce Act (49 U.S.C. 10321).

This proposed rulemaking does not appear to affect significantly the quality of the human environment.

§ 1056.3 [Amended]

Accordingly, we propose to amend § 1056.3(b) of Chapter X of Title 49 of the Code of Federal Regulations by adding, between the second and third sentence, a new sentence reading as follows: "Charges for storage-in-transit shall be stated in an amount per 100 pounds per day."

[FR Doc. 79-38840 Filed 12-18-79; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 44, No. 245
Wednesday, December 19, 1979

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on January 10, 1980, at 7:30 p.m., a public information meeting will be held at the Mary Todd Elementary School, 551 Park Side Drive, Lexington, Kentucky.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed Lexington-Paris Road (Paris Pike) widening project, Kentucky Project 7296(15), an undertaking assisted by the Federal Highway Administration that will adversely affect the Paris Pike Historic District, Fayette and Bourbon Counties, Kentucky, a property eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by the Federal Highway Administration.

III. A statement by the Kentucky State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW, Suite 430, Washington, D.C. 20005, 202–254–3967.

Dated: December 7, 1979.

Robert R. Garvey, Jr.

Executive Director.

[FR Doc. 79–38790 Filed 12–18–79; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Malheur National Forest Grazing Advisory Board; Emergency Meeting

December 21, 1979.

The Malheur National Forest Grazing Advisory Board will convene an emergency meeting at 1:00 p.m., PST, at Lyon's Annex, the second building north of the Malheur National Forest headquarters in John Day, Oregon.

The Board must advise on expenditures of range betterment funds in advance of planning and executing range programs for Fiscal Year 1981. Planning is now beginning.

The Board will consider: (1) Reviewing range improvement needs on range allotments; (2) making recommendations on the utilization of range betterment funds; and, (3) making recommendations concerning the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend and participate should notify Kenneth L. Evans or Ernest V. Kehrberg, Malheur National Forest (503–575–1731) prior to the meeting.

Public participants can enter discussions during the meeting and may file a written statement following the meeting.

Kenneth L. Evans,

Forest Supervisor.

[FR Doc. 79–39045 Filed 12–18–79; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Order 79–12–83; Dockets 36508, 37041]

Air Illinois, Inc.; Notice of Intent To Suspend Service at Jonesboro, AR, El Dorado/Camden, AR, Natchez, MS, Greenville, MS, and Jackson/Vicksburg, MS; and Application for Compensation for Losses

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of December 1979.

On August 31, 1979, Air Illinois, a commuter carrier, filed a notice under section 401(j)(1) of the Act of its intent to suspend all service at Jonesboro and El Dorado/Camden, Arkansas, and at Natchez, Greenville, and Jackson/Vicksburg, Mississippi, effective October 1, 1979. By Order 79–9–183, September 27, 1979, we permitted Air Illinois to suspend service at Jonesboro, Greenville, and Jackson/Vicksburg, but required it to continue to provide service at El Dorado/Camden and Natchez for 30 days.[1]

On November 5, Air Illinois filed a request for compensation for losses in these markets, pursuant to section 324.2 of our Procedural Regulations. Air Illinois claims that it has experienced severe operating losses in these markets; that, due to circumstances beyond its control, it was unable to provide the full level of service required by Order 79–9–183; that, once Air Illinois is able to provide this service, its losses may increase substantially; and that the firm is now in a critical cash flow position, and requires compensation now, rather than at some uncertain future date. The carrier claimed total losses for the month of October were $91,119, and requests compensation in that amount.

We have examined Air Illinois' filing, and believe the appropriate interim compensation for the month of October,

[1] By Orders 79–10–197 and 79–11–198 we extended this obligation for additional 30-day periods.

1979, is $86,008.[2] Our adjustments are based on several factors. First, Air Illinois claimed payroll taxes equal to 9.8 percent of salaries and wages under administrative expenses and maintenance, but only 9.1 percent for flight operations and passenger servicing salary expense. According to company representatives in telephone conversations with our staff, payroll taxes should amount to 9.8 percent of wages and salaries under all functional groupings; we have adjusted Air Illinois' figures accordingly. The second adjustment involves interest expense on Air Illinois' two Jetstream aircraft used in the markets in question. The carrier claimed interest expense of $28,875. According to company representatives, this figure was a typographical error, which should have read $25,875.

Finally, Air Illinois claimed an allowance of $3,353 in return on shareholder's equity. We have disallowed this entirely for the purpose of setting a rate for interim compensation. Since interim rates are subject to adjustment once a carrier is allowed to terminate service, we will treat them as temporary rates and recognize only operating losses and interest expenses on long term debt, consistent with section 399.30 of our Policy Statements. A return allowance will be considered after termination of service when we propose a final adjustment of the carrier's claim.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(b) thereof, and the regulations promulgated in 14 CFR 302 and 324:

1. We set the interim level of compensation for losses sustained by Air Illinois, Inc., by virtue of its provision of essential air service to El Dorado/Camden, Arkansas, and Natchez, Mississippi, at $83,234[3] for each 30-day period beginning October 1, 1979, *Provided,* That for any period of less than 30 days, the interim rate of compensation shall be $2,774 per day times the number of days that essential air service is provided;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[4]

Secretary.

[FR Doc. 79-38886 Filed 12-18-79; 8:45 am]

BILLING CODE 6320-01-M

[2] The Board's Bureau of Consumer Protection is currently investigating, informally, certain matters involving Air Illinois. Should this surface any factors which influence the rate of compensation we will either adjust the interim rate or settle when we make final adjustment to the carrier's total claim after terminaton of service.

[3] $86,008 (the carrier's claim for the month of October, as adjusted) divided by 31 days times 30 days.

[4] All Members concurred.

[Order 79-12-75; Docket 36815]

Southwest Alaska Service Investigation

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of December 1979.

This service investigation was instituted by Order 79-10-45, in response to an application by Klondike Air, Inc. for certificate authority and in response to numerous complaints from communities in the Bristol Bay area in Alaska. By petition filed on November 16, 1979, the Bureau of Domestic Aviation (BDA) requested us to extend the procedural dates applicable to this case. BDA stated that the service of documents relative to this case has been defective, causing many documents intended for civic officials of villages at issue to be returned undelivered. BDA also says that names and addresses of many of the region's air taxis were omitted from the original service list. A new service list has been compiled and BDA urges us to direct service of all documents filed in this case to those omitted from the original list. Essentially, it requests us to issue another instituting order, thereby granting additional time for the filing of applications and petitions for reconsideration.

Defective service may deny notice of the proceedings to some interested parties; the lack of notice may have precluded participation by some carriers or communities. We consider broad-based participation by all interested parties to be essential to this investigation. Therefore, we will grant BDA's petition and issue a new order, reinstituting the investigations.

Several petitions for reconsideration of Order 79-10-45, applications, motions to consolidate, and answers have been received. They will be treated as pleadings filed under this order and will be dealt with at a later time.[1]

Accordingly: 1. We grant the petition of the Bureau of Domestic Aviation and reinstitute the Southwest Alaska Service Investigation, Docket 36815 under authority granted by section 204(a) of the Act;

2. We extend the date set in paragraph 5 of Order 79-10-45 for filing applications, answers and motions to consolidate from November 13, 1979 to 20 days from the date of service of this order;

3. Answers in response to pleadings filed under paragraph 2 above shall be filed no later than 40 days from the date of service of this order;

4. All existing parties that have filed documents in this proceeding shall serve copies of such documents on all persons included on the revised service list but not on the original service list;

5. All other orders and comments made in Order 79-10-45 are hereby incorporated by reference; and

6. Parties wishing to petition for reconsideration of this order or Order 79-10-45 may do so within 21 days of the service of this order.

This order shall be published in the Federal Register.

By the Civil Aeronautics Board.

Phillis T. Kaylor,[2]

Secretary.

[FR Doc. 79-38837 Filed 12-18-79; 8:45 am]

BILLING CODE 6320-01-M

[1] A copy of Order 79-10-45 is attached to the original copy on file at the Federal Register and may be examined there. Order 79-10-45 was printed in the Federal Register in its entirety, 44 FR 59924, October 17, 1979.

[2] All Members concurred.

[Order 79-12-69; Docket No. 36162]

Brock Air Services Ltd.; Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-12-60.

SUMMARY: The Board propose to approve the following application:

Applicant: Brock Air Services Ltd.

Application Date: July 18, 1979; Docket: 36162.

Authority Sought: Small aircraft charter permit to operate between the United States and Canada.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall file a statement of such objections no later than January 7, 1980 with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number

and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 36162, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Brock Air Services Ltd., P.O. Box 1431, Brockville, Ontario, Canada KV 5Y6.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Erik Lee Browne, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5407.

By the Civil Aeronautics Board: December 13, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-38870 Filed 12-18-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-12-76; Docket 36672]

Flagstaff, Arizona Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-12-76) *Flagstaff, Arizona Subpart Q Proceeding,* Docket 36672.

SUMMARY: The Board is instituting the *Flagstaff, Arizona Subpart Q Proceeding* and is proposing to add Flagstaff as an intermediate point to Sky West Aviation's certificate under the expedited procedures of Subpart Q of its procedural regulations. The tentative findings and conclusions will become final if no objections are filed.

DATE: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by January 14, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections or Additional Data should be filed in Docket 36672, Docket Section, Civil Aeronautics Board, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James F. Adley, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5412.

SUPPLEMENTARY INFORMATION: Objections should be served on Sky West Aviation, Cochise Airlines, Desert Air Service, Frontier Airlines, the Arizona Department of Transportation, the Mayors of Flagstaff and Phoenix, Arizona, the Airport Directors of Pulliam Airport, Flagstaff, Arizona and Skyharbor Airport, Phoenix, Arizona.

The complete text of Order 79-12-76 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-12-76 to that address.

By the Civil Aeronautics Board: December 13, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-38871 Filed 12-18-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-12-71; Docket 35516]

Trans-Mediterranean Airways, S.A.L.; Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-12-71.

SUMMARY: The Board proposes to approve the following application.

Applicant: Trans-Mediterranean Airways, S.A.L.

Application Date: May 10, 1979; Docket 35516.

Authority Sought: Renew its foreign air carrier permit authorizing foreign air transportation of property and mail between a point or points in Lebanon and New York, New York, via seven European cities, and amend the permit by eliminating the restrictions on frequencies and aircraft size.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Lebanon. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESS FOR OBJECTIONS:

Docket 35516, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Applicant: Trans-Mediterranean Airways, S.A.L., c/o Surrey, Karasik and Morse, 1156 Fifteenth Street, N.W., Washington, D.C. 20004.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Robert Mallalieu, Negotiations Division, Bureau of International Aviation, Civil Aeronautics Board, (202) 673-5044.

By the Civil Aeronautics Board: December 13, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-38869 Filed 12-18-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-12-68; Dockets 27048, 32661, 32750, 32855, 33699]

Various Foreign Air Carriers; Order To Show Cause

December 13, 1979.

Applications of various foreign air carriers for foreign air carrier permits pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

We have received applications for foreign air carrier permits from Bahamasair Holdings, Ltd.; Mober Aviation, Inc.; CAA d/b/a Afrikan Airlines; Hyack Air Limited; and Air Algerie. The appendix to this order lists the applicants and the corresponding dockets. These applications were filed between September 1975 and October 1978. There has been no action on these applications for a variety of reasons, including, among others, the failure of several applicants to respond to written requests of our staff for additional information.[1]

On April 23, 1979, Subpart Q of Part 302 of our Rules of Practice became effective.[2] This new subpart requires all applicants, including foreign air carriers, to meet certain minimum information requirements to enable us to render a decision on the merits of their applications. Foreign air carrier

[1] By letter dated October 12, 1979, the Embassy of the Commonwealth of the Bahamas informed us that Bahamasair is not in a position at this time to prosecute its application in Docket 27048. We have placed a copy of this letter in the Correspondence Section of Docket 27048.

[2] PR-201, 44 FR 24266, April 25, 1979.

applicants are also required to meet the evidence request (Appendix A) of Part 211.[3]

In an effort to maintain our dockets in an orderly fashion, we have tentatively decided to dismiss without prejudice the applications listed in the appendix.[4] We emphasize that our tentative decision is merely a housekeeping measure and should not be construed as a decision on the merits of any application. Each applicant can refile for any or all of the authority it has requested, so long as the application contains all of the information required by Part 211 and Subpart Q of Part 302 of our Rules. As the applications listed in the appendix now stand, we have tentatively concluded that each lacks the information necessary for us to reach a decision on the merits, and that a refiling pursuant to Subpart Q of Part 302 and part 211 of our Regulations will provide us the necessary information to reach a decision.

We are also of the view that none of the applicants would be subjected to any undue burden or hardship by our tentative decision to dismiss. Foreign air carriers are not required to submit a filing fee with an applicatin, and there is no longer any requirement for a foreign air carrier to file its application through diplomatic channels.[5] Thus, the only burden of any consequence that may be imposed is the service of a notice and the filing of the information required by Subpart Q of Part 302 and Part 211 if a new application if filed.[6] We do not believe that this will be a hardship on any of the applicants. Indeed, the evidence now required by Part 211 is somewhat simplified from our earlier evidence request, which formerly had to be submitted with the applicant's procedural motion or petition.

Accordingly, 1. We direct interested persons to show cause why we should not dismiss without prejudice each of the applications in the appendix. Objections to our proposed action shall be due not later than January 16, 1980;

2. Any applicant listed in the appendix may at any time file a new application for all or part of the authority requested, and in so doing, shall conform to the requirements of Part 211 and Subpart Q of Part 302 of our Regulations. Any such application shall receive a new docket number;

3. If timely and properly supported objections are filed, we will give consideration to the matters and issues raised by the objections before we take further action; *Provided* that we may proceed to enter an order in accordance with our tentative decision set forth in this order if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing or the institution of discovery procedures; [7]

4. In the event that no objections are filed, we will deem all further procedural steps to have been waived, and the Secretary shall enter an order which shall make final our tentative decision set forth in this order; and

5. We shall publish this order in the Federal Register and serve it on each of the air carriers listed in the appendix.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

All Members concurred.

Appendix

Docket	*Applicant*
27048	Bahamasair Holdings, Ltd.
32661	Mober Aviation, Inc.
32750	CAA d.b.a. Afrikan Airlines.
32855	Hyack Air Limited.
33699	Air Algerie.

[FR Doc. 79-38885 Filed 12-18-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Members of the Census Bureau Performance Review Board

In conformance with the provisions of the Civil Service Reform Act, the following individuals shall serve as members of the Census Bureau Performance Review Board:

(1) Barbara A. Bailar.
(2) George E. Hall.
(3) Shirley Kallek.
(4) James D. Lincoln.
(5) Janet Norwood.
(6) Rex L. Pullin.
(7) W. Bruce Ramsay.

Dated: December 14, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 79-38855 Filed 12-18-79; 8:45 am]

BILLING CODE 3510-07-M

Industry and Trade Administration

Advisory Committee on East-West Trade; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, January 9, 1980 at 9:30 a.m., in Room 4830, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., 20230.

The Committee was established on February 11, 1974 to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries. The Committee currently has 22 members.

The committee meeting agenda has two parts:

General Session, Room 4830

Morning 9:30 a.m.–12:30 p.m.

(1) Welcome and Opening Remarks by Chairman Ottmar
(2) Introductory Remarks
(3) Review of Developments in East-West Trade
(4) Update on Preparations for U.S.-China National Exhibition
(5) Committee Views on Countertrade
(6) Discussion of Trade Reorganization, including Roles of STR and Commerce, Changes in Trade Laws, Committee Views on Functions of Foreign Commerce Service

Executive Session, Room 4830

Afternoon 2:30 p.m.–3:30 p.m.

(7) Topics for Discussion at U.S.-East European Joint Commercial Commission Meetings

The General Session of the meeting will be open to public observation. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis.

A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extenstive questions or comments may be submitted in writing at any time before of after the meeting.

With respect to agenda item (7), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 13, 1979 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act Pub. L. 94–409, that the matters to be discussed under agenda item (7) should be exempt from the provisions of the Federal

[3] ER–1115, 44 FR 24264, April 25, 1979.

[4] Interested persons will be given 30 days from the date of service of this order to show cause why these applications should not be dismissed.

[5] ER–1132, effective July 3, 1979, 44 FR 40194, July 11, 1979.

[6] All refiled applications will be given new docket numbers.

[7] Since we have provided for the filing of objections, we will not entertain petitions for reconsideration of this order.

Advisory Committee Act relating to open meetings and public participation therein, because it will be concerned with matters listed in 5 U.S.C. 522b (c)(9)(B), i.e., premature disclosure would be likely to significantly frustrate implementation of a proposed agency action.

Copies of minutes of the open portion of the meeting will be available 30 days after the meeting by contacting Ms. Deborah Lamb, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230, telephone (202) 377-5896.

The complete Notice of Determination to close the aforementioned portion of the January 9 meeting of the Advisory Committee on East-West Trade is hereby published.

Date: December 14, 1979.

Kempton B. Jenkins,

Deputy Assistant Secretary for East-West Trade.

Subcommittee on Export Administration; President's Export Council

Notice of Determination

The Subcommittee on Export Administration was established by the Secretary of Commerce as a subordinate committee of the President's Export Council, pursuant to Section 3 of the Executive Order 11753, to advise the Department of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended, which has been superseded by the Export Administration Act of 1979, that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security or foreign policy reasons.

The Subcommittee's activities are conducted in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)), and the Office of Management and Budget Circular A-63 (Revised), "Advisory Committee Management," effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion of the agenda of the meeting of the committee is concerned with matters listed in Section 552b(c) of Title 5 of the United States Code. Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign plicy and are in fact properly classified pursuant to such Executive Order.

A Notice of Determination authorizing the closing of Subcommittee meetings, or portions thereof, dealing with security classified matters, was approved for meetings up to December 31, 1979.

In order to provide advice to the Department under the terms of its charter, the Subcommittee will hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the commodities and technical data subject to the COCOM control list, of the foreign availability of controlled commodities and technical data, and of other specific matters regarding export administration, much of the information relating to which is now or will be properly classified for national defense of foreign policy reasons, pursuant to Executive Orders 11652 or 12065. In order for the Subcommittee to provide required advice to the U.S. Government, it will be necessary to provide the Subcommittee with such classified material. Therefore, the meetings or portions thereof of the Subcommittee that will involve discussions of matters which are specifically authorized under criteria established by Executive Order 11652 or 12065 to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified pursuant to such Executive Orders must be closed to the public. Meetings or portions of meetings not involving properly classified information will be open to the public.

Accordingly, I hereby determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that those meetings or portions thereof of the Subcommittee dealing with the aforementioned classified materials shall be exempt, for the period January 1, 1980, to December 31, 1980 from the provisions of Section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act, relating to open meetings and public participation therein, because the Subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining meetings or portions thereof will be open to the public.

Dated: December 13, 1979.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

Dated: December 10, 1979.

Alfred Meisner,

Assistant General Counsel for Administration.

[FR Doc. 79-38811 Filed 12-18-79; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-658]

Participation By Vessels Built With Construction—Differential Subsidy In the Carriage of Crude Oil In the Domestic Trade; Application by Gulf Oil Corp.

Notice is hereby given that an application has been filed by Gulf Oil Corporation (Gulf) for Gulf's 262,376-deadweight ton tanker, *American Independence,* to carry oil in the Alaska/Panama oil trade. The vessel, which was built with construction-differential subsidy, would operate between Valdez, Alaska, and Puerto Armuelles, Republic of Panama, under charter to Atlantic Richfield Company (Arco) for a period of not more than six months. Gulf anticipates that six voyages could be made within this time and that the first voyage would commence at Valdez on or about March 1, 1980.

Arco has advised Gulf that it will have a continuing deficit in the 100,000-deadweight ton size range of tankers it requires for the Alaska/Panama oil trade which will continue until the delivery of a second 188,500-deadweight ton new building in the late summer of 1980. Gulf states that to the best of its knowledge and that of Arco no suitable Jones Act tonnage is available to provide the full shipping capacity Arco requires during the requested six-month period.

Interested parties may inspect Gulf's application in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor,", as defined in § 250.2 of the regulations as set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations published in the Federal Register issue of June 29, 1977 (42 FR 33035), and desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received on or before December 26, 1979. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest

is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS)).

By order of the Assistant Secretary for Maritime Affairs

Date: December 12, 1979.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 79-38793 Filed 12-18-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Availability of Evaluation Findings for the North Carolina, California, Maine, New Jersey, Puerto Rico, Maryland, and Hawaii Coastal Management Programs

Section 312 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) requires that the Office of Coastal Zone Management (OCZM) conduct a continuing evaluation of the performance of each coastal State under its federally approved coastal management program.

On-site evaluations of North Carolina, California, Maine, New Jersey, Puerto Rico, Maryland and Hawaii programs were conducted by Office of Coastal Zone Management. Findings were issued in August 1978 for North Carolina; in September 1979 for California, Maine, New Jersey, Puerto Rico and Maryland; and in October 1979 for Hawaii.

All seven States were found to be adhering to their management programs as a result of which positive results are occurring with respect to resource protection, management of development, increased recreational access and improved government decisionmaking.

Notice is hereby given of the availability of these evaluation findings to interested parties. A copy of the written findings made by the Assistant Administrator for Coastal Zone Management for each of these States may be obtained on request from: Rosella Sussman, Policy, Evaluation and External Relations, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, NW., Wasington, D.C. 20235, telephone (202) 634-4245.

Dated: December 12, 1979.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 79-38791 Filed 12-18-79; 8:45]

BILLING CODE 3510-08-M

Public Hearings on Draft Environmental Impact Statement Prepared on the Proposed Channel Islands Marine Sanctuary

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Channnel Islands Marine Sanctuary.

The hearing schedule is:

Thursday, January 10, 1980—7:00 p.m., Community Meeting Room—Ventura City Hall, 501 Poli Street, Ventura, California.

Friday, January 11, 1980—3:00 p.m., County Planning Commission Hearing Room (Rm. 17), Santa Barbara County Engineering Room, 123 East Anapamu Street, Santa Barbara, California.

The purpose of these hearings is to receive comments on the proposal to create a marine sanctuary in the waters around the Northern Channel Islands and Santa Barbara Island, and the adequacy of the Draft Environmental Impact Statement prepared for this proposal. NOAA solicits the views of interested persons and organizations. Views may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but the hearing staff will record and summarize the remarks. The comment period for this DEIS will end on January 23, 1980.

All comments received at these hearings, and in writing before the above date, will be fully considered in the final decision on designation of the proposed sanctuary. These comments and a description of the proposed final decision will be included in the Final Environmental Impact Statement.

Copies of the DEIS may be obtained from the Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (telephone 202/634-4253).

Dated: December 10, 1979.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 79-38792 Filed 12-18-79; 8:45 am]

BILLING CODE 3510-08-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, January 8, 1980, at 10:00 a.m. in the Commission's office at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. December 13, 1979.

Charles H. Atherton,

Secretary.

[FR Doc. 79-38857 Filed 12-18-79; 8:45 am]

BILLING CODE 6330-01-M

COPYRIGHT ROYALTY TRIBUNAL

Cable Royalty Distribution Proceeding

December 15, 1979.

In accordance with 17 USC 801(b)(3), the Copyright Royalty Tribunal directs interested parties in the matter of cable royalty distribution to submit not later than January 31, 1980 a pre-hearing memorandum on the following subjects:

1. Recommendations concerning the form and timing of submissions by claimants of the written statement of their direct cases.

2. The amount of time, number of witnesses and general identification of studies or other exhibits to be required in the presentation of claimants' cases.

3. Identification of matters requiring the production of additional information or claim justification from other claimants.

4. Recommendations concerning the conduct of the evidentiary hearing, including possible division of the hearing into specific phases.

5. Identification of any subjects that require determination by the Tribunal prior to the commencement of the evidentiary hearing.

Notice is hereby given that on February 14, 1980 at 10:00 a.m. there will be a conference of claimants or their representatives to consider the above matters, such additional subjects as may be presented by claimants in the pre-hearing memorandum, and the specific procedures of the evidentiary hearing. The location of the conference will be announced at a later time.

The pre-hearing memorandum shall be submitted in accordance with the following:

1. The Copyright Act does not provide for the payment of cable royalty fees to broadcaster claimants for the secondary transmission of the broadcast day as a compilation.

2. The Copyright Act does not provide for the payment of cable royalty fees to broadcaster claimants who have acquired rights to syndicated programming in a market, which rights are exclusive against other broadcasters in that market, when the syndicated programming is included in distant broadcasts which are retransmitted into the broadcaster's market.

3. The Copyright Act provides for the distribution of cable royalty fees to performing rights organizations.

4. The Copyright Act provides that cable royalty fees awarded for the secondary transmission of certain sporting events shall be distributed to the sports claimants except when contractual arrangements specifically provide that such royalties shall be distributed to broadcaster claimants.

The Tribunal directs that claimants shall file 10 copies of any items submitted. Any items mailed shall be addressed to Chairman, Copyright Royalty Tribunal, 1111 20th St., NW., Rm. 450, Washington, D.C. 20036.

Mary Lou Burg,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 79-38906 Filed 12-18-79; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Evironmental Impact Statement for Pine Ford Lake, Big River, Meramec River Basin, Missouri

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for Pine Ford Lake, Big River, Meramec River Basin, Missouri.

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a Draft Environmental Impact Statement for the Pine Ford Lake study, which involves affirming or reformulating the authorized project that would create a multiple-purpose lake on the Big River, approximately 45 miles southwest of St. Louis, Missouri. In conjunction with this study, the problems and needs throughout the Meramec River Basin will be investigated to define opportunities for nonstructural and structural solutions.

2. *Alternatives:* Alternatives described will include applicable nonstructural and structural measures such as: floodproofing; floodplain regulation; permanent evacuation of flood zones; warning systems; local options for increasing water supplies; conservation measures; varying the location of the damsite; varying the quantities of water to be stored for the multiple purposes; constructing single-purpose features such as local flood protection items and smaller lakes; and the consequences of no action.

3. *Scoping Process:*

a. *Public Involvement Program:* The public involvement program began with a public notice issued in August 1976. Further contact with the general public has occurred via presentations to various interested groups in the project area: Jefferson County Board of Economic Development, September 1977; Hillsboro Rotary Club, June 1978; East-West Gateway Coordinating Council, May 1979; and Meramec Basin Association, November 1979. Interagency coordination, related primarily to water supply needs, has proceeded by means of correspondence and a series of four briefing sessions during the period December 1977–April 1979. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), began in December 1977 at the initial briefing session. More intensive public/agency involvement activities will be accomplished with contractor assistance. The contractor will prepare a program that stresses maximum participation by all affected agencies, organizations, and private individuals.

b. *Significant Issues:* Significant environmental issues to be addressed in the Draft Environmental Impact Statement will include: effects of the proposed action and reasonable alternatives on rare and endangered species; archeological; historical; effects of existing heavy metals in river sediments, including post-project impacts and potential remedial measures; project impacts on the downstream riverine environment, particularly during low flow conditions; and an analysis of the effects on the environment regarding the economically justified alternatives.

c. *Lead Agency and Cooperating Agency Responsibilities:* The St. Louis District, U.S. Army Corps of Engineers, is the lead agency responsible for preparing the Draft Environmental Impact Statement. The U.S. Fish and Wildlife Service, the National Park Service, the Environmental Protection Agency, the Missouri Department of Natural Resources, and the Missouri Department of Conservation will participate as cooperating agencies.

d. *Environmental Review and Consultation Requirements:* The completed Draft Environmental Impact Statement will be made available to appropriate Federal, State, and local agencies; representatives of environmental and development groups; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. *Scoping Meeting:* The scoping process was initiated in the first of a series of briefings (December 1977) related to water supply needs. At a briefing session held on 10 April 1979, the process was expanded to include other purposes and cooperating agencies. The scoping process will intensify as Phase I planning proceeds, and will continue throughout the duration of the study.

5. *Draft Environmental Impact Statement Preparation:* The Draft Environmental Impact Statement is tentatively scheduled to be completed in the fourth quarter of FY 81 (July 1981).

ADDRESS: Questions concerning the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 North 12th Street, St. Louis, Missouri 63101.

Dated: December 11, 1979.

John S. Wilkes III,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-38858 Filed 12-18-79; 8:45 am]

BILLING CODE 3710-GS-M

Office of the Secretary

Defense Science Board Task Force on Cruise Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on January 10 and 11, 1980 at the DNA Conference Facility, R&D Associates, 4640 Admiralty Way, Marina del Rey, California 90291.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning

conventionally armed cruise missile employment.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c) (1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 14, 1979.

[FR Doc. 79-38813 Filed 12-18-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Cruise Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on January 28 and 29, 1980 at the DNA Conference Facility, R&D Associates, 4640 Admiralty Way, Marina del Rey, California 90291.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning conventionally armed cruise missile employment.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director Correspondence and Directives, Washington Headquarters Services, Department of Defense.

December 14, 1979.

[FR Doc. 79-38814 Filed 12-18-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Agreements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA and the firms listed below during the month of September 1979. These Consent Orders represent agreements between the DOE and the retail firms listed which involve a reduction of the selling prices for gasoline and/or the posting of the Maximum Lawful Selling Price (MLSP) to be in compliance with the Federal Energy pricing regulations. These Consent Orders are concerned exclusively with the consenting firm's current compliance with the Mandatory Petroleum Allocation and Price Regulations and do not address the possible non-compliance with these regulations prior to the date of the audit. These Consent Orders require consenting firms to come into compliance with legal requirements by reducing selling prices to established lawful level for each grade of gasoline sold, to properly post maximum lawful selling prices, and to properly maintain required records.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number 404–881–2661.

Firm name and address	Pricing violation	Posting violation	Date
Albert J. Conner, Stanton, Va	Yes	Yes	8-22-79
John G. Fheilman, Riviera Beach, Fl		Yes	8-23-79
L. F. Richardson, Richmond, Va	Yes	Yes	8-31-79
Western Way Shell, Orlando, Fl		Yes	8-31-79
W. A. Lunceford, Hueytown, Al	Yes	Yes	9-4-79
Evelio Denis/Exxon, Orlando, Fl	Yes	Yes	9-5-79
Frank Zalar, Orlando, Fl	Yes	Yes	9-5-79
Claudes' Mobil, Orlando, Fl		Yes	9-6-79
Eaton's Sv Sta & Garage, Union Park, Fl		Yes	9-6-79
James R. Moore, Manquin, Va	Yes	Yes	9-6-79
Raymond Carneal, Teppahannock, Va.		Yes	9-6-79
C. R. Lankford, Teppahannock, Va	Yes	Yes	9-6-79
John B. Dinsmore, Teppahannock, Va.	Yes	Yes	9-6-79
Charles Fleet, Mechanicsville, Va		Yes	9-6-79
Charles J. Wright, Mechanicsville, Va.	Yes	Yes	9-6-79
John E. Gibson, Richmond, Va	Yes	Yes	9-6-79
James C. Mayo, Richmond, Va	Yes	Yes	9-6-79
Union Park Texaco, Union Park, Fl	Yes	Yes	9-6-79
Don's University Gulf, Orlando, Fl	Yes	Yes	9-7-79
Carroll F. Elliot, Bowling Green, Va	Yes		9-7-79
Mrs. R. C. Martin, Ashland, Va	Yes	Yes	9-7-79
James W. Farmer, Bowling Green, Va.		Yes	9-7-79
Carroll F. Elliott, Ruther Glen, Va	Yes		9-7-79
Carmel Church Texaco, Ruther Glen, Va.		Yes	9-7-79
Nelson C. Hamlett, Farmville, Va	Yes	Yes	9-7-79
Woody's Shell, Petersburg, Va	Yes	Yes	9-11-79
Monses Union 76, Orlando, Fl	Yes	Yes	9-8-79
Dean Bridge Road Exxon, Augusta, Ga.	Yes	Yes	9-10-79
Centerville Exxon, Halifax, Va	Yes		9-11-79
Trudy Motor Co., Chester, Va	Yes		9-11-79
Herndon Exxon, Orlando, Fl	Yes		9-11-79
Smith's American, Santee, S.C	Yes	Yes	9-11-79
Union Street Shell, Danville, Va	Yes	Yes	9-12-79
Charles Gentry, Danville, Va	Yes	Yes	9-12-79
Conner's Exxon, Danville, Va	Yes		9-12-79
Walton's Craft Shop, Danville, Va	Yes		9-12-79
Riverside Texaco, Danville, Va	Yes	Yes	9-12-79
Cleveland's CITGO, Danville, Va	Yes	Yes	9-12-79
C. G. Halston, Danville, Va	Yes	Yes	9-12-79
Perez Texaco, Winter Park, Fl	Yes	Yes	9-12-79
Johnny Whelan Exxon, Petersburg, Va.	Yes	Yes	9-12-79
Shur Oil Co., Holly Hill, SC	Yes	Yes	9-12-79
Nelson's Texaco, Chester, Va	Yes	Yes	9-12-79
Taylor's Exxon, Petersburg, Va	Yes	Yes	9-12-79
Albert E. Spivey, Knoxville, Tn	Yes		9-12-79
Downtown Exxon, Martinsville, Va.	Yes	Yes	9-13-79
Tread City, Reedville, Va	Yes	Yes	9-13-79
D & A Gulf Center, Kilmarnock, Va	Yes	Yes	9-13-79
Altamonte Mobil, Altamonte, Fl	Yes	Yes	9-13-79
Browder's Texaco, Columbia, SC	Yes	Yes	9-13-79
Bayview Amoco, Columbia, SC	Yes	Yes	9-13-79
Hatton's Servicecenter, Lakeview, Va.	Yes	Yes	9-13-79
Morgan & Son, Warsaw, Va	Yes	Yes	9-13-79
Fake's Chevron, Cleveland, Tenn.	Yes		9-13-79
Skylake Texaco, Orlando, Fl	Yes	Yes	9-14-79
Johnson's Marina, Columbia, SC	Yes	Yes	9-14-79
Thompson's Fina, Columbia, SC	Yes		9-14-79
Ishie's Gulf Service, Pascagoula, Ms.	Yes	Yes	9-15-79
Bill Johnson & Sons Grocery, Kreole, Miss.	Yes	Yes	9-16-79
Union Park Chevron, Orlando, Fl	Yes	Yes	9-17-79
Par Mobil, Orlando, Fl	Yes	Yes	9-17-79
Henry E. Lee's Texaco, Pascagoula, Ms.	Yes	Yes	9-17-79
Snowden's Texaco, Rome, Ga	Yes		9-18-79
Ted's Phillips 66, Fort Walton Beach, Fl	Yes		9-18-79
Stephen P. Scott, Highland Springs, Va.	Yes	Yes	9-18-79
Edgewood Exxon Service, Danville, Va.	Yes	Yes	9-18-79
Orange & Gore Ave. Shell, Orlando, Fl			9-18-79
Triangle Standard, Pascagoula, Ms.	Yes	Yes	9-18-79
Georgie Stephens, Ashland, Va	Yes	Yes	9-19-79
Atkinson Gulf Service, Pensacola, Fl	Yes		9-19-79
Greenbrier Texaco, Chesapeake, Va.	Yes		9-19-79
Chevron Car Care, Orlando, Fl	Yes	Yes	9-19-79
Randalls Std Service, Atlanta, Ga	Yes	Yes	9-20-79
Al Kunard's Chevron Service, Chamblee, Ga.			9-20-79
Griffin's Exxon, Atlanta, Ga	Yes	Yes	9-20-79
Benjamin Blair, Pensacola, Fl	Yes	Yes	9-20-79
Winter Texaco, Orlando, Fl	Yes	Yes	9-20-79
Scenic Highway Exxon, Pensacola, Fl	Yes	Yes	9-20-79
John N. McGugin, Pensacola, Fl	Yes	Yes	9-20-79
Lumpkins Gulf Service, Lucedale, Ms.	Yes		9-20-79
Floyd Brock, Pensacola, Fl	Yes	Yes	9-20-79
Kiddy's Service Center, Sanford, Fl	Yes	Yes	9-21-79
David Campbell Jr., Stafford, Va	Yes		9-21-79
Seymour West Beach Chevron, Biloxi, Ms.	Yes		9-21-79
E. M. Hice, Biloxi, Ms	Yes		9-21-79
Singing River Service Center, Pascagoula, Ms.	Yes		9-21-79
Berry's Chevron Service, Sanford, Fl	Yes	Yes	9-21-79
Jules Kraemer, Miami, Fl	Yes		9-24-79
Hasson's Auto Repair, N. Miami Beach, Fl	Yes	Yes	9-24-79
Shamrock Exxon, Columbia, SC			9-25-79
Robinson's Texaco, Columbia, SC	Yes	Yes	9-25-79
John Seibert, Richmond, Va	Yes	Yes	9-25-79
Goodings Exxon, Columbia, SC	Yes	Yes	9-25-79
Joelson, Inc., Miami, Fl	Yes	Yes	9-25-79
Leslie Stines, N. Miami, Fl	Yes	Yes	9-25-79
William B. Sutton, Miami, Fl		Yes	9-25-79
Winston's Mascot, Richmond, Va	Yes	Yes	9-25-79
Walsh Exxon, Opal, Va	Yes	Yes	9-25-79
Giles Exxon, Columbia, SC	Yes	Yes	9-26-79
Frank Iglesia Amoco, Miami, Fl	Yes	Yes	9-26-79
Holiday Gulf, Winchester, Va	Yes		9-26-79
Martin's Chevron, Dania, Fl	Yes		9-26-79
Carter's Texaco, Charleston Hts., SC.	Yes	Yes	9-27-79
Wade Smith-Gulf, Charleston, SC	Yes	Yes	9-27-79
Lamm's Texaco, Charleston, SC	Yes	Yes	9-27-79
Northridge Exxon, Charleston, SC	Yes	Yes	9-27-79
Dr. Davis Service Center, Miami, Fl	Yes	Yes	9-27-79
Port Tarpon Marina, Tarpon Springs, Fl	Yes	Yes	9-27-79
Luis Garcia & Felipe Rodriquez, Miami, Fl	Yes	Yes	9-28-79
Martin's Amoco, Ft. Lauderdale, Fl	Yes	Yes	9-28-79
Gaimy's Chevron, Miami, Fl	Yes	Yes	9-28-79
Pete's Exxon, Tampa, Fl	Yes	Yes	9-28-79

Issued in Atlanta, Georgia, on the 10th day of December 1979.

James C. Easterday,

District Manager.

[FR Doc. 79-38901 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

December 11, 1979.

Memorandum for: Director, Office of Organization and Management Systems, Directives and Federal Register Branch, Room 4B-194, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

From: William D. Miller, District Manager, Central Enforcement District.

Subject: Action Taken on Consent Orders.

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of November. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Order, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certificate that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers and letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact William D. Miller, District Manager for Enforcement, 324 East 11th Street, Kansas City, Missouri 64106, telephone number (816) 374-5936.

Issued in Kansas City, Missouri on the 11th day of December, 1979.

William D. Miller,

District Manager of Enforcement.

Firm Name, Firm Address, and Audit Date

Stephen's Garage, 204 W. Rochester, Akron, Indiana 46910—11-14-79
Northside Marathon, 2727 N. Main Street, Findlay, Ohio 45840—11-20-79 Steele's Marathon, 3018 U.S. 224, Gilboa, Ohio 45847—11-20-79
Hilleary Shell, U.S. 30 South Cable Rd., Lima, Ohio 45804—11-21-79
Bill's Service Center, 3782 E. 116th Street, Cleveland, Ohio 44105—11-19-79
Lee-Seville Shell, 4925 Lee Road, Cleveland, Ohio 44128—11-23-79
Green Hos Service Station, 550 N. Main Street, N. Canton, Ohio 44720—11-19-79
Bible Amoco, 425 N. Main Street, N. Canton, Ohio 44720—11-19-79
Frank's Union 76, 5704 Smith Road, Brookpark, Ohio 44142-11-23-79
Tallmadge Circle Exxon, 218 Tallmadge Circle, Tallmadge, Ohio 44278—11-21-79
Isaman & Son Shell, 966 South Main, Mansfield, Ohio 44907—11-27-79
Sam's Texaco, 601 S. Buffalo, Warsaw, Indiana 46580—11-26-79
Plaza Exxon, 1241 East Central Ave., Miamisburg, Ohio 45342—11-27-79
Arthur Hofer Texaco, 13777 Pearl Road, Strongsville, Ohio 44136-11-26-79
Dan's Sunoco, 1700 Greenville Road, Bristolville, Ohio 44402-11-02-79
Ryser's Boat Livery, 636 Sandusky Street, Vermilion, Ohio 44089—11-05-79
Brecksville Sunoco, 8966 Brecksville Road, Brecksville, Ohio 44141—11-05-79
Walton Hills Sunoco, 17975 Alexander Road, Walton Hills, Ohio 44146—11-07-79
E & L Shell, 1160 Central & Lawrence, Miamisburg, Ohio 45342—11-09-79
Seneca Lake Marina, State Route 313, Senecaville, Ohio 43780—11-02-79
Phil's Gulf, 1010 Harman, Columbus, Ohio 43223—11-08-79
Don Breier Sunoco, 5860 W. Central, Toledo, Ohio 43615—11-06-79
Ottawa Hills Gulf Service, 4246 Central, Toledo, Ohio 43608—11-07-79
Kevin Enright Shell, 103 Anthony Wayne Trail, Waterville, Ohio 43566—11-08-79
Bedford Sunoco, 240 Broadway, Bedford, Ohio 44146—11-14-79
Broadway & Rockshell, 111 Broadway, Bedford, Ohio 44146—11—14-79
Blake Peebles Amoco, 3240 Center Road, Brunswick, Ohio 44212—11-16-79
Steve's Service-Sohio, 29154 Lakeland Blvd., Wickliffe, Ohio 44092—11-09-79
Geiger's Service, 201 E. VanBuren, Columbia City, Indiana 46725—11-13-79
Spangler 66, 320 Euclid Avenue, Des Moines, IA 50313—11-06-79
Hickman Standard, 6300 Hickman Road, Des Moines, IA 50322—11-06-79
All In One, 1023 Grand Avenue, Des Moines, IA 50309—11-06-79
Schaller Standard, 28th & Grand, Des Moines, IA 50265—11-06-79
Bennington Mobil, 2nd & Warehouse, Bennington, NE 68007—11—07-79
Flaugh Service, 2933 Indianola Avenue, Des Moines, IA 50313—11-07-79
Subway Station, 4th & Walnut, Des Moines, IA 50309—11-07-79
Chadwick DX, 3501 SW 9th, Des Moines, IA 50316—11-07-79
Otto Conoco, Box 2, Johnson, IA 50131—11-07-79
Park Fair Standard, 2nd & Euclid, Des Moines, IA 50313—11-07-79
Douglass Texaco, I-80 & Highway 283, North Platte, NE 69101—11-07-79
Smith Leroy Conoco, 1301 South Jeffers, North Platte, NE 69101—11-07-79
Kirk Freeway, 2116 E. Euclid, Des Moines, IA 50317—11-08-79
Victor's Standard, 42nd & Crocker, Des Moines, IA 50312—11-08-79
Southgate Standard, 3401 SE 14th, Des Moines, IA 50320—11-08-79
Gary's Downtown Conoco, 320 North Jeffers, North Platte, NE 69101—11-08-79
Frank's Standard, 119 North Jeffers, North Platte, NE 69101—11-08-79
Downtown Champlin, 1102 1st Avenue, South Fort Dodge, IA 50501—11-14-79
Gene's Skelly, 3rd & E. Linn, Marshalltown, IA 50158—11-15-79
Kinzie's Service 204 E. 2nd, Grand Island, NE 68801—11-15-79
Lloyd's Texaco, 322 E. 2nd, Grand Island, NE 68801—11-15-79
McCoy's Market, 1827 Superior Street, Webster City, IA 50595—11-15-79
Tom Halder's Service, 1401 2nd Avenue, Webster City, IA 50595—11-15-79
Kerm's Shell, I-80 & Highway 14, Newton, IA 50208—11-16-79
3 Points Tire Service, South Elm Avenue, Hastings, NE 68901—11-16-79
Harry's Conoco, 634 South Burlington, Hastings, NE 68901—11-16-79
I-80 Standard, I-80, Exit 222, Cozad, NE 69130—11-19-79
Mobil Service Center, 2060 Ross, Sioux City, IA 51103—11-28-79
Moody's Skelly, 4th & Hwy. 75, Sioux City, IA 51101—11-28-79
Red Feather Service, Inc., 1123 3rd Street, Sioux City, IA 51101—11-28-79
Skaff's Service Station, 2101 4th, Sioux City, IA 51101—11-28-79
Kistner DX Service, 219 West 8th Sioux City, IA 51103—11-28-79
North Shore Shell, 10 Skokie Highway, Highland Park, IL 60035—11-2-79
J. Woofter Super 100 Clark, 4015 W. 183rd, Country Club Hills, IL 60477—11-16-79
Chuck's Super 100, 16600 So. Halsted, Harvey, IL 60426—11-16-79
Poerio's Phillips 66, 14th Campbell, Chicago Heights, IL 60411—11-21-79
Scharam's Super 100 #369, 5808 So. Kedzie, Chicago, IL. 60629—11-26-79
Crosstown Shell, 4 So. Damen, Chicago, IL 60616—11-28-79
Sauk Trail Service Center, 3147 Chicago Road, So. Chicago Hts., IL 60411—11-29-79
Joe Fry Super 100 #893 14430 So. Crawford, Midlothian, IL 60445—11-30-79

Ed Schelfo's Super 100, 740 East Sauk Trail, Chicago Heights, IL 60411—11-28-79
Love McMiller Standard, 1600 E. McNichols, Detroit, Michigan—11-8-79
William Harrell—Gulf, 2500 Woodward, Detroit, Michigan—11-8-79
Jefferson & Conner Shell, 12441 E. Jefferson, Detroit, Michigan—11-9-79
Aranki Shell Service, 14411 Mack Avenue, Detroit, Michigan 48215—11-5-79
Harrison Gas & Oil Co., DBA Shopper Save Mobil, 1190 North State, Gladwin, MI 48624—11-5-79
Quenneville's Union-76 Service, 14748 Michigan Ave., Dearborn, MI—11-21-79
Habib Shell Service, 6171 W. Vernor, Detroit, MI 48209—11-23-79
Bartz Amoco Expressway Service, Eastman Wackely Rd., Midland, MI 48640—11-23-79
Metro-Service Center Corp., Texaco Service Center-Metro, Metro Airport, Detroit, MI—11-29-79
William Cooper, Cooper's Union-76, 23220 Van Born, Dearborn Hts., MI 48125—11-29-79
Denver Barton, Barton's Shell Station, 17500 Mack, Grosse Pte., MI 48236—11-29-79
Stan's Auto Service, 2401 Riverside, Sioux City, IA 51109—11-29-79
Hardy Oil Co., 418 West 8th, Sioux City, IA 51103—11-29-79
Branum Oil Co., Merrill, IA 51038—11-29-79
Richard's Mobil, Box 1013, Hinton, IA 51024—11-29-79
Emil's Freeway, 1100 Lewis Blvd., Sioux City, IA 51105—11-29-79
Sioux Harbor Enterprises, 4147 Harbor Drive, Sioux City, IA 51111—11-30-79
Rodi Car Wash, 17th & Hamilton, Sioux City, IA 51103—11-30-79
Heath's Standard, I-70 and Route 32 33, Effingham, IL 62401—11-07-79
Dust Ramada Shell, I-70 and Route 32 33, Effingham, IL 62401—11-07-79
King City Texaco, I-57 and Hwy. 15, Mt. Vernon, IL 62864—11-08-79
Johnson's Standard, 24th and Broadway, Mt. Vernon, IL 62864—11-08-79
Roger's Standard, 2 South Commercial, Harrisburg, IL 62946—11-08-79
Bob Sullivan Shell, Hwy. 13 and 45, Harrisburg, IL 62949—11-08-79
Henderson's Standard Service Station, 413 Stafford, Portageville, MO 63873—11-13-79
Marathon Service Station, 325 N. Cole Drive, Lima, Ohio 45801—11-30-79
Tony's Gulf Service, 1669 West 5th Avenue, Columbus, Ohio 43212—11-28-79
W. Davis Standard, 52 By-Pass Eagle Road, W. Lafayette, Indiana 47906—11-27-79
David Silvers Citgo, 1000 Sagamore, W. Lafayette, Indiana 47906—11-29-79
H & H Service Conoco, 302 South 71 Highway, Savannah, Missouri—11-13-79
John Homan Gladstone 66, 5607 North Antioch Road, Kansas City, Missouri—11-20-79
McMeins Skelly Service, 6842 Johnson Drive, Mission, Kansas—11-15-79
Gibbons Skelly, 12419 West 95th Street, Lenexa, Kansas—11-28-79

[FR Doc. 79-38899 Filed 12-18-79; 8:45 am]
BILLING CODE 6450-01-M

Application for Authority to Export Electric Energy; Basin Electric Power Cooperative

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Authorization to Export Electric Energy Across United States-Canadian Border by Basin Electric Power Cooperative.

SUMMARY: Basin Electric Power Cooperative has filed an application for authority, pursuant to section 202(e) of the Federal Power Act, to export electric energy across the United States-Canadian Border to Saskatchewan Power Corporation.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-8247.

Lise Courtney M. Howe, Office of General Counsel, Department of Energy, Room 5E-064, Forrestal Building, 1000 Independent Ave., SW., Washington, D.C. 20585, (202 252-2900.

SUPPLEMENTARY INFORMATION: On July 24, 1978, Basin Electric Power Cooperative (Basin) filed an application with the Economic Regulatory Administration (ERA), pursuant to the provisions of section 202(e) of the Federal Power Act and Part 32.30 of the Rules of Practice and Procedure, for authority to export electric energy to Canada from the United States through facilities at the international boundary.

On July 24, 1979, Basin also applied pursuant to Executive Order No. 10485, as amended by Executive Order No. 12038, for a Permit to construct, connect, operate and maintain an international interconnection at a point on the United States-Canadian border forty-five miles due north of Tioga, North Dakota. The 230 kilovolt overhead transmission line, which is approximately 135 miles in length, will interconnect with a similar transmission line owned and operated by the Saskatchewan Power Corporation (Saskatchewan).

Upon consideration of the latter application, ERA found that issuance of the permit was appropriate and consistent with the public interest. Accordingly, the Administrator of ERA issued the Permit on November 30, 1979 authorizing Basin Electric Power Cooperative to construct, connect, operate and maintain an electric transmission facility at the United States-Canadian border.

Basin states in its application for export authority that the contract between it and Saskatchewan is for an exchange of 100 megawatts of peaking power with energy up to a 20 percent monthly capacity factor, until the contract terminates on April 30, 2000. Saskatchewan shall have available, and upon Basin's request, shall supply to Basin during each summer season, 100 MW of peaking power with energy up to a 20 percent monthly capacity factor as scheduled by Basin. Basin shall have available and, upon Saskatchewan's request, shall return to Saskatchewan an equivalent amount of energy at mutually agreeable times between May 1 and April 30 of each contract year, commencing in 1981 and ending April 30, 1986. For the 100 MW of peaking power which Saskatchewan holds available to Basin, Basin shall pay to Saskatchewan a demand charge equal to the Mid-Continent Area Power Pool (MAPP) rate applicable to peaking power during the subject season. For the period from 1986 until the termination of the contract, Basin shall receive 100 MW of peaking power with energy up to a 20 percent monthly capacity factor during each summer season, and shall return to Saskatchewan 100 MW of peaking power with energy up to a 20 percent monthly capacity factor during each winter season. There shall be no charge for the exchange of peaking capacity. The charge for the difference in energy exchange shall be the MAPP floor rate for Schedule H—Peaking Power.

Additional power and energy may be sold to or purchased from Saskatchewan. This power and energy will be sold in accordance with service schedules attached to the application as filed with ERA. The rates of charge and methods of determining such rates set out in service schedules are intended to be commensurate with the Mid-Continent Area Power Pool rates in effect during the time of transactions.

Basin states in its application that the proposed power exchange with Saskatchewan will not impair the sufficiency of electric supply within the United States.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4110, 2000 M Street, NW., Washington, D.C. 20461, in accordance with §§ 1.8 or 1.10 of the rules of practice and procedure (18 CFR 1.8, 1.10).

Any such petitions and protests should be filed on or before January 15, 1980. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with ERA and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street, NW., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, NW., Washington, D.C.

Dated: December 13, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-38838 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

Keystone Fuel Oil Company; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Keystone Fuel Oil Company, 25 South Heald Street, Wilmington, Delaware 19801. This Proposed Remedial Order charges Keystone with pricing violations in the amount of $2,950,026.00, connected with the sale of fuel oil and kerosene during the period from August 19, 1973 through June 30, 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Herbert M. Heitzer, District Manager of Enforcement (215) 597-2633. On or before January 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 7th of December, 1979.

Herbert M. Heitzer,

District Manager, Enforcement.

[FR Doc. 79-38903 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01

Quintana Petroleum Corporation; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Final Action Taken on a Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action of a Consent Order.

EFFECTIVE DATE: December 13, 1979.

FOR FURTHER INFORMATION CONTACT: Wayne Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, (214) 767-7745.

SUPPLEMENTARY INFORMATION: On August 31, 1979, the ERA of the DOE executed a proposed Consent Order with Quintana Petroleum Corporation (Quintana) of Houston, Texas. Under 10 CFR 205.199J(c), a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order (FR, Vol. 44 No. 210, October 29, 1979). At the conclusion of the thirty-day comment period, the ERA had received certain notices of claims against the refund amount of the Consent Order which have been forwarded to the Director, Resource Management Branch, Office of Enforcement, U.S. Department of Energy, attention: Special Refund Account Coordinator, 2000 M Street, NW. (Room 5128), Washington, D.C. 20461. Also, an objection to the incorporation of Subpart V in the Consent Order was received from Exxon which was not sustained. Accordingly, the ERA has concluded that the Consent Order as executed between the ERA and Quintana is an appropriate resolution of the compliance proceeding which it described, and it shall become final and effective as proposed, without modification, on November 13, 1979.

Procedures and requirements for documenting proof of claims are being developed. Refunded overcharges received, if any, will remain in a suitable account established pursuant to Subpart V of 10 CFR 205, pending the determination of their proper disposition.

Issued in Washington, D.C. on the 13th day of December 1979.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration, Department of Energy.

Lona Feldman,

Deputy Assistant General Counsel for Enforcement.

[FR Doc. 79-38902 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

Macon Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Macon Oil Company, Lafayette, Tennessee 37083, on November 21, 1979.

This Proposed Remedial Order charges Macon Oil Company with failure to supply Robinson Grocery, Fountain Run, Kentucky, with its base period volume of motor gasoline pursuant to title 10 CFR Section 211.9(a)(1) of DOE regulations.

Pursuant to terms of the Proposed Remedial Order, Macon Oil is required to resume sale and delivery of monthly allocation entitlement to Robinson and sell to Robinson those volumes of allocated petroleum withheld during prior months.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, Phone: (404) 881-2661. On or before January 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 10th day of December 1979.

James C. Easterday,

District Manager.

[FR Doc. 79-38900 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-71]

Columbia Gas Transmission Corp.; Application

November 30, 1979

Take notice that on November 9, 1979, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-71 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an additional point of delivery to Columbia Gas of Ohio, Inc. (Columbia of Ohio), an existing wholesale customer, all as a more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states the purpose of the new point of delivery on its Line D-100 is to permit Columbia of Ohio to provide service to Church & Dwight Corporation (Church & Dwight). Church & Dwight, it is stated, is building a new facility adjacent to Columbia LNG Corporation's Green Springs SNG Plant in order to process excess carbon dioxide. Church & Dwight's new facility

will be operational and will require gas service by November 30, 1979, it is asserted.

Applicant states the new load to Church & Dwight is gas for use in boilers and Columbia of Ohio would provide it with up to 300 Mcf of gas per day on a firm basis. It is stated that any volumes in excess of 300 Mcf per day would be supplied by Columbia of Ohio to Church & Dwight only on those days that excess gas is made available by Applicant to its customers generally throughout its system. It is stated that Church & Dwight would use No. 2 fuel oil to supplement or replace natural gas.

Applicant states that the volumes to be provided to Church & Dwight were included in the estimated requirements of Columbia of Ohio, filed with the Commission on March 2, 1979, in Docket No. CP73-202 indicating the availability of volumes of gas necessary to supply the estimated requirements of its customers.

Applicant proposes to construct and operate an interconnecting tap facility in Seneca County, Ohio, to provide an additional point of delivery to Columbia of Ohio. Applicant states the total cost of the proposed interconnection would be $24,300, which cost would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38817 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-7]

Delhi Gas Pipeline Corp.; Application for Adjustment

November 30, 1979.

Take notice that on October 12, 1979, Delhi Gas Pipeline Corporation (Delhi), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. SA80-7 an application pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) for an adjustment consisting of Commission approval of assignments by Delhi to United Gas Pipe Line Company (United) of natural gas purchase contracts with prices in excess of those provided by Section 102 of the NGP, all as more fully set forth in the application on file with the Commission and open to public inspection.

Delhi states that on March 1, 1979, pursuant to Section 312 of the NGPA, Delhi assigned gas purchase contracts to United which contain price redetermination provisions which have or will have the effect for the duration of the term of said contracts of raising the price of gas covered by said contracts above the new gas prices provided by Section 102 of the NGPA to a level equal to the Section 102 price plus state severance taxes, to the extent permitted by Section 110 of the NGPA. Delhi seeks the instant adjustment to permit the continuation of its assignments of said contracts with the assignee paying the gas producers the price as redetermined under said contracts, as long as said prices do not exceed the Section 102 price plus the state severance taxes permitted by Section 110.

The application states that Delhi seeks an adjustment because pursuant to Section 284.163(b) of the Regulations under the NGPA (18 CFR 284.163(b)) assignments of contracts with gas prices exceeding Section 102 prices set forth in Section 271.101(a) of the Regulations under the NGPA (18 CFR 271.101(a)) are not permitted without prior Commission approval. Delhi states that the subject contracts were assigned under the rule in Section 284.163(b) without prior Commission approval because at the time of the assignment the gas prices did not exceed the prices provided by Section 271.101(a). Relief is said to be required at this time because under the price redetermination provisions, Delhi is required to redetermine the gas price to the average of the two or three highest prices being paid by a pipeline purchaser, including interstate pipelines, for gas located within one or more designated geographical areas. Such highest prices being paid by interstate pipelines are said to be the Section 102 new gas prices plus state severance taxes; and, therefore, on or about October 1, 1979, the redetermined prices exceeded the prices provided by § 271.101(a).

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before January 3, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38318 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-84]

El Paso Natural Gas Co.; Application

November 30, 1979.

Take notice that on November 14, 1979, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-84 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction for a twelve-month period commencing January 1, 1979, and operation of facilities to make miscellaneous rearrangements to its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant.

Applicant requests a waiver of the cost limitation prescribed by Section 157.7(c) in order to increase total expenditures from $300,000 to $500,000. Such request is predicated upon the climbing inflation which has eroded the usefulness of the budget authorization since the Commission last revised the cost limitations, it is asserted.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38819 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-18]

Gulf States Utilities Co.; Application

November 30, 1979.

Take notice that on November 15, 1979, Gulf States Utilities Company ("Company") filed an application with the Federal Energy Regulatory Commission seeking an order pursuant to Section 204 of the Federal Power Act in connection with the sale and lease back of its proposed new office building.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1979, file with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38820 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CI73-676, et al.]

Florida Exploration Co., (Successor to Florida Gas Exploration Co.; Application for Certificate Amendments, and for Redesignation of Rate Schedules

December 12, 1979.

On October 16, 1979, Florida Exploration Company (Exploration) filed an application to amend certificated of public convenience and necessity currently held by Florida Gas Exploration Company (FGEX) by substituting Exploration as certificate holder and to redesignate the related rate schedules in the name of Florida Exploration Company with the same rate schedule numbers assigned to Exploration as were assigned to FGEX. Exploration also requests that they be substituted for FGEX in the pending abandonment in Docket No. CI79-543 which proposes to abandon the sale of gas under certificate authorization issued in Docket No. CI76-581 and FGEX's Rate Schedule No. 11.

The related rate schedules and purchasers are listed on the Appendix hereto.

On August 24, 1979, a resolution was adopted which provided in part that Florida Gas Exploration Company (FGEX)'s Articles of Incorporation be amended to change the company's name to Florida Exploration Company (Exploration), effective August 28, 1979.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 4, 1979, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition 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 petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Appendix

New: Florida Exploration Co. rate schedule No.	Certificate docket No.	Old: Florida Gas Exploration Co. rate Schedule No.	Purchaser
1*	CI73-676	*1	Florida Gas Transmission Company.
2	CI72-605	2	Tennessee Gas Pipe Line Company.
3**	CI73-7	**3	Florida Gas Transmission Company.
5*	CI74-422	*5	Southern Natural Gas Company.
6*	CI74-509	*6	Florida Gas Transmission Company.
7	CI75-244	7	Florida Gas Transmission Company.
9	CI76-192	9	Transcontinental Gas Pipeline Corp.
10	CI76-305	10	Florida Gas Transmission Company.
11	CI76-581*[1]	*11	Florida Gas Transmission Company.
12	CI76-616	12	Transcontinental Gas Pipeline Corp.
13	CI77-50	13	Florida Gas Transmission Company.
14	CI77-49	14	Transcontinental Gas Pipeline Corp.
15	CI77-55	15	Transcontinental Gas Pipeline Corp.
16	CI77-61	16	Transcontinental Gas Pipeline Corp.
17	CI77-333	17	Florida Gas Transmission Company.
18*	CI77-359	*18	United Gas Pipe Line Company.
19	CI77-495	19	Florida Gas Transmission Company.
20	CI77-496	20	Florida Gas Transmission Company.
21	CI77-663	21	Florida Gas Transmission Company.
22	CI77-664	22	Florida Gas Transmission Company.
23	CI77-666	23	Florida Gas Transmission Company.
24	CI77-668	24	Florida Gas Transmission Company.
25	CI77-667	25	Florida Gas Transmission Company.
26	CI77-665	26	Florida Gas Transmission Company.
27	CI77-835	27	Trunkline Gas Company.
28	CI77-843	28	Transcontinental Gas Pipeline Corp.
29	CI78-10	29	Transcontinental Gas Pipeline Corp.
30	CI78-518	30	Florida Gas Transmission Company.
31	CI78-774	31	Florida Gas Transmission Company.
32	CI78-1016	32	Florida Gas Transmission Company.
33	CI78-510	33	Texas Eastern Transmission Corp.
34	CI78-1142	34	Florida Gas Transmission Company.
35	CI78-1143	35	Florida Gas Transmission Company.
36	CI78-1247	36	Florida Gas Transmission Company.
37	CI79-33	37	Transcontinental Gas Pipeline Corp.

[1]Application to abandon service pending in Docket No. CI79-543.

*(Operator), *et al.*

**Et al.*

[FR Doc. 79-38744 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. CI75-540, et al.]

Forest Oil Corp., et al.; Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

December 12, 1979.

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.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 21, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where the petition for leave to intervene is timely filed, or where 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 Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [1]	Pressure base
CI75-540, E, Nov. 20, 1978	Forest Oil Corporation, 1500 Colorado Natl. Bldg., 950 17th Street, Denver, Colorado 80202.	Columbia Gas Transmission Corporation, West Cameron Area Block 507, Offshore Louisiana.	(?)	15.025
CI77-160, C, Sept. 29, 1978	Placid Oil Company, 1600 First Natl. Bank Bldg., Dallas, Texas 75202.	Transcontinental Gas Pipe Line Corporation, Bassfield Field, Jefferson Davis County, Mississippi.	(?)	15.025
CI78-602, C, Oct. 5, 1978	J. M. Huber Corporation, 2000 West Loop South, Houston, Texas 77027.	El Paso Natural Gas Company, Crooked Creek Field, Eddy County, New Mexico.	(?)	14.65
CI79-32, A, Oct. 10, 1978	Supron Energy Corporation, Suite 1700, Campbell Centre, 8350 North Central Expressway, Dallas, Texas 75026.	Arkansas Louisiana Gas Company, Savanna Area, Pittsburg County, Oklahoma.	(?)	14.65

[1]On 12-7-76, Forest Oil Corporation (Forest) sent Columbia Gas Development Corporation (Columbia) notice of Forest's election not to retain its interest in West Cameron Blocks 479, 485, 531, and 642, East Cameron Blocks 370 and 371, and South Marsh Island Block 267 acquired in the 1972 sale by Forest Drilling Venture (Venture). Pursuant to the resulting termination of Venture which was a partnership between Forest and Columbia, Forest assigned to Columbia all of its interest in and to the leases covering the above described Blocks except its interest in and to a portion of West Cameron Block 507.

[2]Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 79-38745 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-12]

Consolidated Gas Supply Corp.; Third-Party Protests[1]

Issued: December 11, 1979.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B," [3] the staff of the Commission protested on October 15, 1979, the assertion by the Consolidated Gas Supply Corporation (Consolidated) and certain producers that the contracts identified in its protest constitutes contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Consolidated in its evidentiary submission.

Take further notice that Associated Gas Distributors (AGD) also filed a third-party protest on October 15, 1979. AGD protests all of the contracts contained in Consolidated Gas Supply Corporation's (Consolidated) Evidentiary Submission for the Applachian area.[4] AGD's position has been adopted and incorporated in protests by the Arizona Corporation Commission, the Florida Cities, the Gas Consumers Group, the Kansas State Corporation Commission, the Cities of Mangum, Oklahoma and Winfield, Kansas, Congressman Andrew Maguire, the Memphis Light, Gas and Water Division, the South Dakota Public Service Commission, the Minnesota Public Service Commission, and the Public Service Commission of the State of New York.

Take further notice that the Public Service Commission of the State of New York (New York) filed separate protests with respect to certain sales made to Consolidated by producers from Louisiana and the offshore Federal Domain. The contracts separately protested by New York are listed in Appendix B.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before December 26, 1979, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

Appendix A

Procedure	Rate Schedule No. and Contract date
CNG Producing Company	1/4-42-74
CNG Producing Company	17/6-25-73
CNG Producing Company	18/6-25-73
CNG Producing Company	22/6-25-73
CNG Producing Company	24/6-25-73
CNG Producing Company	33/7-18-77
CNG Producing Company	34/8-16-77
CNG Producing Company	35/9-2-77
CNG Producing Company	36/7-21-77
CNG Producing Company	37/7-18-77
CNG Producing Company	38/2-19-75
CNG Producing Company	39/4-26-78
CNG Producing Company	40/6-16-78
CNG Producing Company	41/7-3-78
CNG Producing Company	43/10-3-78
Louisiana Land & Exploration Company	26/4-11-78
Texas Gas Exploration Corporation	50/2-17-78
Texas Gas Exploration Corporation	51/2-17-78

Appendix B

Procedure	Rate Schedule No. and Contract date
CNG Producing Company	1/7-24-73
CNG Producing Company	2/4-24-74
CNG Producing Company	16/6-25-73
CNG Producing Company	17/6-25-73
CNG Producing Company	18/6-25-73
CNG Producing Company	19/6-25-73
CNG Producing Company	20/6-25-73
CNG Producing Company	21/6-25-73
CNG Producing Company	22/6-25-73
CNG Producing Company	23/6-25-73
CNG Producing Company	24/6-25-73
CNG Producing Company	25/9-19-73
CNG Producing Company	26/9-19-73
CNG Producing Company	27/1-9-75
Texas Gas Exploration Corporation	28/1-5-73
Texas Gas Exploration Corporation	35/1-5-73
CNG Producing Company	28/2-19/75
CNG Producing Company	29/2-19-75
CNG Producing Company	30/2-19-75
CNG Producing Company	31/2-19-75
CNG Producing Company	33/7-18-77
CNG Producing Company	34/8-16-77
CNG Producing Company	36/9-2-77

Appendix B—Continued

Procedure	Rate Schedule No. and Contract date
CNG Producing Company	36/7-21-77
CNG Producing Company	37/7-18-77
CNG Producing Company	38/2-19-75
CNG Producing Company	39/4-26-78
CNG Producing Company	40/6-16-78
CNG Producing Company	41/7-3-78
CNG Producing Company	43/10-3-78
Texas Gas Exploration Corporation	50/2-17-78
Texas Gas Exploration Corporation	51/2-17-78
Texaco Incorporated	57/3-18-75
Louisiana Land and Exploration Corporation	26/4-11-78

[FR Doc. 79-38625 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-5]

Natural Gas Pipeline Co. of America; Third-Party Protests[1]

Issued December 11, 1979.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B," [3] the staff of the Commission protested on October 15, 1979, the assertion by the Natural Gas Pipeline Company of America (Natural) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect certain applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff states in its protest that the language of the contracts identified in Appendix A of this notice does not constitute authority for the producer to increase price to the extent claimed by Natural in its evidentiary submission.

Take further notice that the Public Service Commission of the State of New York (New York) also filed third-party protest on October 15, 1979. New York protests that the contracts identified in Appendix B of this notice do not constitute the contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the

[1] The term "third party protest" refers to a protest filed by a party who is not a party to that contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

[4] AGD makes limited protests of all contracts identified in Consolidated's Appalachian Area Evidentiary Submission as containing area rate clauses types C and F. Although AGD agrees that these clauses authorize the sellers to collect the filed-for NGPA rates for the specified period, the protests are made to the extent that the clauses represent recent amendments to the identified contracts.

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Commission, on or before December 26, 1979, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

Producer	Rate Schedule No., or contract date
Aminoil Dev., Inc.	8
Chevron USA, Inc.	36
Enserch Exploration, Inc.	127
Enserch Exploration, Inc.	129
Kerr-McGee Corp.	150
Anadarko Production Co.	138
Texaco Inc.	424
Amoco Production Co.	511
Atlantic Richfield Co.	649
American Petrofina Co. of Texas	115
Amoco Production Co.	171
Amoco Production Co.	4-2-79
Anadarko Production Co.	235
Ashland Exploration, Inc.	74
Atlantic Richfield Co.	39
Atlantic Richfield Co.	246
Chevron U.S.A., Inc.	150
Coastal States Gas Producting Co.	7
Edwin L. Cox	13
Enserch Exploration, Inc.	98
Enserch Exploration, Inc.	130
Enserch Exploration	133
Gulf Oil Corp.	43
Hassie Hunt Exploration Co.	26
HNG Oil Co.	46
Ladd Petroleum Corp.	87
Marathon Oil Co.	131
Mesa Petroleum Company	98
Mitchell Energy Offshore Corp.	2
Mobil Oil Corporation	415
NAPECO, Inc.	9
NAPECO, Inc.	10
NAPECO, Inc.	14
NAPECO, Inc.	15
NAPECO, Inc.	18
NAPECO, Inc.	20
NAPECO, Inc.	25
NAPECO, Inc.	26
NAPECO, Inc.	27
NAPECO, Inc.	29
NAPECO, Inc.	30
NAPECO, Inc.	37
NAPECO, Inc.	38
Pennzoil Company	46
Pennzoil Producing Company	250
Southland Royalty Company	77
Southland Royalty Company	90
Tenneco Oil Company	102
Texaco, Inc.	133
Texaco, Inc.	222
Texaco, Inc.	222
Texaco, Inc.	282
Texaco Oil & Gas Corporation	113
Union Oil Company	37
Mitchell Energy Corp.	45
Terra Resources (CRA: Amax. Petro)	21
Mobile Oil Corporation	417
Union Oil Company of California	223
Forest Oil Corp.	45
Shell Oil Co.	397
Texaco, Inc.	249

Appendix B

Producer name	Rate schedule No. or small producer Cert. No.	Dated
Julian Ard	CS 75-498	Dec. 12, 1976
Jack M. Allen	CS 72-1072	Mar. 29, 1976
Johnye M. Voiles		

Appendix B—Continued

Producer name	Rate schedule No. or small producer Cert. No.	Dated
Sikman Brothers	CS 71-109	Nov. 30, 1976
J. S. Abercombie Minerals Co.	CS 71-378	Nov. 15, 1973
American Quasar Petroleum Co.	CS 75-87	May 6, 1975
Aquitaine Oil Corp.	CS 71-781	Mar. 27, 1969
Appollo Oil Co.	CS 75-41	Sept. 1, 1976
Adobe Oil and Gas Corp.	CS 75-192	Oct. 15, 1972
Adobe Oil and Gas Corp.	CS 75-192	Aug. 5, 1975
Ruth Phillips Bisker	CS 71-1045	Jan. 25, 1950
Barnes Oil Company	CS 67-1	Dec. 1, 1971
Jane W. Blumberg	CS 75-4	Jan. 25, 1950
R. L. Burns Corp.	CS 73-297	Sept. 15, 1978
Wayman W. Buchanan	CS 75-182	Sept. 1, 1977
Elizabeth M. Brown	CS 67-69	Jan. 25, 1950
Bravo Oil Company	CS 72-148	Jan. 25, 1950
Bradley Producing Co.	CS 71-23	Mar. 21, 1976
W. M. Barret	CS 76-62	Aug. 1, 1975
James B. Bauchman	CS 72-471	Jan. 25, 1950
H. A. Bornefeld	CS 73-359	Oct. 19, 1976
Bengal 72-B	CS 75-134	Sept. 3, 1974
Bengal 72-B	CS 66-101	May 25, 1973
BTA Oil Producers	CS 69-12	June 1, 1977
G. F. Abendroth, et al	CS 71-562	May 1, 1971
Branch T. Archer	CS 77-752	Jan. 23, 1976
Bojan Oil Co., Inc.	CS 78-480	Aug. 21, 1978
Bojan Oil Co., Inc.	CS 78-480	Aug. 20, 1978
Bojan Oil Co., Inc.	CS 78-480	Feb. 14, 1978
Bojan Oil Co., Inc.	CS 78-480	Dec. 1, 1977
An-Son Corp.	CS 69-71	June 1, 1971
Baker & Taylor Drilling Co.	CS 71-31	June 7, 1973
C. F. Braun & Company	CS 71-1006	June 15, 1967
Apache Corp.	CS 72-215	Feb. 20, 1963
A. E. Amerman, Jr.	CS 71-722	Jan. 23, 1950
A. E. Amerman, Jr.	CS 71-722	Oct. 3, 1968
Wayman M. Buchanan	CS 75-162	June 6, 1975
BTA Oil Producers	CS 69-12	Mar. 1, 1969
BTA Oil Producers	CS 69-12	Aug. 21, 1967

[FR Doc. 79-38628 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-35]

Southern Natural Gas Co.; Third-Party Protests [1]

Issued: December 11, 1979.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B,"[3] the staff of the Commission protested on October 15, 1979, the assertion by the Southern Natural Gas Company (Southern) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect certain applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff states in its protest that the language of the contracts identified in Appendix A of this notice does not constitute authority for the producer to increase price to the extent claimed by Southern in its evidentiary submission.

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22; issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Take further notice that the Gas Consumers Group (GCG) also filed a third-party protest on October 15, 1979. GCG contends that the contracts identified in Appendix B of this notice do not constitute the contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. GCG's protest was incorporated into protests filed on October 15, 1979 by the Public Service Commissions of South Dakota and Minnesota, the Cities Magnum, Oklahoma and Winfield, Kansas, the Arizona Corporation Commission, the Kansas State Corporation Commission, the Memphis Light, Gas and Water Division of the city of Memphis, Tennessee, a group of nine Florida cities, the Public Service Commission of the state of New York, and Congressman Andrew Maguire.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before December 26, 1979, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

Producer	Rate schedule No. or contract date
Kerr-McGee Corporation	103
American Quasar	10-21-77
Atlantic Richfield Company	672
Atlantic Richfield Company	705
Dow Chemical Company	10-21-77
Hunt Oil Company	5
Hunter Co., Incorporated	1-1-54
Transocean Oil, Incorporated	5
Phillips Petroleum Company	175
Phillips Petroleum Company	611
Edwin L. Cox	5-29-67
Gulf Oil Company	432
Chevron USA, Incorporated	18
Gulf Oil Company	577
Signal Petroleum	6
Phillips Oil Company	175
Getty Oil Company	68
W. G. Perryman	9-9-71
Marathon Oil Company	148
Texaco, Incorporated	374
Texaco, Incorporated	542
American Petrofina Company	83
Cities Service Oil Company	351
Cities Service Oil Company	461
Continental Oil Company	438
Diamond Shamrock	438
Gulf Oil Company	551
Pennzoil Producing Company	90
Pennzoil Producing Company	91
The Offshore Company	5
Sonat Expl. Company	4
Adco Producing Company	3-7-78
Convest Energy Corporation	3-7-78
Enerco Incorporated	2-21-78
Enerco Incorporated	9-7-78
Enerco Incorporated	9-7-78
Ralph M. Lowe, Incorporated	3-7-78

Appendix A—Continued

Producer	Rate schedule No. or contract date
Exxon Corporation	442
Exxon Corporation	464
Pano Tech Expl. Corporation	2-21-63
Sun Oil Company	596

Appendix B

Seller	Seller's rate schedule or small producer certificate	Contract date (where provided by Southern)
Ada Land Co	CS71-1047	11-25-69
Ada Oil Co	CS66-78	8-6-71
Alamo Petroleum Corp	CS71-361	12-6-72
Amax Petroleum Corp	CS72-419	7-19-77
Amerada Hess Corp	156	
American Petrofina Co	83	
American Petrofina Co	83	
American Quasar	CS75-87	10-21-77
American Trading & Production Corporation	CS66-76	5-29-67
Aminoil U.S.A., Inc	21	
Amoco Production Co	502	
An-Son Corporation	CS69-77	2-15-69
An-Son Corporation	CS69-77	9-2-64
An-Son Corporation	CS69-77	12-6-72
Aquitaine Oil Corp	CS71-281	8-5-69
Ashland Oil, Inc	103	
Atlantic Richfield Co	621	
Atlantic Richfield Co	721	
Atlantic Richfield Co	603	
Atlantic Richfield Co	602	
Atlantic Richfield Co	726	
Atlantic Richfield Co	381	
Atlantic Richfield Co	469	
Atlantic Richfield Co	601	
Atlantic Richfield Co	529	
Barber Oil Expl., Inc	CS76-233	2-15-69
Browning & Welch	78-551	7-14-61
Broyles, Harvey	CS71-796	8-12-72
Broyles, Harvey	CS71-796	8-28-74
Cargill, Robert	CS73-188	3-1-77
Champlin Petroleum	134	
Chevron, U.S.A., Inc	2	
Chevron, U.S.A., Inc	9	
Chevron, U.S.A., Inc	89	
Chevron, U.S.A., Inc	18	
Chevron, U.S.A., Inc	16	
Chevron, U.S.A., Inc	67	
Chevron, U.S.A., Inc	70	
Chevron, U.S.A., Inc	76	
Chevron, U.S.A., Inc	71	
Chevron, U.S.A., Inc	50	
Chevron, U.S.A., Inc	17	
Chevron, U.S.A., Inc	82	
Cities Service Oil Co	351	
Cities Service Oil Co	403	
Cities Service Oil Co	461	
Clark Oil Producing Co	CS71-447	2-15-69
Coates, George H., Est. of	CS71-317	12-30-57; 1-1-79
Continental Oil Company	172	
Continental Oil Company	405	
Continental Oil Company	222	
Continental Oil Company	166	
Continental Oil Company	175	
Continental Oil Company	438	
Convest Energy Corp	CS77-359	3-7-78
Cox, Edwin L	CS77-189	7-8-57
Cox, Edwin L	CS77-189	10-21-77
Cox, Edwin L	CS77-189	5-29-67
Crow, David	CS71-841	7-29-55
Despot Exploration, Inc	CS72-728	7-14-72
Devon Corporation	32	
Diamond Shamrock	79	
Discovery Resources	CS74-141	5-29-67
Dow Chemical Co	CS71-318	10-21-77
Dow Chemical Co	CS71-318	8-15-75
Dynamic Exploration	CS72-773	8-18-77
Eason Oil Co	62	
Emerald Petroleum Corp	CS72-787	7-15-74
Emerald Producing Corp	CS73-194	8-16-74

Appendix B—Continued

Seller	Seller's rate schedule or small producer certificate	Contract date (where provided by Southern)
Enerco, Inc	CS77-299	2-21-78
Enerco, Inc	CS77-299	9-7-78
Enerco, Inc	CS77-299	9-7-78
Equitable Petroleum Corporation	9	
Exxon Corporation	511	
Exxon Corporation	126	
Exxon Corporation	236	
Exxon Corporation	282	
Exxon Corporation	39	
Exxon Corporation	442	
Exxon Corporation	464	
Fairfield, Wiley	CS72-1048	11-25-69
Florida Gas Expl. Co	5	
Forman Expl. Co	CS74-383	8-3-77
General American Oil Co. of Texas	31	
General American Oil Co. of Texas	88	
Getty Oil Co	81	
Getty Oil Co	68	
Getty Oil Co	287	
Getty Oil Co	369	
Getty Oil Co	65	
Grace Petroleum Corp	CS74-235	5-7-51
Gulf Oil Co	551	
Gulf Oil Co	432	
Gulf Oil Co	10	
Gulf Oil Co	577	
Gulf Oil Co	69	
Hamon, Jake L	CS66-107	2-14-63
Harrington, Inc	CS73-17	5-26-72
Harris, James W.	CS71-1066	2-6-78
Helis, William G., Estate of	CS71-605	2-11-60
Henderson, T. Harry, Jr	CS71-483	8-15-62
Hines, E. R., Jr. and R. M. Moon	CS72-169	1-26-78
Roy M. Huffington, Inc	CS72-842	7-8-57; 2-1-79
Roy M. Huffington, Inc	CS72-842	7-29-57; 2-1-79
Hurley Oil & Gas Co	CS71-879	4-23-48
Kedco Management Corp	CS73-168	4-20-60
Kenmore Oil Co, Inc	CS71-472	5-29-67
Kerr-McGee Corporation	109	
Kerr-McGee Corporation	147	
Kerr-McGee Corporation	148	
Kerr-McGee Corporation	19	
Key Production	CS76-898	11-4-76
Koch Industries, Inc	CS76-73	2-15-69
Koch Industries, Inc	CS76-73	9-2-64
Koch Industries, Inc	CS76-73	12-6-72
Ladd Petroleum	CS71-646	7-31-51; 4-1-79
Louisiana Gas Service Exploration Program	CS71-106	7-19-77
Louisiana Land & Exploration Co	21	
Lyons Petroleum	CS71-523	5-1-51
Mallard Exploration, Inc	CS71-335	7-24-74
Marathon Oil Co	103	
Marathon Oil Co	108	
MCL & Company	CS72-37	4-4-75
McMoran Exploration Co	CS71-331	1-1-78
McMoran Exploration Co	CS71-331	6-11-77
Mesa Petroleum Co	61	
Miss.-Texas Oil Producers	CS72-169	1-26-78
Miss.-Texas Oil Producers	CS72-169	8-10-59
Miss.-Texas Oil Producers	CS72-169	5-7-69
Mobil Oil Corporation	138	
Monanto Company	75	
Mosbacher, Robert	CS71-707	6-28-57
Nuehoff Oil & Gas Corp	CS76-195	8-18-77
Offshore Co., The	5	
Offshore Co., The	4	
Oleum Inc	CS72-455	7-19-77
Pano Tech Expl. Corp	CS77-463	2-21-63
Pecos Western Corp	CS73-162	9-2-64
Pennzoil Producing Co	224	
Pennzoil Producing Co	237	
Pennzoil Producing Co	90	
Pennzoil Producing Co	91	
Petroleum, Inc	CS78-111	9-2-64
Petroleum, Inc	CS78-111	12-6-72
Petro-Lewis Funds, Inc	1	
Petro-Lewis Funds, Inc	CS72-203	12-1-77
Phillips Petroleum Co	299	
Phillips Petroleum Co	457	
Phillips Petroleum Co	611	

Appendix B—Continued

Seller	Seller's rate schedule or small producer certificate	Contract date (where provided by Southern)
Phillips Petroleum Co	219	
Phillips Petroleum Co	300	
Phillips Petroleum Co	612	9-1-77
Ranger Oil Company	CS72-1071	10-10-72
Reserve Oil Inc	CS71-1119	8-6-71
Shell Oil Company	176	
Shell Oil Company	362	
Sohio Petroleum Co	46	
Sohio Petroleum Co	237	
SONAT Expl. Co	4	
Southeastern Expl., Ltd	5	
Southland Royalty Co	CS66-114	12-30-57
Sun Oil Company	596	
Sun Oil Company	87	
Sun Oil Company	551	
Sun Oil Company	137	
Sun Oil Company	251	
Sun Oil Company	113	
Tenneco Oil Co	60	
Tenneco Oil Co	285	
Terra Resources, Inc	52	
Terra Resources, Inc	11	
Texaco, Inc	415	
Texas International Petroleum Co	CS71-555	2-16-71
Texas International Petroleum Co	CS71-555	8-20-58
Texas Pacific Oil Co, Inc	72	
Texas West Oil & Gas Corp	CS72-437	7-14-61
Toce, Paul M.	CS71-918	2-14-63
Trend Expl., Ltd	CS72-84	6-14-71
Vaughn, G. H. *et al*	CS71-552	4-23-48
Vaughn Petroleum	CS71-552	4-23-48
Whipple, W. J. N.	CS73-393	3-24-69
Wilson Oil & Gas Co	CS71-995	5-7-51
Woods, Harold L., Jr.	CS71-965	12-30-57; 1-1-79
Kerr-McGee Corporation	51	
Continental Oil Company	351	
Atlantic Richfield Co	683	
Atlantic Richfield Co	705	
Atlantic Richfield Co	672	
Dynamic Exploration	CS72-773	3-30-60
Hunt Oil Company	5	
Hunter Company, Inc	CS72-559	1-1-54
J. F. D., Inc	CS71-432	4-20-67
Transocean Oil, Inc	5	
Kerr-McGee Corporation	116	
Phillips Petroleum Co	175	8-1-73
Shell Oil Company	408	
Shell Oil Company	429	
Shell Oil Company	345	
Speller, W. T	CS75-293	1-1-75
Kerr-McGee Corporation	15	
Mobil Oil Corporation	478	
Mobil Oil Corporation	511	
Mobil Oil Corporation	164	
Mobil Oil Corporation	489	
Mobil Oil Corporation	558	
Mobil Oil Corporation	461	
Mobil Oil Corporation	300	
Pennzoil Oil & Gas, Inc	29	
POGI (Pennzoil Oil & Gas Inc.)	17	
POGI (Pennzoil Oil & Gas Inc.)	14	
POGO (Pennzoil Offshore Gas Operators, Inc.)	17	
POGO (Pennzoil Offshore Gas Operators, Inc.)	14	
Texaco, Inc	488	
Texaco, Inc	545	
Texaco, Inc	313	
Texaco, Inc	374	
Texaco, Inc	542	
Amoco Production Co	442	
Sun Oil Company	205	
Mobil Oil Corporation	513	
Signal Petroleum	6	
Perryman, W. C	CS72-257	9-9-71
Atlantic Richfield Co	469	
Atlantic Richfield Co	380	
Chevron, U.S.A., Inc	2	
Chevron, U.S.A., Inc	9	
Chevron, U.S.A., Inc	13	
Coates, George H., Est. of	CS71-317	12-30-57; 1-1-79
General American Oil Co. of Texas	31	

Appendix B—Continued

Seller	Seller's rate schedule or small producer certificate	Contract date (where provided by Southern)
Getty Oil Co	81	
Getty Oil Co	287	
Roy M. Huffington, Inc	CS72-842	7-8-57; 2-1-79
Roy M. Huffington, Inc	CS72-842	7-29-57; 2-1-79
Kerr-McGee Corporation	106	
Kerr-McGee Corporation	147	
Kerr-McGee Corporation	148	
Kerr-McGee Corporation	19	
Kerr-McGee Corporation	78	
Ladd Petroleum	CS71-646	7-31-51; 4-1-79
Marathon Oil Co	103	
McMoran Exploration Co	CS71-331	6-11-77
Pennzoil Producing Co	224	
Phillips, Est. of B. F.	CS74-401	11-30-48
Phillips Petroleum Co	219	
Sohio Petroleum Co	46	
Southland Royalty Co	CS66-114	12-30-57; 1-1-79
Superior Oil Company	11	
Vaughy & Vaughy	CS73-286	7-14-61
Woods, Harold L., Jr.	CS71-965	12-30-57; 1-1-79
Kerr-McGee Corporation	51	

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BILLING CODE 6450-01-M

[Docket No. GP80-23]

Texas Gas Transmission Corp.; Third-Party Protests[1]

December 10, 1979.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B,"[3] the staff of the Commission protested on October 15, 1979, the assertion by the Texas Gas Transmission Corporation (Texas Gas) and certain producers that the contracts identified in this protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A of this notice does not constitute authority for the producer to increase prices to the extent claimed by Texas Gas in its evidentiary submission.

Take further notice that the Memphis Light, Gas and Water Division (Memphis) also filed a third-party protest on October 15, 1979. Memphis protests that the contracts in Appendix B do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. Memphis' position has been adopted and incorporated in protests filed by the Kansas State Corporation Commission, Congressman Andrew Maguire, the Cities of Mangum, Oklahoma, and Winfield, Kansas, the Public Service Commission of the State of New York, the South Dakota Public Service Commission and the Minnesota Public Service Commission, the Arizona Corporation Commission, the Associated Gas Distributors, "Florida Cities", and the Gas Consumers Group.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before December 26, 1979, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth J. Plumb,
Secretary.

Appendix A.

Producer	Rate Schedule No. or contract date
American Petrofina Company of Texas	1
CNG Producing Company	7
Continental Oil Company	81
Damson Exploration Corporation	7-30-69
Eason Oil Company, *et al*	59
Eason Oil Company, *et al*	69
Exchange Oil and Gas Corporation	3
Exxon Corporation	143
Getty Oil Company	235
Getty Oil Company	236
Getty Oil Company	237
Getty Oil Company	328
A. G. Glasswell	6-21-74
Gulf Oil Corporation	411
F. E. Hargraves and Sons Drilling Company	3-7-77
Hassie Hunt, Inc	20
Kerr-McGee Corporation	98
Mar-Low Corporation	8-8-79
Norwegian Oil Corporation	1-24-77
Sun Oil Company	25
Transco Exploration	10-27-78
Union Oil Co. of California	204
Amoco Production Co., *et al*	662
Edwin L. Cox, *et al*	3-13-68
R. J. Ackerman	9-27-78
Antares Oil Corp	9-27-78
Antares 77-A, LTD	9-27-78
Roger Aston, Individually and as Trustee for Aston No. A & B Trust	9-27-78
Dean H. Boedecker	9-27-78
Creek Oil Company, Inc	9-27-78
R. E. Jones	9-27-78
Tom P. Stephens	9-27-78
Tenneco Oil, Inc	348
Gulf Oil Corp	455
Har-ken Oil Co., *et al*	12-30-75
Houston Oil & Minerals Corp	9-1-77
Texaco Inc	322
Texas Gas Exploration Co	45
Texaco, Inc	519
Texaco, Inc	583
Texas Gas Exploration Corp	29
CNG Production Co	10
Superior Oil Co	13
Texas Gas Exploration Co	27
Walter Duncan	7-12-71
Ashland Oil, Inc	7-12-71
E. C. Brown	7-12-71
Raymond T. Duncan	7-12-71
Vincent Duncan	7-12-71

Appendix A—Continued

Producer	Rate Schedule No. or contract date
Har-Ken Oil Co	6-27-72
Union Texas Petroleum, a Division of Allied Chemical	63
Amoco Production Co	202
Chevron Oil Co	25

Appendix B

Seller	Rate schedule No.	Texas gas contract No.
Volume I		
Union Oil Company of California	60	521
D. B. McClinton, et al		277
4M Investment Company		277
Texas Pacific Oil Company, Inc	122	459
Continental Oil Company	174	154
Exxon Co., U.S.A.	167	257
Petro-Lewis Corporation		097
Gulf Oil Corporation	426	159
Dan Frantzen		167
Petrodyne Exploration Co		167
Stone Oil Corp		167
Great Yellowstone Corp		167
William L. Spencer		167
James H. Stone		167
Sanford E. McCormick		279
McCormick Properties, Inc		279
McCormick Oil & Gas Corp		279
Prudential Funds, Inc		279
A.G.M. Corporation		279
Lorenzo B. Taylor		279
R.E. Warner, Jr		279
American Resources Co		279
McCormick 1969, LTD		279
Exchange Oil & Gas Corp	32	174
South Coast Corp		174
Texas International Petroleum Corporation		539
Union Oil Company of California	204	528
L.J. Roussel		405
W.L. Estis		405
Gertrude W. Hawkins and H. L. Hawkins, Jr		405
Corinne Roy Kelly; Testamentary Executrix of the Estate of F.S. Kelly, Jr		405
Atlantic Richfield Co	690	077
Atlantic Richfield Co	690	078
Continental Oil Co	417	172
Cities Service Oil Co	418	173
Getty Oil Company	212	514
Getty Oil Company	212	451
Union Oil Company of California	38	529
Transco Exploration Company		529
Chevron U.S.A., Inc	74	103
Chevron U.S.A., Inc	40	132
Exchange Oil & Gas Corp	24	132
Pelto Oil Company		132
The South Coast Corp		132
BRK Petroleum		132
Knob Hill Oil & Gas, Inc		132
Sun Oil Company	537	132
Texas Gas Exploration Corp	33	501
Exchange Oil & Gas Corp	23	171
Sun Oil Co	536	171
Pelto Oil Co		171
South Coast Corp		171
BRK Petroleum, Inc		171
Knob Hill Oil & Gas, Inc		171
Texas Gas Exploration Corp	33	502
Texas Gas Exploration Corp	36	504
Union Oil Co. of California	200	526
Volume II		
Getty Oil Co	147	512
Chevron USA, Inc	14	136
Chevron USA, Inc	68	164
G.H. Lyons, Sr		272
E.L. Hilliard		272
G.F. Abendroth		272

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
William O. Watson, Jr.		272
Superior Oil Co	152	474
Union Oil Co. of California	208	531
North Central Oil Cor		437
Southern Natural Gas Co		437
R.V.O. Petroleum Co		437
Trexco 77-2 Lmtd. Partnership		437
Stillings Petroleum		437
Robert P. Evans		437
1977 Galbraith I Lmtd. Partnership		437
McLain J. Forman		437
A.C. Glassell, Jr		145
Texas Gas Exploration Corp	4	491
Franks Petroleum, INc		166
Robert A. Anderson		166
Vermilion Bay Land Co		166
E-K Oil Co		166
O. Biller		166
Petrofunds, Inc		166
Joe T. Franks		166
Carl R. Corley		166
L.R. Brammer, Jr		166
Gene R. Robinson		166
Larry N. Dickerson		166
G.E. Huggs		166
John Franks		166
Exxon Co., U.S.A	143	259
Chevron U.S.A., Inc	48	135
Amoco Production Co	546	375
Getty Oil Co	370	419
Chevron U.S.A., Inc	25	125
Alya Dean Irwin		125
R.A. Irwin Trusts		125
Southeastern Public Service Co		125
E.L. Hilliard		125
William O. Watson, Jr		125
Succession of Majorie Hall Lyons		125
Succession of C.H. Lyons, Sr		125
J.A. Dykos		125
J.T. Palmer		125
John Frank Harrell		125
Mary Summer Watson		125
G.F. Abendroth		125
Roy L. Naumann		125
Dixon Management Corp		420
Lloyd H. Smith		420
J. Keet Lewis		420
Ciroco Exploration, Inc		420
Ira S. Snead		420
H.V. Crawford		420
C.S. Snead		420
Elizabeth Smith Hamilton		420
R.J.L. Hamilton		420
Aleya Dean Irwin		420
R.A. Irwin Trust		420
I.N. Hickox		420
Thomas Francis O'Neal		420
Richard A. Chenoweth		420
W.K. Bromley		420
Jane P. Bromley		420
Parker Snead		420
Warren V. Kaess		420
CNG Producing Co	7	235
Atlantic Richfield Co	560	235
Exchange Oil & Gas Corp	3	235
North Central Oil Corp		235
Oil & Gas Futures Inc. of Texas		235
Norwegian Oil Corp		235
Kerr-McGee Corp	74	264
Atlantic Richfield Co	257	435
Louisiana Crude Oil & Gas Company, Inc		273
Enterprise Resources, Inc		367
Topp Petroleum Co		367
Dave Topp		367
William G. McBee		367
Perry R. Bass	5	398
Sid Richardson Carbon Co		398
Bass Enterprises		398
Mar-Low Corp		398
A R. Dillard		398
Nancy J. Harvey		398
Lois D. Miller		398
Wrightsman Investment		398
Enterprise Resources		398
Topp Petroleum		398
Dave Topp		398
William D. McBee		398
Enterprise Resources, Inc		509
Topp Petroleum Corp		509

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Dave Topp		509
William D. McBee, Jr		509
Atlantic Richfield, Co	155	079
Continental Oil Co	224	144
Texas Gas Exploration Corp	30	499
Atlantic Richfield Co	57	080
Gulf Oil Corp. (assignee of Kewanee Oil Co.)		130
Clover Bobo Cole		139
Estate of G.G. Gabrielson		139
Estate of P.C. Keith		139
Carey B. O'Connor		139
Annandale Pitt		139
Estate of J.B. O'Conner		139
Frank E. Taplin		139
Republic National Bank of Dallas, Agent for Annandale Pitt Agency #1962		139
Gulf Oil Corp	411	158
Sohio Natural Resources	24	430
Getty Oil Co	37	510
Phillips Petroleum Co	202	390
Mar-Low Corp		282
General American Oil Co of Texas	78	364

Volume III

Edwin L. Cox		138
Belco Petroleum		138
Fred Snuggs		138
Ralph Snuggs		138
Winnifred Ray		138
Diamond Shamrock Corp	98	138
C.F. Braun & Co		138
Superior Oil Co	136	138
Burmont Co		138
Texas Gas Exploration Corp	3	497
Mobil Oil Exploration & Producing Southeast Company		497
Lago Petroleum		497
Petro-Lewis Funds, Inc		497
PDI, Inc		497
Petro-Search, Inc		497
Flag-Redfern Oil Company		497
Quintana Petroleum Corp		497
Douglas B. Marshall		497
Margaret Cullen Marshall		497
Corbin J. Robertson		497
Wilhelmina Cullen Robertson		497
Roy H. Cullen		497
Harry H. Cullen		497
Long Resources, Inc		497
Katherine Cullen Burton		497
Isaac Arnold, Jr		497
Myron M. Sheinfield		497
Judith C. Tretheway		497
W. Oscar Neihaus		497
A. Frank Smith, Jr		497
Dee S. Osborne		497
Mary Hugh Scott		497
Joe Barnhart		497
A.R. Schwartz		497
Gregory R. Houas		497
Guy Ronald Kizziar		497
John W. Neale		497
Gulf Oil Corp	338	118
Sohio Natural Resources	43	118
Robert K. Franklin		186
RKF Industries, INc		186
George R. Brown	18	116
Southland Royalty Co	16	116
Ciroco Exploration, INc		116
J. Geer Wilcox		116
Estate of Clyde R. Claus		116
Drew Cornell		116
Hassie Hunt Exploration Co	29	212
Southland Royalty Co	15	212
Ciroco Exploration, Inc		212
Drew Cornell		212
J. Geer Wilcox		212
Estate of Clyde R. Claus		212
Hassie Hunt Exploration Co	29	429
Sohio Natural Resources	115	429
Southland Royalty Co	19	429
Ciroco Exploration, Inc		429
Drew Cornell		429
J. Geer Wilcox		429
Estate of Clyde R. Claus		429
George R. Brown	13	429
Sohio Natural Resources	57	431

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Union Oil Co. of California	78	523
Sabine Production Co		523
Richard M. McGrew		523
Gulf Oil Corp	408	157
Atlantic Richfield Co	55	074
Chevron USA, Inc	24	126
Union Oil Co. of California	196	527
Gulf Oil Corp	84	527
Amoco Production Co	523	366
Ballard & Cordell Corp		366
Transcontinental Oil Corp		366
Transoil 1972-A		366
Brock Exploration Corp		366
Texas Pacific Oil Co., Inc	122	459
Union Oil Co. of California	166	525
Damson Exploration Corp		153
Wilhelmina Cullen Robertson; Corbin J. Robertson		153
Douglas B. Marshall		153
Margaret Cullen Marshall		153
Roy H. Cullen		153
Cornelia Cullen Long		153
Harry H. Cullen		153
Russell Scott, Jr		153
Mary Hugh Scott		153
Joe Barnhart		153
Wilhelmina Ann Barnhart		153
Isaac Arnold, Jr		153
Antonette Tilly Arnold		153
Douglas B. Marshall, Jr		153
Hugh Roy Marshall La., Trusts		153
Atlantic Richfield Co	222	071
Hassie Hunt, Inc	20	211
General American Oil Co. of Texas	78	364
Sun Gas Company	434	475
M.F. McCain		275
A.M. Jackson		275
North American Royalties, Inc		275
Estate of Dorothy B. Prentiss		275
Succession of C.H. Lyons, Sr		275
Succession of Marjorie H. Lyons		275
Estate of George F. Bauerdorff		275
Amoco Production Co	564	371

Volume IV

Union Oil Co. of California	216	697
Wayne J. Spears		668
Wayne J. Spears		669
Shenandoah Oil Corp		691
Aquitaine Oil Corp		691
William M. Fuller		691
American Petrofina Co. of Texas	1	679
F.E. Hargraves & Sons Drilling Co., Inc		853
F.E. Hargraves & Sons Drilling Co., Inc		854
F.E. Hargraves & Sons Drilling Co., Inc		855
F.E. Hargraves & Sons Drilling Co., Inc		856
Eason Oil Co	69	575
Devon Corp		575
Eason Oil Co.	59	586
Devon Corp		586
Ergon, Inc		587
Bodcaw Company		679
R.H. Hedgo		899
Bob L. Herd		899
Lake Ronel Oil Co		899
Delta Drilling Co		899
Raymond H. Hedge, Jr		899
Dorothy N. Manziel		899
Nolan E. Manziel		899
N. Paul Manziel		899
Merigale N. Pyron		899
Ruth Dorothy Gross		899
People National Bank and Sol Edelman, Trustees for Harris M. Gross and Sara Ann Gross		899
Joel M. Hedge		899
Sun Gas Company	585	900
Tideway Oil Programs, Inc		909
Amoco Production Co	516	886
R.H. Hedge		893
W.C. Perryman		893
Bob L. Herd		893
Ruth Dorothy Gross		893
Peoples National Bank and Sol Edelman, Trustees		893
Bond Operating Company		893
Wofford Cain		893
J.A. Humphrey		893

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Lone Star Exploration, Inc		893
Dewitt Ray		893
Estate of R.H. Venable		893
Marathon Oil Co	114	863
Vaughan Petroleum, Inc		862
MacDonald Oil Corp		862
William B. McBee Estate		862
Bodcaw Co		891
W.H. Hunt	10	894
Morax Exploration, Inc		896
Richard H. Forgey		897
Columbia Trust		897
Jet Drilling Co		897
Kerr-McGee Corp	96	611
Eason Oil Company	58	611
Devon Corp		611
P&O Oil Corp		611
Caruthers Operating Co., Inc		610
Kerr-McGee Corp	101	801
Atlantic Richfield Co	227	807
Cresleon Oil Co		811
Marathon Oil Co	60	812
Getty Oil Co	201	814
Milton Crow, Inc		814
Sklar Oil Co		814
T.F. Hodge		814
T.L. James & Company, Inc		821
Atlantic Richfield, Co	436	831
Ashland Exploration, Inc	136	838
Ashland Exploration, Inc	144	839
Getty Oil Company	109	842
Milton Crow, Inc		842
Sklar Oil Co		842
T.F. Hodge		842
James A. Talley		842
Texas Gas Exploration Corp	7	841
Kerr-McGee Corp	94	841
Hunt Oil Co	853	819
Monsanto Company	42	828
Union Oil Co. of California	133	832
Atlantic Richfield Co	221	806
Volume V		
Atlantic Richfield Co	188	800
Kerr-McGee Corp	98	813
Union Oil Co. of California	134	834
Murphy Oil Corp	16	664
Texas Gas Exploration Corp	1	680
T.W. McGuire		700
Roy S. Waterman		700
Travis L. Booker		700
James C. Leisk		700
Jessie M. Davis		700
D. Thomason Production Co		700
Smith Operating & Mgmt. Co., Inc		700
Nafco Oil & Gas, Inc		700
L. I. Freeman		700
Augusta Kessler, Individually and as executrix of the Estate of Louis Kessler		700
D. Paul Rittmaster		700
Jean Zucker		700
Murray B. Herman		700
Eleanor W. Dana		700
Rosalyn Reid Harris		700
H. B. Pyle		700
P. C. Bundy		700
Bernard Boyer		700
Milton S. Shapiro		700
T. W. McGuire & Assoc., Inc		700
Delta Drilling Co		711
Sklar Oil Co		711
Elizabeth F. Dorfman Trust		711
Myron H. Dorfman		711
Louis Dorfman; Sam Y. Dorfman		711
A.G. Glassell, Jr		712
Getty Oil Co	236	720
Bruce L. Wilson, dba Wilson Oil & Gas		740
Placid Oil Co	3	741
Vernon E. Faulconer		750
Getty Oil Co	237	750
Marshall Exploration, Inc		750
Dorothy N. Manziel		750
Car-Tex Producing Co		760
Cities Service Co	50	760
Cities Service Co	231	760
Continental Oil Co	83	760
Gulf Oil Co	110	760
Norman J. Kinsey		760

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Getty Oil Co	235	760
Succ. of Francis W. Scott		760
Mobil Oil Exploration and Producing Southeast, Inc	36	760
Sun Gas Co	27	760
Sun Gas Co	310	760
Union Oil Co. of California	99	760
Phillips Petroleum Co	23	761
Kerr-McGee Corp	3	762
Hunt Oil Co	1	764
Placid Oil Co	4	765
Carter Jones Drilling Co		780
Continental Oil Co	81	780
Getty Oil Co	238	780
Sun Gas Co	105	780
Atlantic Richfield Co	366	780
Vernon E. Faulconer		786
La-Tex Specialty Co		786
Raymond H. Hodge		786
Commonwealth Exploration, Inc		566
Commonwealth Exploration, Inc		567
Shulman Brothers, a Partnership		567
Union Oil Co. of California	226	592
Albert A. Woll		568
Pearl L. Woll		568
Herman L. Loob		568
Walter Payne & Jennings Payne dba Payne Bros. Drilling Co		568
Oct. 1, 1979 Filing		
Hunt Oil Co	56	854
Volume I		
Kerr-McGee Corp	74[1]	264
Volume I		
Amerada Hess Corp	84	023
Volume II		
Amerada Hess Corp	13	040
Sohio Natural Resources Co	14	040

[1] Contract amendment of June 24, 1976.

Volume I		
Texaco, Inc	233	487
Houston Oil & Minerals Corp		254
Texas Gas Exploration Co	41	462
Texas Gas Exploration Co	42	461
Texas Gas Exploration Corp	45	465
Texas Gas Exploration Corp	43	463
Volume II		
Texaco, Inc	322	486
Texaco, Inc	376	481
Volume III		
J. P. Owen & Co., Inc		138
Shell Oil Co	153	410
Texaco, Inc	381	482
Volume V		
Texas Gas Exploration Corp	8	682
Har-Ken Oil Co		940
Marshall S. Burlew		940
Ryan Oil Co		940
Har-Ken Oil Co		953
Har-Ken Oil Co		972

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Tarton Oil Co		972
Sept. 1, 1979 Filing		
Texaco, Inc	322	486
Volume I		
The Louisiana Land and Exploration Company	24	274
Volume II		
Amoco Production Co	800	064
Jack W. Grigsby		187
Mar-Low Corp		122
Volume III		
Eason Oil Co	55	192
McMoran Exploration Co		429
Gulf Oil Corp	594	189
Volume IV		
Tenneco Oil Co	348	577
Whitaker Petroleum		866
Great American Oil Co. of Texas	98	866
Amax Petroleum Corp		866
George R. Alewyne, Jr		866
Estate of Jack C. Vaughn		866
Grady H. Vaughn & John S. Nichols Trustees U/W/O Grady H. Vaughn, Jr		866
Grady H. Vaughn & John S. Nichols Trustees U/W/O Dorothy Vaughn		866
Grady H. Vaughn, III		866
George R. Alewyne, Jr		866
L. R. Brammer, Jr		866
M. L. Coyle		866
John Franks		866
Joe T. Franks		866
Ralph R. Gilster		866
Gaye Gilster Lee		866
Mrs. Ruth Anne Ashby Storey		866
Michael Brian Gilster Trust		866
Dorothy Whitaker Estate		866
Bodcaw Company		866
Ergon		582
Lyons Petroleum, Inc		866
Westland Oil Development Corp		911
Gulf Oil Corp	455	619
Texas International Petroleum		803
Volume V		
Smith Operating & Mgmt. Co., Inc		705
J. P. Costello		705
Bennett L. Woolley		705
Vincent A. Hughes		705
Grace Wooley Gowan		705
Margaret Wooley Strong		705
Lottie P. Wolley		705
C. R. Clennahan		705
James Earl Ferguson		705
Delta Drilling Co		708
Delta Drilling Co		709
Mrs. A. Z. Skeeters		745
Merritt Tool Co		745
United Exploration Co		745
P. H. Greer Co., Inc		745
Hiram Harris		593
Charlotte A. Sutliff		593
Antares 77-A, Ltd		594
Dean H. Baedecker		594
Rogers Aston, individually and as trustee of Ashton No. A & B Trust		594
Tom P. Stephens		594
R. J. Ackerman		594
Creek Oil Co., Inc		594
R. E. Jones		594

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Antares Oil Corp.		594
Sept. 1, 1979 Filing		
Gulf Oil Corp.	338	188
Otto Corum		595
TEC Corporation		596
Tenneco Oil Co.		577
Oct. 1, 1979 Filing		
Otto Corum		595
Otto Corum		596
Volume I		
Texaco, Inc.	478	476
Volume II		
Texaco, Inc.	519	472
Texaco, Inc.	515	473
Volume III		
Texaco, Inc.	343	483
Texaco, Inc.	362	484
Amoco Production Company		369
Amoco Production Company		375
Amoco Production Company		371
Amoco Production Company		138
Amoco Production Company		910
Volume I		
CNG Producing Co.	10	237
Texas Gas Exploration Corp.	27	495
Volume II		
Superior Oil Co.	13	480
American Petrofina Co. of Texas	47	330
Volume III		
Union Texas Petroleum, a Division of Allied Chemical	63	549
Volume V		
Marshall S. Burlew		971
Ashland Oil Inc.		971
Zeigler Coal & Coke Co.		971
Walter Duncan		974
Vincent Duncan		974
Raymond T. Duncan		974
E. C. Brown		974
Ashland Oil, Inc.		974
Har-Ken Oil Co.		563
C. B. Ames dba Ames Oil and Gas		563
Volume II		
Amoco Production Co.	266	367
Volume IV		
Amoco Production Co.	247	855
Amoco Production Co.	520	856
Amoco Production Co.	515	857
Amoco Production Co.	202	825
Atlantic Richfield Co.	393	830
Amoco Production Co.	464	612
Amoco Production Co.	430	929
Volume V		
Amoco Production Co.	22	760

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
Amoco Production Co.	25	780
Volume IV		
Amoco Production Co.	569	864
Volume IV		
Mobil Oil Exploration & Producing Southeast, Inc.	192	869
Mobil Oil Exploration & Producing Southeast, Inc.	428	801
Mobil Oil Exploration & Producing Southeast, Inc.	237	824
Mobil Oil Exploration & Producing Southeast, Inc.	182	823
Volume I		
Amoco Production Co.	536	368
Amoco Production Co.	540	369
Volume I		
Texaco, Inc.	455	477
Volume IV		
P. S. & G., Inc.		582
Union Oil Company of California		524
Energy Reserves Group, Inc.		367
Union Oil Company of California		552
Union Oil Company of California		090
Union Oil Company of California		530
Amoco Production Company		826
Shell Oil Co.		411
Gulf Oil Corp.		097
Gulf Oil Corp.		179
Gulf Oil Corp.		117
Kerr-McGee Corp., Phillips Petroleum Co.		281
Texaco, Inc.		479
Getty Oil Co.		508
Getty Oil Co.		509
Getty Oil Co.		506
Getty Oil Co.		418
Mobil Oil Exploration and Producing Southeast, Inc.		321
L. B. Sands, C. H. Schoellkopf		414
Volume I		
Edwin L. Cox		097
Michael E. Halbouty		097
Hexad Oil Co.—1977-B		097
Chevron U.S.A., Inc.	41	131
Chevron U.S.A., Inc.	39	236
CNG Producin g Co.	8	238
Volume II		
Daniel Oil Co.		122
Kerr-McGee Corp.	74	264
Louisiana Land and Exploration Co.	1	266
American Petrofina Co. of Texas	51	331
R. S. Baker		331
W. Carroll Bennett, Jr. Independent Executor of Estate of G. M. Noble		331
Kenneth R. Campbell		331
Cecil V. Hagen		331
Bruce A. MacNaughton and Lewis A. MacNaughton, Co-Trustees under the Will of Lewis W. MacNaughton		331
P. L. Marsha		331
Mrs. Virginia DeGolyer Maxon		331
Mrs. Cecilia DeGoyer McGhee		331
E. R. Scott		331
Three M Oil Company		331

Appendix B—Continued

Seller	Rate schedule No.	Texas gas contract No.
John Wildenthal		331
Volume III		
Exchange Oil & Gas Corporation	30	557
Volume V		
James M. Forgotson		813
Selma M. Forgotson		813
Burk, Bakwin & Henry		813
Sept. 1, 1979 Filing		
Samedan Oil Corp.		407
Quien Sabe Corp.		407

[FR Doc. 79-38628 Filed 12-18-79; 8:45 am]

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[Docket No. GP80-41]

United Gas Pipeline Co.; Third-Party Protests [1]

December 10, 1979.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B [2], and "Order on Rehearing of Order No. 23-B," [3] the staff of the Commission protested on November 13, 1979, the assertion by the United Gas Pipeline Company (United) and certain producers that the contracts identified in its protest constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

Staff stated that the language of the contracts contained in Appendix A does not constitute authority for the producer to increase price to the extent claimed by United in its evidentiary submission.

Take further notice that the Gas Consumers Group (GCG) also filed a third-party protest on November 13, 1979. GCG protests that the contracts in Appendix B do not constitute contractual authority for the producer to increase prices to the applicable NGPA maximum lawful price. GCG's position has been adopted and incorporated in protests filed by Associated Gas Distributors, Congressman Andrew Maguire, "Florida Cities", the South Dakota Public Utilities Commission, the

[1] The term "third-party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22; issued June 21, 1979.

[3] Docket No. RM79-22; issued August 6, 1979.

Minnesota Public Service Commission, the Connecticut Public Utilities Control Authority, the Maine Public Utilities Commission, the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, the Rhode Island Division of Public Utilities and Carriers and Dennis J. Roberts II, Attorney General of the State of Rhode Island.

Take further notice that on November 13, 1979, Gulf States Utilities Company (Gulf States) filed separate protests with respect to producer assertions of contractual authority to collect NGPA ceiling prices. The contracts separately protested by Gulf States are listed in Appendix C.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before December 26, 1979, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,

Secretary.

Appendix A

Producer	Rate schedule No. or contract date
Soverign Exploration Co	7-12-78
Texas Energy Exploration, Inc	6-12-78
Liberty Energy Co. of Texas	4-10-78
Boling Production Co	6-26-78
Exxon Corp	3-7-78
Exxon Corp	2-9-78
Exxon Corp	2-9-78
Goldking Production Co	9-20-78
Gulf Oil Corp	RS #538
American Petrofina Co. of Texas	RS #116
Ross Glenn Petroleum Inc	2-14-79
Art Machin and Assn. Inc	2-13-78
Trident Oil and Gas Corp	7-14-78
Justiss Mears Oil Co. Inc	10-5-77
Brammer Engineering Inc	12-28-70
Woods, Harold L	12-2-69
Nemours Corp. *et al*	9-17-31
Franks, John	8-24-71
Pennzoil Producing Co., *et al*	12-20-79
Mobil Oil Corp	RS #114
Tenneco Oil Co	RS #261
Phillips Petroleum Co	12-20-67, RS #442
Pennzoil Producing Co	12-29-60, RS #253
Amoco Production Co	5-28-47, RS #114
Tenneco Oil Co	3-31-58, RS #109
Lamar Hunt	3-26-60, RS #8
Pennzoil La. & Texas Offshore, Inc	5-16-78
Tee Operating Co	1-12-79
Tee Operating Co	12-12-79
Kerr McGee Corp	8-15-59, RS #63
Hunt Oil Co	7-7-58, RS #41
Pogo Producing Co	5-16-78
Sun Oil Co	2-15-60, RS #534
Freeport Oil Co	6-13-58
Superior Oil Co	3-21-61,

Appendix A—Continued

Producer	Rate schedule No. or contract date
	RS #102
Exxon Corp	4-26-60, RS #238
Amoco Production Co	2-10-78
Staples, James W	4-26-79
Hunt Oil Co	RS #79
Shettle, George O	2-5-79
Transocean Oil, Inc	5-4-54, RS #5
Maynard Oil Co	4-2-79
Raider Oil Co	5-8-79
Bammert, H. L	2-11-79
Martin Exploration Co	10-10-71
Cities Service Co	12-23-75
Bass, Perry R	2-7-78
Shield, Fred W	1-1-61
Shield, Fred W	12-27-60
Exxon Corporation	5-5-70
Shell Oil Co	6-6-59
Bodcaw Co	12-12-77
Fred W. Shield	10-15-29
Exxon Corp	5-5-59, RS #155
Cities Service Co	8-15-52, RS #354
Parade Co	1-31-67
Petro Search, Inc	2-7-63
L. L. Robinson	7-23-58
Mosanto Chemical Co	10-27-58
Jack W. Grisgsby	11-19-69
Douglas Witaker	5-7-62
Fason Oil Co	11-21-67
Fred Wilson Drilling Co., Inc	12-3-65
Phillips Petroleum Co	9-9-59, RS #357
General American Oil Co., Texas	1-12-68, RS #85
Gulf Oil Corp	7-23-58
Sands, Caroline Hunt	6-24-58
Mobil Oil Corp	1-25-60, RS #229
Exchange Oil & Gas Corp	1-1-57
Texas Pacific Oil Co., Inc	1-15-79
Crosby-Mississippi Resources, Ltd	7-1-78
Exchange Oil & Gas Corp	2-21-79
Par Oil Corp	
Lynn Crosby Grammil, *et al*	7-1-78
Woolf & Magee, Inc	3-20-79
Pogo Producing Co	1-12-79
Pogo Producing Co	5-10-78
Par Oil Corp	4-2-73
Monsanto Co	4-1-58, RS #28
Sands, Lloyd B	2-17-67
Marathon Oil Co	9-12-77, RS #147
Decalta International Corp	8-4-78
Texaco Inc	12-17-74, RS #511
Harry R. Cullen	6-15-58
Louisiana Land and Exploration Co	10-13-77, RS #5
Mobil Oil Corp., *et al*	3-1-67, RS #256
Gulf Oil Corp	6-21-77, RS #77
Getty Oil Co	3-23-77, RS #225
Exxon Corp	RS #484
Union Oil Co. of Calif	RS #13
Sun Oil Co	RS #493
Texaco, Inc	RS #390
Getty Oil Co	RS #126
Texaco, Inc	6-2-60, RS #223
Gulf Oil Corp	12-21-70
Gulf Oil Corp	RS #421
Exxon Corp	7-18-57, RS #124
Marathon Oil Co	#153
Phillips Petroleum Co	2-25-78
Exxon Corp	4-30-73, RS #35
Hunt Oil Co	9-19-73, RS #5
Pennzoil Producing Co	12-12-58, RS #229
Ocean Production Co	9-9-76,

Appendix A—Continued

Producer	Rate schedule No. or contract date
	RS #16
Union Oil Co. of Calif	RS #13
Union Oil Co. of Calif	RS #49
Superior Oil Co	2-22-67, RS #124
McMoran Exploration Co	8-2-74
Petro-Lewis Corp	7-12-77
Rogers Oil & Gas Co., *et al*	7-19-49
Continental Oil Co	6-23-61, RS #207
Superior Oil Co	9-8-58
Superior Oil Co	9-8-59
Gulf Oil Corp	3-26-46, RS #74
Calhoun, Clay Jr	7-31-70
Amax Petroleum Corp	5-20-77
Sun Oil Co	12-1-74, RS #66
Norton Oil Co., Inc	2-5-75
Phillips Petroleum Co	6-1-77
Bright and Co	1-3-75
Gulf Oil Corp	79-58, RS #161
Hawthorne Oil and Gas Corp	1-3-78
Delta Drilling Co	3-27-59
Goodrich, H. R	7-31-77
Leaderbrand, Ralph L	5-10-72
Pennzoil Producing Co	7-1-75
Par Oil Corp	9-1-70
A. J. Hodges Industries, Inc	3-29-73
Mobil Oil Corp	RS #112
Logue & Patterson	2-1-71
Energy Reserve Group, Inc	11-1-45
Josey, Lenoir M	3-30-72
Lynd, R. L	7-1-49
R.D.A. Petroleum, Inc	8-4-72
American Petrofina Co. of Texas	8-4-72
Cities Service Co	11-10-77, RS #474
Howell Drilling, Inc	2-19-60
Pennzoil Producing Co	3-1-76, RS #305
Sun Oil Co	10-23-49, RS #270
Houston Oil & Minerals Corp	11-17-50
Sun Oil Co	4-14-69, RS #290
Antares Oil Corp	1-10-78
Reserve Oil & Gas Co	5-28-71
Gulf Oil Corp	9-7-66, RS #372
Memorial Exploration Co	10-17-73
Chevron U.S.A. Inc	7-21-58, RS #11
Sun Oil Co	5-1-58, RS #114
Texaco, Inc	3-7-67, RS #399
Brown, Maurice L	7-16-78
Texaco Inc	RS #48
Phillips Petroleum Co., *et al*	2-1-46, RS #13
Phillips Petroleum Co., *et al*	2-1-46, RS #13
Pennzoil Producing Co	RS #306
Getty Oil Co	RS #239
Sun Oil Co	RS #114
Halbouty, Michel T	5-29-58
Thompson, J. Cleo O	10-9-69
Crystal Oil Co	7-29-77
Frank Petroleum, Inc	6-22-66
Bodcan Co	12-12-77
Franks Petroleum, Inc	12-12-77
Pintail Mineral Corp	7-25-77
Tenneco Oil Co	RS #89
Huggs, Gerald E	8-4-48
Austin, James D	11-1-77
Noe, James A	1-20-72
South Coast Oil Inc	12-6-71
Gemini Explorations Inc	1-20-72
Miles Kimball Company	12-12-72
Teel, Roy M	6-27-73
Lankford, K. D. Jr	12-20-73
McCarter, John H. Jr	11-12-75

Appendix B

[Italic contract numbers indicate contract amendments].

Seller	Contract No.	Rate schedule	Date
Amoco Production Co	4395	282	60/06/07
Mitchell R B	5275	CS	72/06/02
Getty Oil Co	6140	NA	77/03/28
Atlantic Richfield Co	*1597*	49	53/09/14
Cities Service Co	5758	414	74/10/30
Pennzoil Oil & Gas Inc	5764	4	74/11/15
POGO Producing Co	5972	6	76/06/10
Pennzoil Louisiana & Tex Offsh	5973	3	76/06/10
POGO Producing Co	5974	7	76/06/10
Pennzoil Louisiana & Tex Offsh	5975	2	76/06/10
POGO Producing Co	6019	16	76/09/01
Pennzoil Oil & Gas Inc	5971	10	76/06/10
Louisiana Land & Explor Co	6247	5	77/10/13
Wintershall Oil & Gas Co	6203	CS	77/08/17
Decalta International Corp	6476	CS	78/08/04
Mobil Oil Corp	*4717*	286	67/03/01
Roberts & Murphy Inc	1039	CS	46/03/23
Phillips Petroleum Corp	*1096*	13	46/02/01
Morris C L	4374	CS	60/07/08
Schlachter David A	*5546*	CS	73/09/10
Bass Perry R	6573	31	79/02/07
Martin Exploration Co	*5175*	CS	71/10/10
Cities Service Co	6708	.....	.....
Northcott Exploration Co Inc	5836	CS	75/07/09
Lynn Crosby Gammill et al	6438	CS	78/07/01
Texas Pacific Oil Co Inc	6572	NA	79/01/15
Crosby-Mississippi Resources LTD	6629	NA	78/07/01
Shield Fred W	4432	CS	60/12/27
Texas Oil & Gas Corp	*1157*	83	48/03/29
Cities Service Co	6316	108	58/01/02
Marathon Oil Co	6235	14	77/10/01
Exchange Oil & Gas Corp	6583	CS	79/02/21
Crow David Agent	6605	CS	79/02/13
Petro-Search Inc	4520	CS	63/07/02
Woolf & Magee Inc	6608	.....	79/03/20
Parade Co	*4687*	1	67/01/31
Robinson L L	*4129*	CS	58/07/23
Monsanto Co	*4176*	31	58/10/27
Gribsby Jack W	*4970*	CS	69/11/19
Whitaker Douglas	*4496*	CS	62/05/07
Eason Oil Co	*4810*	CS	67/11/21
Wilson Frod Drilling Co Inc	*4606*	CS	65/12/03
Exxon Corp	*4377*	238	60/04/26
Amoco Production Co	*6484*	77	78
Exxon Corp	4991	NJ	70/05/05
Freeport Oil Co	*4085*	CS	58/06/13
Superior Oil Co	*4446*	102	61/03/21
Raider Oil Co	6661	CS	79/05/08
Bammert H L	6579	CS	79/02/11
Maynard Oil Co	6580	CS	79/04/02
Transocean Oil Inc	*1638*	5	54/05/04
Shettle George D	6562	CS	79/02/05
Hunt Oil Co	6093	79	77/01/05
Amoco Production Co	6609	.....	.....
Staples James W	6649	CS	79/04/26
Sun Oil Co	*4379*	534	60/02/15
Hunt Oil Co	4114	41	58/07/07
Monsanto Co	4052	28	58/04/01
Pennzoil Louisiana & Tex Off	6386	NA	78/05/16
TEE Operating Co	6528	CS	79/01/12
Kerr McGee Corp	*4316*	63	59/08/15
Phillips Petroleum Co	*4323*	357	59/09/09
General American Oil Co Tex	4818	85	68/01/12
Atlantic Richfield Co	*4225*	419	59/01/29
Gulf Oil Corp	*4116*	CS	58/07/29
Sands Caroline Hunt	*4098*	CS	58/06/24
Mobil Oil Corp	*4361*	229	60/01/25
Sands Loyd B	*4697*	CS	67/02/17
Hunt Lamar	*4359*	8	60/01/26
Exchange Oil & Gas Corp	*1866*	NA	57/01/01
Pennzoil Producing Co	2705	281	71/12/23
Cities Service Oil Co	1212	356	49/01/28
Huggs Gerald E	6366	CS	78/06/16
Cities Service Oil Co	2578	65	45/03/13
Lawbar Petroleum Inc et al	6505	CS	00/00/00
Gibson Drilling Co	6505	CS	78/12/11
Mewbourne Oil Co	6406	CS	78/06/26
Pennzoil Producing Co	2704	284	71/12/23
Pennzoil Producing Co	2703	240	71/12/23
Grady & Roppolo	6484	CS	78/09/11
Pennzoil Producing Co	2678	232	59/08/05
Bodcaw Co	6396	CS	78/04/27
Pennzoil Producing Co	2706	282	71/12/23
Pennzoil Producing Co	2701	283	71/12/23
Pennzoil Producing Co	2728	CS	73/05/24
Pennzoil Producing Co	2716	239	72/11/06
Pennzoil Producing Co	2670	216	57/09/20

Appendix B—Continued

[Italic contract numbers indicate contract amendments]

Seller	Contract No.	Rate schedule	Date
Pennzoil Producing Co	2658	239	55/04/08
Northern Michigan Expl Co	2672	3	57/12/11
Pennzoil Producing Co	2688	254	64/05/04
Pennzoil Producing Co	2679	234	59/10/30
Pennzoil Producing Co	2692	264	67/06/06
Superior Oil Co	4733	123	67/05/19
Pennzoil Producing Co	2621	42	50/01/09
Pennzoil Producing Co	2605	209	47/10/15
Pennzoil Producing Co	2698	276	70/07/28
Texaco Inc	4293	199	59/07/07
Pennzoil Producing Co	2683	238	60/04/21
Pennzoil Producing Co	2568	93	44/04/27
Omega Minerals Inc	6394	CS	78/06/09
Pennzoil Producing Co	2695	63	68/11/11
Pennzoil Producing Co	2686	245	62/01/31
Atlantic Richfield Co	6523	535	58/03/14
Exchange Oil & Gas Corp	5838	33	75/05/29
Shell Oil Co	6822	203	79/05/01
Superior Oil Co	6517	79	58/09/24
Tenneco Oil Co	0451	89	30/10/23
Hunt Oil Co	1083	20	46/08/21
D. Thomason	5203	CS	72/01/25
Getty Oil Co	5212	382	72/02/22
McCain M F	5225	CS	72/02/20
Texaco Inc	0516	495	27/12/01
Huggs Gerald E	*1160*	CS	48/04/07
Mills Carol A	*1218*	CS	49/01/08
Faulconer Vernon E, et al	*1589*	1	53/09/11
Brennan Harry W Jr	*1749*	CS	55/07/28
Brennan Harry W Jr	*1752*	CS	55/08/10
Lyons C H Sr & Mobil Oil Corp	4060	CS	50/04/14
Brennan Harry W Jr	*4348*	CS	59/11/10
Texaco Inc	*5027*	452	70/12/21
Brammer Engineering Inc	*5037*	CS	70/12/28
Texas Intl Petroleum Corp	*5062*	CS	70/10/11
Crystal Oil Co	*5066*	CS	70/12/04
Engeo Co	5574	CS	73/08/20
Burk Gas Corp	5575	CS	73/10/19
Tenneco Oil Co	5598	289	73/12/12
Brown Maurice L	5700	CS	74/07/16
Texaco Inc	5704	48	74/08/23
Fields Bert Jr	5716	CS	74/07/30
Par Oil Corp	*5718*	CS	74/10/14
Sun Oil Co	6155	593	77/05/13
T L James & Co Inc	6284	CS	77/12/08
Burk Gas Corp	6292	CS	77/12/08
Andrews Mrs Gladys M	6293	CS	78/01/23
Phillips Jack L	6325	NJ	78/04/11
Watson Oil Corp	6167	CS	77/07/31
Watson Oil Corp	6234	CS	77/09/06
Inexco Oil Co	*4989*	CS	70/04/07
Reico Exploration Co Inc	*5157*	CS	71/07/22
Hurbrough John H	5928	CS	76/03/24
Gruy Management Service Co	*1829*	CS	58/06/19
Walker Tigner	*4856*	CS	68/05/08
Hunt Oil Co	5181	69	71/11/22
Goldston Oil Corp	5232	CS	72/03/10
Kerr McGee Corp	5236	117	72/03/27
McCormick Oil & Gas Co	5863	CS	75/09/22
Goodwill G Ramon	5956	CS	76/03/01
Clark G C	5957	CS	76/03/01
Pennzoil Producing Co	5961	306	76/03/01
Kinsey Norman V	5964	CS	76/03/01
Getty Oil Co	5979	239	76/03/01
Getty Oil Co	5985	240	76/03/01
Strief Harry & Robert	5987	CS	76/04/01
Manziel Bobby	5988	CS	76/05/01
Hunter Co Inc	5992	CS	76/03/01
Scott Francis W Estate of	5993	CS	76/03/01
Goodwill G Ramon	5994	CS	76/03/01
Sun Oil Co	5995	21	76/08/01
Sun Oil Co	5998	18	76/03/01
Sun Oil Co	5996	114	76/08/01
Champlin Petroleum Co	5997	12	76/03/01
Comegys Emily Ann Glassell	5999	CS	76/03/01
Atlantic Richfield Co	6000	388	76/03/01
Wall Lallage Feazel	6009	CS	76/03/01
Marshall Exploration Inc	6012	CS	76/09/20
McGuire T W & Assocs Inc	6151	CS	77/05/12
Delta Drilling Co	6295	CS	78/01/27
Delta Drilling Co	6363	CS	78/05/05
Getty Oil Co	5189	197	71/12/14
Atlantic Richfield Co	5221	657	72/01/26
Cities Service Co	5230	390	72/03/17
Halbouty Michel T	*4076*	7	58/05/29
Halbouty Michel T	*4295*	15	59/06/22
Halbouty Michel T	*4371*	10	60/03/15
Cinco Exploration Co	6092	390	72/03/17
Cotton Petroleum Co	6320	.....	78/02/14
Zephyr Oil Co	*1227*	CS	49/03/25

Appendix B—Continued

[Italic contract numbers indicate contract amendments]

Seller	Contract No.	Rate schedule	Date
B & A Pipe Line Co	*1528*	1	52/08/01
American Petrofina Co Tex	*1532*	11	52/09/10
Ladd Petroleum Corp	*4965*	53	69/11/12
Enerco Expl & Mgt Co	6200	CS	77/07/31
Pioneer Production Corp	6047	52	76/10/08
Exxon Corp	*4659*	414	66/11/03
American Petrofina Co Tex	6358	116	78/04/21
Gulf Oil Corp	6420	538	78/06/30
Donnell Pipe & Supply Co	6448	CS	78/06/17
Crystal Oil Co	6104	CS	77/07/29
Watson Oil Corp	6401	CS	78/06/09
Miller Paul L	*4384*	CS	60/05/11
Sun Oil Co	*4393*	394	60/06/20
Amoco Production Co	6205	759	77/11/10
Marshall Exploration Inc	5888	CS	75/12/16
Tenneco Oil Co	1042	77	46/03/19
Tenneco Oil Co	5590	78	73/11/10
Orr B B	6349	CS	78/04/04
Art Machin & Assn Inc	*4060*	CS	68/06/10
Thompson J Cleo O	*4961*	CS	69/10/09
Doreman Louis	*5231*	CS	72/02/10
Cities Service Oil Co	*5256*	387	72/04/26
McLemore B Regan	5293	CS	72/06/15
CL & Gladys Lloyd Trust #1	5337	CS	72/06/26
Pirtle George W	5364	CS	70/05/23
Orr B B	5365	CS	72/12/06
Dunbar Blaine	5703	CS	74/09/09
Atlantic Richfield Co	5789	689	74/12/10
Amoco Production Co	6318	589	78/01/30
Clemco Inc	6338	CS	78/03/02
Gulf Oil Corp	*4142*	147	58/08/26
McCord-Goodrich Oil Co	*4883*	CS	68/10/04
Grady & Roppolo, A Partnership	*5912*	CS	76/02/20
Brammer Engineering Inc	*4327*	CS	59/10/08
Southwestern Elec Power Co	5712	CS	74/09/25
Ross & Glenn Petroleum Inc	6455	CS	79/02/14
Kewanee Oil Co	5160	CS	71/08/13
Monsanto Co	5705	111	74/08/06
Monsanto Co	5755	112	74/11/31
Exxon Company USA	*4683*	CS	67/01/20
Franks Petroleum Inc	*5017*	CS	70/08/28
Headrick H J	5814	CS	75/03/03
T L James & Co Inc	*4310*	CS	59/07/10
Pintail Mineral Corp	6192	CS	77/07/25
Bodcaw Co	6275	CS	77/12/12
Franks Petroleum Inc	6276	CS	.....
Petrofunds Inc	6277	CS	77/12/15
Cities Service Co	4655	215	66/10/07
Rosett & Motes Inc	*1621*	CS	54/03/10
General American Oil Co Tex	5807	100	75/02/12
Continental Oil Co	6065	432	76/11/22
Art Machin & Assn Inc	6324	CS	78/02/13
Pennzoil Producing Co	*2607*	CS	62/03/15
Pennzoil Producing Co	5721	299	74/10/07
Hargrove Joseph L	6026	CS	76/09/27
Franks Petroleum Inc	*4630*	CS	66/06/22
Southern Natural Gas Co	*4995*	F-10	70/04/14
Sun Oil Co	5686	530	74/03/29
Sun Oil Co	5832	542	75/07/01
Southwestern Electric Power Co	5402	CS	73/03/15
Walker Tigner	5488	CS	73/06/01
Arkla Exploration Co	*1525*	5	52/08/15
Grigsby Jack W	5211	CS	72/02/03
Kinsey Norman V	5213	CS	72/02/14
Murphy Oil Corp	5255	26	72/04/24
Lucky Three Oil Co	5263	CS	72/05/24
McCord-Goodrich Oil Co	5270	CS	72/05/26
Anthony Oil Co	5286	CS	72/01/24
Allied Petroleum Co	5600	CS	73/12/12
Tenneco Oil Co	5628	115	74/02/20
Hargraves FE & Sons Drl Co	5713	CS	74/09/19
Lucky Three Oil Co	5629	CS	75/05/06
Trident Oil & Gas Corp	6435	CS	78/07/14
Hunter Oil Inc	5186	CS	71/12/10
Woodfin D F	5199	CS	72/12/15
Cities Service Co	5206	385	72/01/01
Atlantic Richfield Co	5207	385	72/12/20
Inexco Oil Co	*5487*	CS	73/06/06
Gerard C H Coster	5355	CS	72/11/22
McCulloch Oil Corp, et al	5848	CS	75/06/26
Crystal Oil Co	5847	CS	75/05/21
Pennzoil Producing Co	5865	88	75/07/01
Mobil Oil Corp	5866	236	75/09/24
Marr M H	5091	CS	76/07/01
Austin James D	6233	CS	77/11/01
Crystal Oil Co	5939	CS	76/03/01
Crystal Oil Co	5796	CS	75/01/16
Shovan Gas Prod Co et al	*0523*	CS	29/10/15
Strahan O & G Co Inc	*5099*	CS	71/05/20

Appendix B—Continued

[Italic contract numbers indicate contract amendments]

Seller	Contract No.	Rate schedule	Date
Strahan O & G Co Inc	*5169*	CS	71/10/26
Noe James A	5170	CS	72/10/20
South Coast Oil Inc	5171	CS	71/12/06
Allied Petroleum Co	*5183*	CS	71/10/11
Allied Petroleum Co	5209	CS	72/02/04
Allied Petroleum Co	5269	CS	72/05/79
GMB Gas Corp	5297	CS	72/08/15
Gemini Explorations Inc	5345	CS	72/01/20
Miles Kimball Co	5369	CS	72/12/12
Ellington Robert W Jr	5373	CS	72/12/20
Sierra Oil & Gas Corp	5520	CS	74/04/25
Teel Roy M	5527	CS	73/06/27
Lankford K D Jr	5698	CS	73/12/20
McCarter John H Jr	6004	CS	75/11/12
Loch Arbor Production Co	6500	CS	78/09/20
Tesoro Petroleum Corp	6033	CS	76/10/12
Scogin Artis D	5696	CS	74/08/09
Atlantic Richfield Co	*1326*	9	50/01/19
Leaderbrand Ralph L	5260	CS	72/05/10
Hall Frank J	5457	CS	73/05/08
Scott Francis W Estate of	5683	CS	74/06/29
Northern Michigan Expl Co	5892	2	75/12/31
Exxon Corp	5445	35	73/04/30
Marathon Oil Co	5509	15	73/07/16
Cocke W H	5532	CS	73/06/01
Hunt Oil Co	5550	5	73/09/19
Goodrich H R	5887	CS	75/12/23
Penzoil Producing Co	*2676*	229	58/12/12
Atlantic Richfield Co	*4217*	531	59/01/12
Union Oil Co of Cal	*1365*	103	51/11/01
Mobil Oil Corp	*4822*	66	67/11/01
Continental Oil Co	*4842*	106	67/11/01
Newmont Oil Co	*4845*	CS	67/11/01
Ocean Production Co	6079	16	76/09/09
Exxon Corp	*4200*	149	58/12/05
Lyons Petroleum	*5064*	CS	71/03/08
Barton Al H	5624	CS	73/12/21
Exxon Corp	1944	124	57/07/18
Gulf Oil Co	*4468*	228	61/09/21
Getty Oil Co	5881	34	75/12/09
Sirera Walter B III	5901	CS	76/01/01
Bourg Otis J Sr	5904	CS	76/01/21
Stanwood Corp	6013	CS	76/08/13
Alta Loma Oil Co	6156	CS	77/04/04
Union Oil Co of Cal	*4353*	13	60/01/05
Texaco Inc	4386	223	60/06/02
Bouru Otis J Sr	5650	CS	74/04/02
Hampton Howard	5792	CS	75/01/02
Lyons Petroleum	5801	CS	75/01/01
Mitchell Energy Corp	5802	50	75/01/01
Amoco Production Co	6260	757	77/10/19
Texoil Co et al	6416	NJ	———
Superior Oil Co	4703	124	67/02/22
Louisiana Land & Explo co	2676	12	58/12/12
Inexco Oil Co	5682	CS	74/06/12
McMoran Exploration Co	5757	CS	74/08/02
Kilroy Prop Inc & WS Kilroy	5891	CS	75/09/02
Texaco Inc	4171	189	58/10/20
Singer-Fleischaker Oil Co	*4609*	CS	66/03/07
Texaco Inc	5960	534	76/04/27
Conover William V	6068	CS	76/11/05
Cities Service Co	6312	———	78/12/26
Exxon Corp	6314	123	78/01/23
Placid Oil Co	6384	20	78/05/12
Deas Rutledge H Jr	6506	CS	78/10/06
Petro-Lewis Corp	6188	CS	77/07/12
Vasser D E	6323	CS	78/02/10
Energy Corp of America Inc	6102	CS	77/01/31
Petro-Lewis Corp	4061	CS	59/04/14
Atlantic Richfield Co	*4204*	258	58/12/10
Wm T Burton Industries Inc	6475	CS	57/05/25
Coles Otis C Jr	5834	CS	75/05/30
Pennzoil Producing Co	5864	206	75/07/01
Goldsberry Hood	5894	CS	76/02/02
Goldsberry Hood	6081	CS	76/12/28
Cotton Petroleum Co	6099	4	77/01/28
Turner J S	*4895*	CS	68/12/02
Trident Oil & Gas Corp	6069	CS	76/12/03
Justiss Mears Oil Co Inc	6271	CS	77/10/05
James Leroy	6354	CS	78/04/11
Par Oil Corp	*5022*	CS	70/09/01
Par Oil Corp	5437	CS	73/04/02
A J Hodges Industries Inc	5441	CS	73/03/29
Union Oil Co of Cal	5854	127	75/08/07
Mobil Oil Corp	5867	112	74/09/24
Crystall Oil Co	5918	CS	75/07/01
Pennzoil Producing Co	*3100*	CS	29/12/20
May Petroleum Inc	6024	CS	76/09/10
Suburban Propane Gas Corp	6036	CS	76/10/19
Exxon Corp	6331	NJ	78/03/07
Amoco Production Co	*4969*	543	69/11/13
Amoco Production Co	4633	443	68/07/05
Louisiana Land & Exploration Co	*4651*	2	68/03/21
Gulf Oil Corp	4654	372	68/03/07
McMoran Exploration Co	5555	CS	73/10/17
Chevron USA Inc	*4110*	11	58/07/21
Superior Oil Co	*4147*	069	58/03/08
Superior Oil Co	5756	89	74/10/18
Superior Oil Co	*1878*	71	57/02/05
Atlantic Richfield Co	*1897*	527	57/02/14
Superior Oil Co	*1899*	108	57/03/21
General American Oil Co Tex	*4727*	80	67/04/20
Sun Oil Co	*4067*	114	58/05/01
Texaco Inc	4712	399	67/03/07
Sun Oil Co	*4617*	200	68/04/28
McCord-Goodrich Oil Co	5824	CS	75/04/10
Northridge Oil Co	*4948*	CS	69/07/30
Energy Corp of American Inc	*4986*	CS	70/04/08
Union Oil Company of Calif	*4953*	193	68/10/14
Exxon Corp	*4257*	158	59/04/20
Energy Corp of America Inc	*4747*	35	67/07/11
Energy Corp of America Inc	*4990*	36	68/10/03
Exxon Corp	6311	NJ	78/02/09
Pennzoil Producing Co	5725	301	74/10/07
General American Oil Co. Tex	5837	99	75/06/09
Cities Service Co	5900	353	76/01/27
Gulf Oil Corporation	1043	74	48/03/26
Texaco Inc	*0343*	101	50/04/03
Sun Oil Co	*4626*	202	68/06/10
William S. Evans	6334	CS	78/02/28
Evans James P Jr	6335	CS	78/02/28
Gulf Oil Corp	1043	74	48/03/26
Chisholm Elisabeth G	5916	CS	76/02/20
Marion Corp	6161	CS	77/06/09
Stack J E Jr	6418	CS	78/06/21
Calhoun Clay J	4980	CS	70/07/31
Amax Petroleum Corp	6157	CS	77/05/20
Continental Oil Co	1870	143	57/10/29
Sun Oil Co	5783	66	74/12/01
Pennzoil Producing Co	5784	92	74/12/11
Marathon Oil Co	5798	16	75/02/10
Norton Oil Co Inc	5804	CS	75/02/05
Rogers Hellena Fox W	5918	CS	75/03/14
Terra Resources Inc	5919	1	75/03/27
Brown Maurice L	5845	CS	75/05/01
Exxon Corp	5880	110	75/11/10
Jos F Fritz Operating Co	5883	CS	75/12/01
Bond Durbin	5884	CS	75/12/08
Crow David Agent	5896	CS	78/01/19
Southern Natural Gas Co	5906	F-15	74/11/01
Latimer D C	5943	CS	76/04/01
Atlantic Richfield Co	5976	371	78/06/01
Ladner Hilton L	5990	CS	78/01/19
McKenna A E	6008	CS	78/03/01
Ford Elizabeth H Mrs	6025	CS	76/07/23
Ladner Heber	6078	CS	74/11/24
Kadane G E & Sons	6362	CS	78/04/11
K R M Petroleum Corp	6411	CS	78/06/19
Jos F Fritz Operation Co	6502	CS	78/10/02
Larco Drilling Co	*4731*	CS	67/05/08
Union Oil Co of Cal	6160	236	77/05/20
Phillips Petroleum Co	6355	CS	78/02/25
Ensearch Exploration Inc	6530	NA	78/11/20
Phillips Petroleum Co	6145	NA	77/06/01
Gulf Oil Corp	*4401*	201	60/07/26
Union Texas Petroleum	6243	8	77/10/06
Forgotson James M	6272	CS	77/11/23
Texaco Inc	*4597*	491	65/09/03
Cotton Petroleum Co	5934	1	76/04/06
South Louisiana Production Co Inc	6029	5	78/09/14
Sun Oil Co	*4632*	203	68/07/01
Weaver Curt	5877	CS	76/10/01
Gamblo-Daniel Operating Co	6003	CS	78/03/19
Bright & Co	5791	CS	75/01/03
General American Oil Co Tex	4389	63	60/06/14
Texaco Inc	4711	398	67/03/07
Hawthorne Oil & Gas Corp	6230	CS	77/10/03
Carolina Gas Explor Co et al	6282	CS	77/10/03
Ballard & Cordell Corp	5981	CS	76/07/16
Gulf Oil Corp	*4455*	235	62/01/11
Texas Gas Explor Corp	5214	30	72/02/18
Southern Natural Gas Co	5260	F-13	72/06/23
Chevron USA Inc	*5787*	147	74/12/20
Goldking Production Co	6480	CS	78/09/20
Penton & Penton	4903	CS	68/12/30
Gulf Oil Corp	*4103*	161	58/07/09
Hoffpauir Thomas C	*5673*	CS	74/05/13
CRA International Ltd	4568	3	65/01/14
Hawthorne Oil & Gas Corp	6296	CS	78/01/03
Pioneer Production Corp	5959	51	76/04/28
Continental Oil Co	5475	115	73/06/07
Sun Oil Co	6469	382	78/07/12
Gulf Oil Corp	6052	NA	76/10/21
Gray Management Service Co	4309	CS	59/07/27
Sohio Petroleum Co	6321	42	78/01/31
Amerada Hess Corp	6380	64	78/04/24
Exchange Oil & Gas Corp	6269	38	77/10/24
Shell Oil Co	4753	350	67/07/27
Sun Oil Co	6473	352	78/08/01
Delta Drilling Co	4251	CS	59/03/27
Goodrich H R	6183	CS	77/07/31
McCormick Oil & Gas Co	6427	CS	78/06/01
Bel Oil Corp	*4362*	CS	60/01/20
South Louisiana Production Co Inc	*5945*	2	76/04/19
South Louisiana Production Co Inc	*5970*	3	76/05/25
South Louisiana Production Co Inc	*6041*	4	76/10/13
Bel Oil Corp	*4360*	CS	60/01/26
Texaco Inc	*4675*	330	———
Continental Oil Co	1825	164	57/01/01
Getty Oil Co	6439	75	58/08/15
Gulf Oil Corp	6503	136	57/01/01
Houston Oil & Mineral Corp	5174	CS	71/11/04
Getty Oil Co	*4506*	126	———
McClinton D B	6267	CS	77/11/02
IMC Exploration Co	6315	CS	78/01/01
Continental Oil Co	*1599*	247	57/11/08
Summers Frank J II	6216	CS	77/08/23
Pano Tech Expl Corp	6265	CS	77/11/09
McLean Harvey	6359	CS	78/04/14
Kellerman R E	6382	1	53/10/15
Marathon Oil Co	6393	38	78/05/04
Exxon Corp	*4358*	235	60/02/04
Continental Oil Co	*4729*	329	67/04/20
Gulf Oil Corp	6219	270	78/06/01
Texaco Inc	*4237*	194	59/03/10
Robinson George A	5950	CS	76/01/01
Abel & Bancroft	6077	CS	77/01/01
Logue & Patterson	*5056*	CS	71/02/01
Gulf Coast Minerals Co Inc	6348	CS	78/03/27
Energy Reserves Group Inc	*1010*	108	45/11/01
Union Oil Co of Calif	5187	101	71/11/23
Josey Lenoir M	5413	CS	72/03/30
Goldking Production Co	5921	CS	76/03/01
San Antonio Oil & Gas Corp	6341	CS	78/01/17
Soverign Exploration Co	6441	CS	78/07/12
Rowe W Earl	1271	CS	49/07/15
Rogers Oil & Gas Co	*1276*	CS	49/07/19
Rogers Oil & Gas Co	*1396*	CS	50/11/09
Lynd R L	*1269*	CS	49/07/01
Lynd R L	*4411*	CS	60/11/01
Getty Oil Co	*1371*	20	50/07/21
Eddy Refining Co	*1483*	1	52/01/02
Morris Joseph S	*1815*	CS	56/06/01
Sun Gas Co	6345	———	———
Janssen Nelson	6049	CS	76/10/18
Sun Oil Co	*1273*	238	49/07/15
Continental Oil Co	*4462*	207	61/06/23
Carlson Everett J	5536	CS	76/08/17
Overly Operation Co	6307	CS	78/01/18
RDA Petroleum Inc	1274	CS	49/07/15
Mosbacher Robert	*1762*	CS	55/09/14
Bounty Production Co	5164	CS	71/11/08
RDA Petroleum Inc	5311	CS	72/08/04
Cities Service Oil Co	*4156*	374	58/09/23
Hamon Jake L	*4159*	CS	58/09/03
Sun Oil Co	*4185*	361	58/07/11
Cotton Petroleum Co	6218	15	77/08/31
Cities Service Co	6270	474	77/11/10
Alamo Petroleum Co	*5510*	CS	73/08/01
Depco Inc	*1702*	CS	55/02/09
T J Watermate	6374	CS	78/04/24
Meyers-Lasher Inc	6375	CS	78/04/28
Ensearch Exploration Inc	1288	100	49/10/07
Starrett C E	*1402*	CS	50/12/21
Howell Drilling Inc	*4364*	CS	60/02/19
McFarline Oil Co Inc	6181	CS	77/07/21
Ballard & Cordell Corp	5830	CS	75/05/07
American Petrofina Co Tex	5899	97	76/01/20
Various small producers	5920	CS	76/02/03
Pennzoil Producing Co	5925	305	76/03/01
C & K Petroleum Inc	*4762*	CS	67/08/25
Kirby Petroleum Co	*4764*	CS	67/08/29
Cabot Corp	*4769*	100	67/08/28
Cabot Corp	4770	94	67/09/25
Gulf Oil Corp	*4779*	394	67/09/25
Cities Service Oil Co	*4869*	308	68/11/14
Getty Oil Co	*4893*	171	68/11/04
Getty Oil Co	*4894*	378	79/11/11

Appendix B—Continued

[Italic contract numbers indicate contract amendments]

Seller	Contract No.	Rate schedule	Date
Sun Oil Co	*4898*	472	68/12/03
Laguna Oil & Gas Co	*4939*	CS	69/06/27
Laguna Oil & Gas Co	5294	CS	72/09/18
South States O & G Co	5515	CS	73/06/05
Texas Energy Exploration Inc.	6407	CS	78/06/12
Gulf Oil Corp	*4106*	160	58/07/09
Taggart George K Jr	*4094*	CS	58/07/02
Leach Brothers Inc	*4281*	CS	59/05/19
National Exploration Co	5890	CS	75/03/04
Guardian Oil Co	5118	CS	71/06/30
Sun Oil Co	5529	306	73/08/23
Monsanto Co	1476	16	51/11/26
Exxon Corp	5726	543	74/09/23
Petroleum Corp Texas	*0734*	CS	35/06/12
Sun Oil Co	1293	270	49/10/23
Logue & Patterson	*5102*	CS	71/04/30
Exxon Corp	5726	543	74/09/23
L & B Oil Co Inc	6337	CS	78/02/01
Osborn W B Jr	*4616*	CS	66/04/27
Hewitt B Fox Inc	5309	CS	72/08/04
Expando Prod Co	*4643*	CS	66/08/08
Miller Wynn D	6175	CS	77/07/15
Feddered Howard C Jr	*4143*	CS	58/05/12
Houston Oil & Mineral Corp	*1398*	CS	50/11/17
Schimmel Oil Co	*4208*	CS	58/12/15
Janssen Nelson	6291	CS	78/01/03
Dinero Oil Co	5669	CS	74/03/27
Dinero Oil Co	5277	CS	72/06/20
Mueller Joseph P	5287	CS	72/07/12
Frio Production Co	5320	CS	72/08/24
Getty Oil Co	*1603*	23	53/11/01
Sun Oil Company	*4921*	290	69/04/14
Tenneco Oil Co	5591	2	73/01/16
Energy Corp of America Inc	5637	102	74/03/12
Bass Perry R	5708	35	74/09/10
Cities Service Oil Co	5727	353	74/09/09
Gulf Oil Corp	5828	23	75/06/02
Amoco Production Co	5859	79	75/01/02
Phoenix Resources Co	*5013*	CS	70/07/30
Natural Gas Electronics Corp	*4288*	CS	59/06/10
Dow Chemical Co	6038	CS	76/08/27
Scanlon Lee C	6329	CS	77/12/27
Liberty Energy Co of Texas	6356	CS	78/04/10
American Petrofina Co Tex	*1656*	59	54/08/18
Bounty Production Co	6058	CS	76/10/20
Mormac Oil & Gas Co	5308	CS	72/08/18
Exxon Corp	6210	599	77/08/11
Boling Production Co	6422	CS	78/06/26
Antares Oil Corp	6299	CS	78/01/10
C & K Petroleum Inc	1388	CS	51/03/19
Enterprise Resources Inc	6250	CS	77/10/21
Gohlke W L	5568	CS	73/10/22
Smith Charles R Et Ux	*1587*	CS	53/07/23
Carlson Everett J	5681	CS	74/06/25
Reserve Oil & Gas Co	*5117*	CS	71/05/28
Tenneco Oil Co	5005	261	70/06/12
Gulf Oil Corp	*1052*	323	46/04/17
R Lacy Inc	*6001*	CS	76/03/01
Warren Petroleum Corp	5018	59	70/09/25
Sun Oil Co	5081	514	71/04/16
Gulf Oil Corp	5020	421	79/09/25
Exxon Company USA	*4683*	CS	67/01/24
Phillips Petroleum Co	5101	487	71/05/10
Sun Oil Co	*4338*	378	59/11/17
Marathon Oil Co	*4412*	CS	60/10/04
Nemours Corp	*0589*	CS	31/07/17
Woods Harold L	*1331*	CS	50/02/24
Mobils Oil Corp	*2363*	114	37/09/26
Franks John	5129	CS	71/08/24
Crystal Oil Co	*4332*	CS	59/10/14
Wholess Industries Inc	*4414*	CS	60/10/06
Par Oil Corp	*5149*	CS	71/08/09
Pennzoil Producing Co	*3100*	CS	29/12/20
Getty Oil Co	*4345*	108	59/12/22
Getty Oil Co	*4346*	108	59/12/28
Getty Oil Co	*4283*	137	59/05/14
Prentice Oil & Gas Co	5046	CS	71/01/21
Gulf Oil Corp	5028	NJ	70/12/21
Monsanto Company	*1286*	71	49/09/30
Harris James W	5006	CS	70/06/23
Phillips Petroleum Co et al	5069	CS	71/03/15
American Petrofina Co Tex	5176	106	71/09/22
Shield Fred W	*4432*	CS	60/12/27
Warner Guy L	4951	CS	69/08/11
Texas Oil & Gas Corp	*4213*	85	58/12/31
Tenneco Oil Co	*4053*	109	58/03/31
Exxon Corp	*4442*	273	61/02/23
Amoco Production Co	*1141*	114	47/05/28
Pennzoil Producing Co	*2628*	253	50/12/29
Amoco Production Co	4879	522	68/10/07
Phillips Petroleum Co	5105	493	71/10/07
Houston Oil & Mineral Corp	1561	CS	71/11/04
Exxon Corp	5106	484	71/06/07
Union Oil Co of Cal	5107	13	71/06/08
Sun Oil Co	5113	499	71/06/17
Texaco Inc	5114	462	71/06/21
Gulf Oil Corp	5028	NJ	70/12/21
Martin Exploration Co	5025	CS	70/12/10
Equipment Inc	*1543*	1	52/12/30
Shell Oil Co	4937	376	69/06/30
Phillips Petroleum Co	4816	442	67/12/20
Sun Oil Co	*1278*	275	49/07/19
Sun Oil Co	*1530*	283	52/08/21
Burke J D	*1357*	2	50/04/11
Pennzoil Producing Co	2723	297	73/08/28
Pinto Inc	5790	2	75/01/02
Amax Petroleum Corp	6208	CS	77/08/17
Amax Petroleum Corp	6249	CS	77/10/20
Atlantic Richfield Co	*1600*	314	53/10/28
Mobil Oil Corp	5569	205	73/10/01
Mobil Oil Corp	5799	507	75/01/14
Mobil Oil Corp	5810	508	75/02/25
Mobil Oil Corp	6412	426	78/08/01
Mobil Oil Corp	6461	.....	78/08/01
Marathon Oil Co	*0512*	17	40/04/29
Mobil Oil Corp	*0512*	7	31/04/18
Mobil Oil Corp	6536	120	78/12/04
Mobil Oil Corp	6402	551	78/06/08
Mobil Oil Corp	6537	24	78/12/04
Mobil Oil Corp	6372	69	78/05/01
Texaco Inc	6309	NA	78/01/26
Marathon Oil Co	6224	147	77/09/12
Texaco Inc	6226	545	77/08/25
Mobil Oil Corp	*4476*	429	61/12/13
Atlantic Richfield Co	*4900*	626	68/12/13
Atlantic Richfield Co	*4254*	204	59/04/01
Gulf Oil Corp	6043	92	76/12/10
Gulf Oil Corp	6263	77	77/06/21
Mobil Oil Corp	*1297*	59	49/10/12
Atlantic Richfield Co	*4252*	197	59/04/09
Texaco Inc	4908	427	69/01/13
Chevron USA Inc	4936	49	69/07/01
Texaco Inc	5570	102	73/10/18
Texaco Inc	5781	511	74/12/17
Getty Oil Co	6248	417	77/10/01
Southern Natural Gas Co	6298	F-18	78/01/06
Terra Resources Inc	6032	50	76/11/04
Cullen Harry R et al	4166	CS	58/06/15
Pennzoil Oil & Gas Inc	5931	5	76/04/05
Pennzoil Louisiana & Texas Offsh	5932	1	76/04/05
POGO Producing Co	6020	15	76/09/01
Pennzoil Oil & Gas Inc	6251	NA	78/02/01
POGO Producing Co	6252	NA	78/02/01
Pennzoil Oil & Gas Inc	6254	.....	78/02/01
POGO Producing Co	6255	.....	78/02/01
Pennzoil Louisiana & Texas Offshore	6256	.....	78/02/01
POGO Producing Co	6022	NA	76/09/01
Shell Oil Co	*5190*	390	71/12/27
Shell Oil Co	*5192*	391	71/12/29
Shell Oil Co	*5143*	385	71/08/09
Shell Oil Co	*4844*	357	68/02/21
Shell Oil Co	*5855*	410	75/08/14
Shell Oil Co	*4297*	213	59/06/29
Shell Oil Co	*4298*	223	59/08/04
Shell Oil Co	*4270*	202	59/04/30
Shell Oil Co	*4268*	207	59/04/30
Shell Oil Co	*4296*	211	59/06/29
Shell Oil Co	*4271*	205	59/05/01
McMoran Exploration Co	5711	11	74/09/13
Three S & I Oil Co	*1209*	1	49/01/13
Amoco Production Co	4395	282	60/06/07
Mitchell R B	5275	CS	72/06/02
Getty Oil Co	6140	NA	77/03/28
Atlantic Richfield Co	*1597*	49	53/09/14
Cities Service Co	5758	414	74/10/30
Pennzoil Oil & Gas Inc	5764	4	74/11/15
POGO Producing Co	5972	6	76/06/10
Pennzoil Louisiana & Tex Offsh	5973	3	76/06/10
POGO Producing Co	5974	7	76/06/10
Pennzoil Louisiana & Tex Offsh	5975	2	76/06/10
POGO Producing Co	6019	16	76/09/01
Pennzoil Oil & Gas Inc	5971	10	76/06/10
Louisiana Land & Explor Co	6247	5	77/10/13
Wintershall Oil & Gas Co	6203	CS	77/08/17
Decalta International Corp	6476	CS	78/08/04
Mobile Oil Corp	*4717*	286	67/03/01
Roberts & Murphy Inc	1039	CS	46/03/23
Phillips Petroleum Corp	*1036*	13	46/02/01
Morris C L	4374	CS	60/07/00
Schlachter David A	*5546*	CS	73/09/10
Bass Perry R	6573	31	79/02/07
Martin Exploration Co	*5175*	CS	71/10/10
Cities Service Co	6708	.....	.....
Northcott Exploration Co Inc	5838	CS	75/07/09
Lynn Crosby Gammill et al	6438	CS	78/07/01
Texas Pacific Oil Co Inc	6572	NA	79/01/15
Crosby-Mississippi Resources LTD	6629	NA	78/07/01
Shield Fred W	4432	CS	60/12/27
Texas Oil & Gas Corp	*1157*	83	48/03/20
Cities Service Co	*6316*	106	58/01/02
Marathon Oil Co	6235	14	77/10/01
Exchange Oil & Gas Corp	6583	CS	79/01/21
Crow David Agent	6605	CS	79/02/13
Pennzoil Producing Co	2705	281	71/12/23
Cities Service Oil Co	1212	356	49/01/20
Huggs Gerald E	6366	CS	78/00/18
Cities Service Oil Co	2578	65	45/03/13
Lawbar Petroleum Inc, et al	6505	CS	00/00/00
Gibson Drilling Co	6505	CS	78/12/11
Mewbourne Oil Co	6408	CS	78/00/20
Pennzoil Producing Co	2704	284	71/12/23
Pennzoil Producing Co	2703	240	71/12/23
Grady & Roppolo	6484	CS	78/09/11
Pennzoil Producing Co	2670	232	59/00/05
Bodcaw Co	6396	CS	78/04/27
Pennzoil Producing Co	2706	282	71/12/23
Pennzoil Producing Co	2701	283	71/12/23
Pennzoil Producing Co	2728	CS	73/05/24
Pennzoil Producing Co	2716	239	72/11/00
Pennzoil Producing Co	2670	218	57/09/20
Pennzoil Producing Co	2658	239	55/04/00
Northern Michigan Expl Co	2672	3	57/12/11
Pennzoil Producing Co	2688	254	64/05/04
Pennzoil Producing Co	2679	234	59/10/30
Pennzoil Producing Co	2692	264	67/00/00
Superior Oil Co	4733	123	67/05/19
Pennzoil Producing Co	2621	42	50/01/09
Pennzoil Producing Co	2605	209	47/10/15
Pennzoil Producing Co	2698	276	70/07/28
Texaco Inc	4293	199	59/07/07
Pennzoil Producing Co	2683	238	60/04/21
Pennzoil Producing Co	2568	93	44/04/27
Omega Minerals	6394	CS	78/06/09
Pennzoil Producing Co	2695	63	60/11/11
Pennzoil Producing Co	2686	245	61/01/31
Atlantic Richfield Co	6523	535	58/03/14
Exchange Oil & Gas Corp	5836	33	75/05/29
Shell Oil Co	6622	203	79/05/01
Superior Oil Co	6517	79	58/00/24
Petro-Search Inc	4520	CS	63/07/02
Woolf & Magee Inc	6608	.....	79/03/20
Parade Co	*4697*	1	67/01/31
Robinson L L	*4129*	CS	58/07/23
Monsanto Co	*4176*	31	58/10/27
Grisby Jack W	4970	CS	69/11/19
Whitaker Douglas	*4496*	CS	62/05/07
Eason Oil Co	*4810*	CS	67/11/21
Wilson Fred Drilling Co Inc	*4606*	CS	65/12/03
Exxon Corp	*4377*	238	60/04/26
Amoco Production Co	*6484*	.....	.....
Exxon Corp	4991	NJ	70/05/05
Freeport Oil Co	*4085*	CS	58/06/13
Superior Oil Co	*4446*	102	61/03/21
Raider Oil Co	6661	CS	79/05/00
Bammert H L	6579	CS	79/02/11
Maynard Oil Co	6580	CS	79/04/02
Transocean Oil Inc	*1638*	5	54/05/04
Shettle George D	6562	CS	79/02/05
Hunt Oil Co	6093	79	77/01/05
Amoco Production Co	6609	.....	00/00/00
Staples James W	6649	CS	79/04/26
Sun Oil Co	*4379*	534	60/02/15
Hunt Oil Co	4114	41	58/07/07
Monsanto Co	4052	28	58/04/01
Pennzoil Louisiana & Tex Off	6386	NA	78/05/16
TEE Operating Co	6528	CS	79/01/12
Kerr McGee Corp	*4316*	63	59/08/15
Phillips Petroleum Co	*4323*	357	59/09/09
General American Oil Co Tex	4818	85	68/01/12
Atlantic Richfield Co	*4225*	419	59/01/20
Gulf Oil Corp	*4118*	CS	58/07/29
Sands Caroline Hunt	*4098*	CS	58/06/24
Mobil Oil Corp	*4361*	229	60/01/25
Sands Loyd B	*4697*	CS	67/02/17
Hunt Lamar	*4359*	8	60/01/20
Exchange Oil & Gas Corp	*1886*	NA	57/01/01

Appendix C.—*United Gas Pipe Line Co.*

Alphabetical Listing of All Protested Contracts

Contract No.	Seller name	Date	NGPA	Type
5441	A. J. Hodges Industries, Inc	73/03/29	102	003
5441	A. J. Hodges Industries, Inc	73/03/29	104	003
5441	A. J. Hodges Industries, Inc	73/03/29	108	00
6077	Abel & Bancroft	77/01/01	104	003
6077	Abel & Bancroft	76/12/10	104	000
6077	Abel & Bancroft	76/12/10	108	000
5510	Alamo Petroleum Co	73/08/01	104	003
5600	Allied Petroleum Co	73/12/12	104	003
5183	Allied Petroleum Co	71/10/11	104	003
5209	Allied Petroleum Co	72/02/04	104	003
5269	Allied Petroleum Co	72/05/19	104	003
6156	Alta Loma Oil Co	77/04/04	104	003
6157	Amax Petroleum Corp	77/05/20	102	003
6157	Amax Petroleum Corp	77/05/20	104	003
6208	Amax Petroleum Corp	77/08/17	104	037
6249	Amax Petroleum Corp	77/10/20	104	037
6397	Amerada Hess Corp	78/05/16	104	022
6380	Amerada Hess Corp	78/04/24	104	009
1532	American Petrofina Co. of Texas	52/09/18	104	042
6358	American Petrofina Co. of Texas	78/04/21	103	009
5176	American Petrofina Co. of Texas	71/09/22	104	016
5311	American Petrofina Co. of Texas	72/08/04	108	003
5899	American Petrofina Co. of Texas	76/01/20	104	003
1656	American Petrofina Co. of Texas	54/08/18	104	003
6484	Amoco Production Co	00/00/00	000	000
4959	Amoco Production Co	69/11/13	104	003
4633	Amoco Production Co	66/07/05	104	004
4395	Amoco Production Co	60/06/07	104	114
6260	Amoco Production Co	77/10/19	104	003
6205	Amoco Production Co	77/11/10	104	051
6318	Amoco Production Co	78/01/30	104	003
1141	Amoco Production Co	47/05/28	102	064
5859	Amoco Production Co	75/01/02	104	068
6609	Amoco Production Co	00/00/00	109	000
4879	Amoco Production Co	68/10/07	104	100
4879	Amoco Production Co	68/10/07	104	100
6293	Andrews, Mrs. Gladys M	78/01/23	104	009
6293	Andrews, Mrs. Gladys M	78/01/23	104	009
6299	Antares Oil Corp	78/01/10	103	072
6299	Antares Oil Corp	78/01/10	104	072
5286	Anthony Oil Co	72/01/24	104	003
1525	Arkla Exploration Co	52/08/15	104	003
4860	Art Machin & Association, Inc	68/06/10	104	003
6324	Art Machin & Association, Inc	78/02/13	103	009
6324	Art Machin & Association, Inc	78/02/13	104	009
1887	Atlantic Richfield Co	57/02/14	104	003
4900	Atlantic Richfield Co	68/12/13	104	010
4254	Atlantic Richfield Co	59/04/01	104	013
4217	Atlantic Richfield Co	59/01/12	104	003
4217	Atlantic Richfield Co	59/06/22	104	000
4204	Atlantic Richfield Co	58/12/10	104	003
6000	Atlantic Richfield Co	76/03/01	104	003
5221	Atlantic Richfield Co	72/01/26	104	042
5789	Atlantic Richfield Co	74/12/10	104	003
1141	Atlantic Richfield Co	47/05/28	104	064
1597	Atlantic Richfield Co	53/09/14	104	065
1600	Atlantic Richfield Co	53/10/28	104	066
5976	Atlantic Richfield Co	76/06/01	104	077
4252	Atlantic Richfield Co	59/04/09	104	013
4225	Atlantic Richfield Co	59/01/29	104	099
5207	Atlantic Richfield Co	72/12/20	104	042
1326	Atlantic Richfield Co	50/01/19	104	003
4046	Atlantic Richfield, superseded by 6523	58/03/14	104	087
6233	Austin, James D	77/11/01	103	089
1528	B & A Pipe Line Co	52/08/01	104	042
5830	Ballard & Cordell Corp	75/05/07	104	003
5981	Ballard & Cordell Corp	76/07/11	104	090
6579	Bammert, H. L	79/02/11	104	000
5624	Barton, AL H	73/12/21	104	003
5708	Bass, Perry R	74/09/10	104	003
6573	Bass, Perry R	79/02/07	102	000
4382	Bel Oil Corp	60/01/20	104	003
4360	Bel Oil Corp	60/01/26	104	003
6482	Black Bayou Management Co	78/09/13	102	032
6482	Black Bayou Management Co	78/09/13	103	032
6482	Black Bayou Management Co	78/09/13	104	032
6275	Bodcaw Co	77/12/12	108	000
6275	Bodcaw Co	77/12/12	104	108
6396	Bodcaw Co	78/04/27	104	000
6422	Boling Production Co	78/06/26	102	009
6422	Boling Production Co	78/06/26	104	009
5884	Bond, Durbin	75/12/08	104	077
5164	Bounty Production Co	71/11/08	104	042

Appendix C.—*United Gas Pipe Line Co.—Continued*

Contract No.	Seller name	Date	NGPA	Type
6053	Bounty Production Co	76/10/20	104	069
5904	Bourg, Otis J., Sr	76/01/21	104	003
5650	Bourg, Otis, J., Sr74	74/04/02	104	003
5037	Brammer Engineering, Inc	70/12/28	104	003
5037	Brammer Engineering, Inc	70/12/28	108	003
4327	Brammer Engineering, Inc	59/10/08	104	003
1749	Brennan, Harry W. Jr	55/07/28	104	003
1752	Brennan, Harry W., Jr	55/08/10	104	003
4348	Brennan, Harry W., Jr	59/11/10	104	003
5791	Bright & Co	75/01/03	104	003
5791	Bright & Co	75/01/03	108	003
5700	Brown, Maurice L	74/07/16	104	003
5700	Brown, Maurice L	78/07/16	108	003
5700	Brown, Maurice L	74/07/16	104	003
5845	Brown, Maurice L	75/05/01	104	077
5575	Burk Gas Corp	73/10/19	104	003
6292	Burk Gas Corp	77/12/08	104	009
5575	Burk Gas Corp	73/10/19	104	003
6206	Burk Gas Corp	77/12/08	104	009
1357	Burk-J. D	50/04/11	104	033
4762	C & K Petroleum, Inc	67/08/25	104	003
1328	C & K Petroleum, Inc	51/03/19	104	069
4769	Cabot Corp	67/08/28	104	003
4770	Cabot Corp	67/09/25	104	003
4980	Calhoun, Clay J	70/07/31	104	076
4980	Calhoun, Clay J	70/07/31	108	076
5365	Cargill, Robert	72/12/06	104	003
5536	Carlson, Everett J	73/08/17	104	000
5536	Carlson, Everett J	73/08/17	104	000
5536	Carlson, Everett J	73/08/17	104	003
5536	Carlson, Everett J	73/08/17	104	000
5536	Carlson, Everett J	73/08/17	104	000
5681	Carlson, Everett J	74/06/25	104	003
6282	Carolina Gas Exploration Co. et al	77/10/03	104	069
5997	Champlin Petroleum Co	76/03/01	104	003
4110	Chevron U.S.A., Inc	58/07/21	103	003
4110	Chevron U.S.A., Inc	58/07/21	104	003
6278	Chevron U.S.A., Inc	77/11/21	104	018
5787	Chevron U.S.A., Inc	74/12/20	104	042
4936	Chevron U.S.A., Inc	69/07/01	104	105
5916	Chisholm, Elizabeth G	76/02/20	104	069
6092	Cinco Exploration Co	77/01/18	104	003
5900	Cities Service Co	76/01/27	104	003
1529	Cities Service Co	52/08/15	104	000
6706	Cities Service Co	00/00/00	000	000
5900	Cities Service Co	76/01/27	104	000
5900	Cities Service Co	76/01/27	104	000
5230	Cities Service Co	72/03/17	104	042
6532	Cities Service Co	78/12/05	103	000
6533	Cities Service Co	78/12/05	104	049
6270	Cities Service Co	77/11/10	102	003
6270	Cities Service Co	77/11/10	104	003
5758	Cities Service Co	74/10/30	104	058
4655	Cities Service Co	66/10/07	104	003
5206	Cities Service Co	72/01/01	104	042
4016	Cities Service Co, superseded by 6316	58/01/02	104	000
1212	Cities Service Oil Co	49/01/28	104	005
2578	Cities Service Oil Co	45/03/13	104	000
5256	Cities Service Oil Co	72/04/26	104	003
4156	Cities Service Oil Co	58/09/23	104	003
4869	Cities Service Oil Co	68/11/14	104	003
5717	Cities Service Oil Co	74/09/09	104	003
6312	Cities Service Co	78/12/26	104	003
5337	C. L. & Gladys Lloyd Trust No. 1	72/06/29	104	003
5957	Clark, G. C	78/03/01	104	003
6338	Clemco, Inc	78/03/02	104	000
6512	Clover Energy Corp	78/12/29	104	032
5532	Cocke, W. H	73/06/01	104	003
5834	Coles, Otis C., Jr	75/05/30	104	003
5999	Comegys, Emily Ann Glassell	76/03/01	104	003
6068	Conover, William V	76/11/05	104	003
4842	Continental Oil Co	67/11/01	104	003
4462	Continental Oil Co	61/06/23	104	042
4462	Continental Oil Co	61/08/23	104	000
4462	Continental Oil Co	61/08/23	108	000
1870	Continental Oil Co	56/10/29	104	003
5475	Continental Oil Co	73/06/07	104	003
1885	Continental Oil Co	57/01/01	104	003
1885	Continental Oil Co	57/01/01	104	003
1999	Continental Oil Co	57/11/03	104	003
4729	Continental Oil Co	67/04/20	104	003
6065	Continental Oil Co	76/11/22	104	089
6320	Cotton Petroleum Co	78/02/14	104	009
6218	Cotton Petroleum Co	77/03/31	104	003
5934	Cotton Petroleum Co	76/04/06	104	089
6099	Cotton Petroleum Co	77/01/18	104	003

Appendix C.—*United Gas Pipe Line Co.*—*Continued*

	Contract No. and seller name	Date	NGPA	Type
4568	CRA International Ltd	65/01/14	104	003
6638	Crescent Drilling Co., Inc	79/07/27	108	075
6629	Crosby-Mississippi Resources, Ltd	78/07/01	102	000
6629	Crosby-Mississippi Resources, Ltd	78/07/01	103	000
5896	Crow, David, agent	76/01/19	104	077
6605	Crow, David, agent	79/02/13	105	000
5068	Crystal Oil Co	70/12/04	104	003
6194	Crystal Oil Co	77/07/29	103	003
6194	Crystal Oil Co	77/07/29	104	003
5847	Crystal Oil Co	75/05/21	104	003
5939	Crystal Oil Co	76/03/01	104	059
5796	Crystal Oil Co	75/01/16	104	089
4332	Crystal Oil Co	59/10/14	104	074
5918	Crystal Oil Co	75/07/01	104	003
4166	Cullen, Harry R., et al	58/06/15	104	092
6506	Deas, Rutledge H., Jr	78/10/06	104	032
6476	Decalta International Corp	78/08/04	102	096
6476	Decalta International Corp	78/08/04	104	096
4251	Delta Development Co., Inc	59/03/27	102	003
6295	Delta Drilling Co	78/01/27	104	009
6363	Delta Drilling Co	78/05/05	104	009
6535	Delta Drilling Co	78/12/06	104	032
4251	Delta Drilling Co	59/03/27	104	003
6428	Denton, B. G	78/08/24	102	113
6428	Denton, B. G	78/08/24	103	113
6428	Denton, B. G	78/08/24	104	113
1702	Depco, Inc	55/02/09	104	056
5669	Dinero Oil Co	74/03/27	104	003
5277	Dinero Oil Co	72/06/20	104	003
6499	Dinero Oil Co	78/09/19	104	032
5901	Direra, Walter B. III	76/01/01	104	003
6446	Donnell Pipe & Supply Co	78/06/17	104	009
5231	Dorfman, Louis	72/02/16	104	003
6038	Dow Chemical Co	76/08/27	104	069
1276	Driscoll Production Co	49/07/19	104	000
5703	Dunbar, Blaine	74/09/09	104	003
6601	Dynamic Exploration, Inc	79/02/23	109	075
4810	Eason Oil Co	67/11/21	104	099
6367	ECEF, Inc	78/04/27	104	094
1483	Eddy Refining Co	52/01/02	104	003
5373	Ellington, Robert W., Jr	72/12/20	104	003
6200	Enerco Exploration and Management Co	77/07/31	104	003
4986	Energy Corp. of America, Inc	70/04/08	104	003
4747	Energy Corp. of America, Inc	67/07/11	104	003
4880	Energy Corp. of America, Inc	68/10/03	104	003
6102	Energy Corp. of America, Inc	77/01/31	104	003
5637	Energy Corp. of America, Inc	74/03/12	104	003
1010	Energy Reserves Group, Inc	45/11/01	104	003
1010	Energy Reserves Group, Inc	45/11/01	108	003
5574	Engeo Co	73/08/20	104	003
1288	Ensearch Exploration, Inc	49/10/07	104	003
6645	Ensearch Exploration, Inc	79/02/14	107	075
6530	Ensearch Exploration, Inc	78/11/20	104	009
6250	Enterprise Resources, Inc	77/10/21	104	003
1543	Equipment, Inc	52/12/30	104	052
6335	Evans, James P., Jr	78/02/28	104	003
5836	Exchange Oil & Gas Corp	75/05/29	104	032
6269	Exchange Oil & Gas Corp	77/10/24	102	101
6269	Exchange Oil & Gas Corp	77/10/24	104	101
1886	Exchange Oil & Gas Corp	57/01/01	104	000
6583	Exchange Oil & Gas Corp	79/02/12	102	000
4643	Expanded Production Co	66/08/08	104	042
4683	Exxon Co. U.S.A	67/01/24	104	083
6331	Exxon Corp	78/03/07	103	001
4377	Exxon Corp	60/04/26	104	099
4257	Exxon Corp	59/04/20	104	003
6311	Exxon Corp	78/02/09	103	009
1944	Exxon Corp	57/07/18	104	000
5445	Exxon Corp	73/04/30	103	003
5445	Exxon Corp	73/04/30	104	003
4200	Exxon Corp	58/12/05	104	003
6311	Exxon Corp	78/02/09	103	009
1944	Exxon Corp	57/07/18	103	000
1944	Exxon Corp	57/07/18	104	000
6314	Exxon Corp	78/01/23	104	009
4991	Exxon Corp	70/05/05	103	000
4659	Exxon Corp	66/11/03	104	003
5106	Exxon Corp	71/06/07	103	052
5106	Exxon Corp	71/06/07	104	052
5726	Exxon Corp	74/09/23	104	060
5726	Exxon Corp	74/09/23	104	060
4442	Exxon Corp	61/02/23	104	063
6490	Exxon Corp	78/09/20	104	000
6210	Exxon Corp	77/08/11	104	071

Appendix C.—*United Gas Pipe Line Co.*—*Continued*

	Contract No. and seller name	Date	NGPA	Type
4264	Exxon Corp	59/05/05	104	000
5880	Exxon Corp	75/11/10	104	077
4166	Exxon Corp	58/06/15	107	042
4358	Exxon Corp	60/02/04	104	003
3100	Exxon Corp	29/12/20	104	112
1589	Faulconer, Vernon E. et al	53/09/11	104	003
4134	Fedderer, Howard C., Jr	58/05/12	104	003
5716	Fields, Bert, Jr	74/07/30	104	003
5716	Fields, Bert, Jr	74/07/30	104	003
4200	Florida Gas Exploration Co	58/12/15	104	003
6025	Ford, Elizabeth H., Mrs	76/07/23	104	079
6272	Forgotson, James M	77/11/29	104	009
5129	Franks, John	71/08/24	104	112
5129	Franks, John	71/08/24	108	112
5017	Franks Petroleum, Inc	70/08/28	104	003
6276	Franks Petroleum, Inc	00/00/00	102	108
6276	Franks Petroleum, Inc	77/12/08	104	108
4630	Franks Petroleum, Inc	66/06/22	104	003
4630	Franks Petroleum, Inc	66/06/22	108	003
4085	Freeport Oil Co	58/06/13	104	000
6565	Frio Production Co	79/01/11	109	000
5320	Frio Production Co	72/08/24	104	003
6003	Gamble-Daniel Operating Co	76/03/19	104	003
5345	Gemini Explorations, Inc	72/01/20	108	003
5345	Gemini Explorations, Inc	72/10/24	104	003
4727	General American Oil Co. of Texas	67/04/20	104	003
5837	General American Oil Co. of Texas	75/06/09	104	003
5837	General American Oil Co. of Texas	75/06/09	104	000
5837	General American Oil Co. of Texas	75/06/09	104	000
4389	General American Oil Co. of Texas	60/06/14	104	003
4818	General American Oil Co. of Texas	68/01/12	104	000
5807	General American Oil Co. of Texas	75/02/12	104	003
6586	General Crude Oil Co	00/00/00	104	050
5355	Gerard, C. H. Coster	72/11/22	104	110
4345	Getty Oil Co	59/12/22	104	002
4346	Getty Oil Co	59/12/28	104	000
6248	Getty Oil Co	77/10/01	104	023
4283	Getty Oil Co	59/05/14	104	026
5881	Getty Oil Co	75/12/09	104	003
5881	Getty Oil Co	75/12/09	104	003
5212	Getty Oil Co	72/02/22	104	003
5212	Getty Oil Co	72/01/25	104	003
5979	Getty Oil Co	76/03/01	103	003
5979	Getty Oil Co	76/03/01	104	003
5979	Getty Oil Co	76/03/01	108	003
5985	Getty Oil Co	76/03/01	104	003
5189	Getty Oil Co	71/12/14	104	042
1371	Getty Oil Co	50/07/21	104	003
4893	Getty Oil Co	68/11/04	104	003
4894	Getty Oil Co	68/11/11	104	000
6140	Getty Oil Co	77/03/28	102	058
6140	Getty Oil Co	77/03/28	104	058
1603	Getty Oil Co	53/11/01	104	003
4506	Getty Oil Co	00/00/00	102	003
4132	Getty Oil Co., superseded by 6439	58/08/15	104	009
6505	Gibson Drilling Co	78/12/11	103	044
5020	Gladstone Gasoline Co	70/09/25	104	045
5297	GMB Gas Corp	72/08/15	104	003
5568	Gohlke, W.L	73/10/22	104	003
6507	Golden Trend Oil & Gas Corp	79/01/12	103	032
6507	Golden Trend Oil & Gas Corp	79/01/12	104	032
6507	Golden Trend Oil & Gas Corp	79/01/12	103	032
6507	Golden Trend Oil & Gas Corp	79/01/12	104	032
5921	Goldking Production Co	76/03/01	104	000
6480	Goldking Production Co	78/09/20	103	093
6480	Goldking Production Co	78/09/20	104	093
5894	Goldsberry, Hood	76/02/02	104	069
6081	Goldsberry, Hood	76/12/28	104	003
5232	Goldston Oil Corp	72/03/10	104	003
5887	Goodrich, H. R	75/12/23	104	003
6548	Goodrich, H. R	79/02/01	103	075
6548	Goodrich, H. R	79/02/01	104	075
6183	Goodrich, H. R	77/07/31	102	003
6183	Goodrich, H. R	77/07/31	104	003
1036	Goodwill, G. Ramon	46/02/01	108	003
5956	Goodwill, G. Ramon	76/03/01	104	003
5994	Goodwill, G. Ramon	76/03/01	104	003
5912	Grady & Poppolo, a partnership	76/02/20	104	069
6484	Grady & Poppolo, a partnership	78/09/11	104	032
4970	Gngsby, Jack W	69/11/19	104	099
5211	Gngsby, Jack W	72/02/03	104	003
1829	Gruy Management Service Co	56/06/19	104	003
4309	Gruy Management Service Co	59/07/27	104	042
5118	Guardian Oil Co	71/06/30	104	003

Appendix C.—*United Gas Pipe Line Co.—Continued*

	Contract No. and seller name	Date	NGPA	Type
6654	Guernsey Petroleum Corp	00/00/00	109	050
6348	Gulf Coast Minerals Co., Inc	78/03/27	104	009
4654	Gulf Oil Corp	66/09/07	102	003
4654	Gulf Oil Corp	66/09/07	104	003
4468	Gulf Oil Corp	61/09/21	104	000
4468	Gulf Oil Corp	61/09/21	104	003
4468	Gulf Oil Corp	61/09/21	104	003
5028	Gulf Oil Corp	70/12/21	102	036
5028	Gulf Oil Corp	70/12/21	103	036
1052	Gulf Oil Corp	46/04/17	104	016
6420	Gulf Oil Corp	78/06/30	103	009
5020	Gulf Oil Corp	79/09/25	103	045
4779	Gulf Oil Corp	67/09/25	104	003
4106	Gulf Oil Corp	58/07/09	104	003
5828	Gulf Oil Corp	75/06/02	104	003
1043	Gulf Oil Corp	46/03/26	104	003
1043	Gulf Oil Corp	46/03/26	108	003
6043	Gulf Oil Corp	76/12/10	104	080
6263	Gulf Oil Corp	77/06/21	104	080
6263	Gulf Oil Corp	77/06/21	108	080
1043	Gulf Oil Corp	46/03/26	104	003
4401	Gulf Oil Corp	60/07/26	104	003
4485	Gulf Oil Corp	62/01/11	104	003
4103	Gulf Oil Corp	58/07/09	104	003
4103	Gulf Oil Corp	58/07/09	108	003
6052	Gulf Oil Corp	76/10/21	104	069
4118	Gulf Oil Corp	58/07/29	104	000
6219	Gulf Oil Corp	78/06/01	104	003
4142	Gulf Oil Corp	58/08/28	104	003
1884	Gulf Oil Corp., superseded by 6508	57/01/01	104	009
1043	Gulf Oil Corp	46/03/26	104	003
1043	Gulf Oil Corp	46/03/26	108	003
4076	Halbouty, Michel T	58/05/29	104	003
4076	Halbouty, Michel T	58/05/29	108	003
4295	Halbouty, Michel T	59/06/22	104	003
4371	Halbouty, Michel T	60/03/15	104	003
5457	Hall, Frank J	73/05/08	104	003
4159	Hamon, Jake L	58/09/03	104	009
5792	Hampton, Howard	75/01/02	104	003
5713	Hargraves, F. E. & Sons Drilling Co	74/09/19	104	003
6026	Hargrove, Joseph L	76/08/27	104	090
5006	Harris, James W	70/06/23	104	074
6230	Hawthorne Oil & Gas Corp	77/10/03	104	069
6296	Hawthorne Oil & Gas Corp	78/01/03	103	098
6296	Hawthorne Oil & Gas Corp	78/01/03	104	098
5814	Headrick, H. J	75/03/03	104	089
5309	Hewitt, B. Fox, Inc	72/08/04	104	003
5673	Hoffpauir, Thomas C	74/05/13	104	076
6449	Hogan Drilling Co	78/07/24	104	113
1398	Houston Oil & Mineral Corp	50/11/17	104	003
1398	Houston Oil & Mineral Corp	50/11/17	108	003
1561	Houston Oil & Mineral Corp	71/11/04	104	052
5174	Houston Oil & Mineral Corp	71/11/04	104	042
4364	Howell Drilling, Inc	60/02/19	104	003
4364	Howell Drilling, Inc	60/02/19	109	003
1160	Huggs, Gerald E	48/04/07	104	003
1160	Huggs, Gerald E	48/04/08	108	003
6366	Huggs, Gerald E	78/06/16	104	043
4359	Hunt, Lamar	60/01/26	104	000
5550	Hunt, Oil Co	73/09/19	103	003
5550	Hunt, Oil Co	73/09/19	104	003
1083	Hunt, Oil Co	46/08/21	104	003
5181	Hunt, Oil Co	71/11/22	104	042
6560	Hunt, Oil Co	78/12/12	102	032
6093	Hunt, Oil Co	77/01/05	104	000
6093	Hunt, Oil Co	78/07/03	108	000
4114	Hunt, Oil Co	58/07/07	104	000
5992	Hunter Co., Inc	76/03/01	104	003
5186	Hunter Oil, Inc	71/12/10	104	042
5928	Hurbrough, John H	76/03/24	104	003
6315	I M C Exploration Co	78/01/01	104	009
5682	Inexco Oil Co	74/06/26	104	003
6576	Inexco Oil Co	79/02/01	104	033
4989	Inexco Oil Co	70/04/07	104	003
6305	Inexco Oil Co	77/12/30	104	084
6305	Inexco Oil Co	77/12/30	107	084
6459	Inexco Oil Co	78/09/15	104	084
6459	Inexco Oil Co	78/09/15	107	084
5487	Inexco Oil Co	73/06/08	104	069
1276	Intercity Management Corp	49/07/19	108	000
6233	James, D. Austin	77/11/01	104	089
6354	James, Leroy	78/04/11	104	106
6049	Janssen, Nelson	76/10/18	104	003
6291	Janssen, Nelson	78/01/03	104	009
6291	Janssen, Nelson	78/01/03	104	000

Appendix C.—*United Gas Pipe Line Co.—Continued*

	Contract No. and seller name	Date	NGPA	Type
5883	Jos. R. Fritz Operating Co	75/12/01	104	077
6502	Jos. R. Fritz Operating Co	78/10/02	104	032
5413	Josey, Lenoir M	72/03/30	104	003
5413	Josey, Lenoir M	72/03/30	108	003
6271	Justiss Mears Oil Co., Inc	77/10/05	102	106
6271	Justiss Mears Oil Co., Inc	77/11/30	104	106
6411	K R M Petroleum Corp	78/06/19	104	081
6362	Kadane, G. E. & Sons	78/04/11	104	081
4177	Kellerman, R. E., superseded by 6382	58/10/15	104	009
5236	Kerr McGee Corp	72/03/27	104	042
6464	Kerr McGee Corp	00/00/00	102	032
4316	Kerr McGee Corp	59/08/15	104	099
5160	Kewanee Oil Co	71/08/13	104	042
5891	Kilroy Prop., Inc. & W. S. Kilroy	75/09/02	104	003
5964	Kinsey, Norman V	76/03/01	104	003
5213	Kinsey, Norman V	72/02/14	104	003
4764	Kirby Petroleum Co	67/08/29	104	003
6414	Kissinger Petroleum Corp	78/07/15	102	032
6337	L&B Oil Co., Inc	78/02/01	104	061
4965	Ladd Petroleum Corp	69/11/12	104	003
6078	Ladner, Heber	74/11/24	104	077
5990	Ladner, Hilton L	76/01/19	104	077
4939	Laguna Oil & Gas Co	69/06/27	104	003
5294	Laguna Oil & Gas Co	72/09/18	104	003
5698	Lankford, K. D., Jr	73/12/20	103	003
5698	Lankford, K. D., Jr	73/12/20	104	003
5698	Lankford, K. D., Jr	73/12/20	108	003
4731	Larco Drilling Co	67/05/08	104	003
5943	Latimer, D. C	76/04/01	104	077
6505	Lawbar Petroleum, Inc	78/12/11	103	044
6505	Lawbar Petroleum, Inc. et al	00/00/00	104	044
4281	Leach Bros., Inc	59/05/19	104	003
5260	Leaderbrand, Ralph L	72/05/10	104	003
5260	Leaderbrand, Ralph L	72/05/10	108	003
6356	Liberty Energy Co. of Texas	78/04/10	104	009
6445	Lifestyle Energy Corp	78/08/03	104	032
6500	Loch Arbor Production Co	78/09/20	102	032
6500	Loch Arbor Production Co	78/09/20	103	032
6500	Loch Arbor Production Co	78/09/20	108	032
5056	Logue & Patterson	71/02/01	104	003
5056	Logue & Patterson	71/02/01	108	003
5102	Logue & Patterson	71/04/30	104	003
6457	Logue & Patterson	78/07/20	104	062
6457	Logue & Patterson	78/08/25	103	062
4651	Louisiana Land & Exploration Co	66/09/21	104	003
2676	Louisiana Land & Exploration Co	58/12/12	104	003
4217	Louisiana Land & Exploration Co	59/06/22	104	000
6247	Louisiana Land & Exploration Co	77/10/13	102	058
6247	Louisiana Land & Exploration Co	77/10/13	104	058
6453	Louisiana Land & Exploration Co	78/08/18	102	032
6453	Louisiana Land & Exploration Co	78/08/18	104	032
5263	Lucky Three Oil Co	72/05/24	104	003
5829	Lucky Three Oil Co	75/05/06	104	089
6511	Lynal, Inc	78/10/25	104	032
1269	Lynd, R. L	49/07/01	104	003
1269	Lynd, R. L	49/07/01	108	003
4411	Lynd, R. L	60/11/01	104	003
6438	Lynn, Crosby Gammill et al	78/07/01	104	000
4060	Lyons, C. H., Sr. & Mobil Oil Corp	50/04/14	104	003
5064	Lyons Petroleum	71/03/08	104	003
5801	Lyons Petroleum	75/01/01	104	003
5988	Manziel Bobby	76/05/17	104	003
5509	Marathon Oil Co	73/07/16	104	003
6224	Marathon Oil Co	77/09/12	102	021
6224	Marathon Oil Co	77/09/12	104	021
6399	Marathon Oil Co	78/05/31	103	047
5798	Marathon Oil Co	75/02/10	104	077
6235	Marathon Oil Co	77/10/01	104	000
6393	Marathon Oil Co	78/05/04	104	009
6591	Marathon Oil Co	79/01/31	106	050
0858	Marathon Oil Co	40/04/29	103	082
4412	Marathon Oil Co	60/10/04	104	073
6161	Marion Corp	77/06/09	104	003
5991	Marr, M. H	76/07/01	104	111
6012	Marshall Exploration, Inc	76/09/20	104	003
5888	Marshall Exploration, Inc	75/12/16	104	003
5025	Martin Exploration Co	70/12/10	104	029
5175	Martin Exploration Co	71/10/10	104	000
6024	May Petroleum, Inc	76/09/10	104	069
6580	Maynard Oil Co	79/04/02	104	000
5225	McCain, M. E	72/02/20	104	003
5225	McCain, M. E	72/02/20	104	003
6004	McCarter, A. Nelson	75/12/11	108	069
6004	McCarter, John H., Jr	75/11/12	104	069

Appendix C.—*United Gas Pipe Line Co.—Continued*

Contract No.	and seller name	Date	NGPA	Type
6267	McClinton, D. B	77/11/02	104	003
5824	McCord-Goodrich Oil Co	75/04/10	104	003
4883	McCord-Goodrich Oil Co	68/10/04	104	003
5270	McCord-Goodrich Oil Co	72/05/26	104	003
5863	McCormick Oil & Gas Co	75/09/22	104	003
6427	McCormick Oil & Gas Co	78/06/01	104	009
5846	McCulloch Oil Corp. et al	75/06/26	104	003
6181	McFarlane Oil Co., Inc	77/07/21	104	003
6452	McGoldrick Oil Co	78/08/08	103	032
6452	McGoldrick Oil Co	78/08/08	104	032
6151	McGuire, T. W. & Associates, Inc	77/05/12	104	003
6008	McKenna, A. F	76/03/01	104	079
6359	McLean, Harvey	78/04/14	104	009
5293	McLemore, B. Regan	72/06/15	104	003
5555	McMoran Exploration Co	73/10/17	102	003
5555	McMoran Exploration Co	73/10/17	104	003
5757	McMoran Exploration Co	74/08/02	104	003
5711	McMoran Exploration Co	74/09/13	103	057
6406	Mewbourne Oil Co	78/06/28	103	046
6406	Mewbourne Oil Co	78/06/26	109	046
6375	Meyers-Lasher, Inc	78/04/28	104	057
5369	Miles Kimball Co	72/12/12	108	003
4384	Miller, Paul L	60/05/11	104	009
6175	Miller, Wynn O	77/07/15	104	003
1218	Mills, Carol A	49/01/08	104	003
1218	Mills, Carol A	49/01/08	104	003
5802	Mitchell Energy Corp	75/01/01	104	003
5275	Mitchell, R. B	72/06/02	104	016
6538	MK Oil & Gas Inc. et al	78/12/13	103	032
4822	Mobil Oil Corp	67/11/01	104	020
5569	Mobil Oil Corp	73/10/01	104	039
5799	Mobil Oil Corp	75/01/14	104	040
5569	Mobil Oil Corp	73/10/01	104	039
6412	Mobil Oil Corp	78/08/01	104	041
4060	Mobil Oil Corp	50/04/14	104	003
6412	Mobil Oil Corp	78/08/01	104	000
6461	Mobil Oil Corp	78/08/01	104	041
1297	Mobil Oil Corp	49/10/12	104	053
4717	Mobil Oil Corp	67/03/01	104	070
4717	Mobil Oil Corp	67/03/01	108	070
6536	Mobil Oil Corp	78/12/04	108	082
5810	Mobil Oil Corp	75/02/25	104	091
6402	Mobil Oil Corp	78/06/08	102	082
6420	Mobil Oil Corp	78/06/08	104	082
6537	Mobil Oil Corp	78/12/04	106	082
6372	Mobil Oil Corp	78/05/01	104	082
4361	Mobil Oil Corp	60/01/25	104	000
4476	Mobil Oil Corp	61/12/13	104	107
5866	Mobil Oil Corp	75/09/24	104	003
0512	Mobil Oil Corp	31/05/18	104	082
2363	Mobil Oil Corp	37/09/26	104	112
2363	Mobil Oil Corp	37/09/26	108	112
5867	Mobil Oil Corp	75/09/24	104	003
5867	Mobil Oil Corp	75/09/24	108	003
1476	Monsanto Co	51/11/26	104	003
1476	Monsanto Co	89/12/01	104	003
4052	Monsanto Co	58/04/01	104	000
4176	Monsanto Co	58/10/27	104	000
5705	Monsanto Co	74/08/06	104	089
5755	Monsanto Co	74/11/31	104	089
1286	Monsanto Co	49/09/30	104	073
6501	Moore-McCormick Oil & Gas Corp	78/12/08	103	032
5308	Mormac Oil & Gas Co	72/08/18	104	003
4374	Morris, Oil	60/07/08	104	000
1815	Morris, Joseph S	56/06/01	104	003
1762	Mosbacher, Robert	55/09/14	104	003
6458	Mosbacher, Robert	78/08/28	102	032
6458	Mosbacher, Robert	78/08/28	104	032
5278	Mueller, Joseph P	72/07/12	104	003
6614	Murfo Oil & Royalty Co	00/00/00	109	032
5255	Murphy Oil Corp	72/04/24	104	003
5800	National Exploration Co	75/03/04	104	056
4288	Natural Gas Electronics CR	59/06/10	104	003
0589	Nemours Corp	31/07/17	108	112
0589	Nemours Corp	31/09/17	103	112
0589	Nemours Corp	31/09/17	104	112
4845	Newmont Oil Co	67/11/01	104	003
5170	Noe, James A	72/01/20	104	003
5170	Noe, James A	72/01/20	108	003
5835	Northcott Exploration Corp, Inc	75/07/09	104	003
2672	Northern Michigan Exploration Co	57/12/11	104	005
5892	Northern Michigan Exploration Co	75/12/31	104	003
4946	Northridge Oil Co	69/07/30	104	003
5804	Norton Oil Co., Inc	75/02/05	104	077
5804	Norton Oil Co., Inc	75/02/05	108	077
6592	Nowery, James R	79/02/13	106	050

Appendix C.—*United Gas Pipe Line Co.—Continued*

Contract No.	and seller name	Date	NGPA	Type
6079	Ocean Production Co	76/09/09	102	003
6079	Ocean Production Co	76/09/09	104	003
6394	Omega Minerals, Inc	78/06/09	103	062
6394	Omega Minerals, Inc	78/06/09	104	062
6394	Omega Minerals, Inc	78/06/09	108	062
6349	Orb, B. B	78/04/04	104	009
4616	Osborn, W. B., Jr	66/04/27	104	003
6307	Overly Operating Co	78/01/18	104	003
6255	Pano Tech Exploration Corp	77/11/09	104	003
5718	Par Oil Corp	74/10/14	104	003
5022	Par Oil Corp	70/09/01	104	003
5022	Par Oil Corp	70/09/01	108	003
5149	Par Oil Corp	71/08/09	104	074
5149	Par Oil Corp	71/08/09	108	074
5437	Par Oil Corp	73/04/02	104	003
5437	Par Oil Corp	73/04/02	108	003
4687	Parade Co	67/01/31	104	000
5757	Pel-Tex Petroleum Co., Inc	74/08/02	103	003
5932	Pennzoil Louisiana & Texas Offshore	76/04/05	104	035
5973	Pennzoil Louisiana & Texas Offshore	76/06/10	104	050
5975	Pennzoil Louisiana & Texas Offshore	76/06/10	104	050
6253	Pennzoil Louisiana & Texas Offshore	78/02/01	102	000
6253	Pennzoil Louisiana & Texas Offshore	78/02/01	104	000
6256	Pennzoil Louisiana & Texas Offshore	78/02/01	104	035
6386	Pennzoil Louisiana & Texas Offshore	78/05/16	102	000
6386	Pennzoil Louisiana & Texas Offshore	78/05/16	104	000
6386	Pennzoil Louisiana & Texas Offshore	78/05/16	104	000
5931	Pennzoil Oil & Gas, Inc	76/04/05	104	035
5764	Pennzoil Oil & Gas, Inc	74/11/15	104	050
5971	Pennzoil Oil & Gas, Inc	76/06/10	104	050
6251	Pennzoil Oil & Gas, Inc	78/02/01	102	035
6251	Pennzoil Oil & Gas, Inc	78/02/01	104	035
6254	Pennzoil Oil & Gas, Inc	78/02/01	104	035
6550	Pennzoil Oil & Gas, Inc	78/05/16	102	097
6551	Pennzoil Oil & Gas, Inc	78/05/16	102	000
6552	Pennzoil Oil & Gas, Inc	78/12/26	104	097
6553	Pennzoil Oil & Gas, Inc	78/12/26	104	097
2670	Pennzoil Producing Co	57/09/20	102	005
2670	Pennzoil Producing Co	57/09/20	103	005
2670	Pennzoil Producing Co	57/09/20	104	005
6437	Pennzoil Producing Co	78/06/28	104	012
6437	Pennzoil Producing Co	78/06/28	107	012
2658	Pennzoil Producing Co	55/04/08	104	016
5725	Pennzoil Producing Co	74/10/07	104	003
6425	Pennzoil Producing Co	78/06/28	104	012
6425	Pennzoil Producing Co	78/06/28	104	012
2676	Pennzoil Producing Co	58/12/12	103	003
2676	Pennzoil Producing Co	58/12/12	104	003
2688	Pennzoil Producing Co	64/05/04	104	005
2679	Pennzoil Producing Co	59/10/30	104	005
2658	Pennzoil Producing Co	55/04/08	104	016
2658	Pennzoil Producing Co	55/04/08	104	016
2658	Pennzoil Producing Co	55/04/08	104	016
6563	Pennzoil Producing Co	79/12/23	104	027
2692	Pennzoil Producing Co	67/02/08	103	005
2692	Pennzoil Producing Co	67/08/02	104	005
6430	Pennzoil Producing Co	78/07/12	102	012
6430	Pennzoil Producing Co	78/07/12	104	012
2676	Pennzoil Producing Co	58/12/12	104	000
6191	Pennzoil Producing Co	77/07/29	102	034
6191	Pennzoil Producing Co	77/07/29	103	034
6191	Pennzoil Producing Co	77/07/29	104	034
6196	Pennzoil Producing Co	77/07/29	107	034
2723	Pennzoil Producing Co	73/08/28	104	037
2705	Pennzoil Producing Co	71/12/23	104	005
2705	Pennzoil Producing Co	71/12/23	103	005
2705	Pennzoil Producing Co	71/21/23	104	005
5961	Pennzoil Producing Co	76/03/01	102	003
5961	Pennzoil Producing Co	76/03/01	103	003
5961	Pennzoil Producing Co	76/03/01	104	003
5961	Pennzoil Producing Co	76/03/01	108	003
6566	Pennzoil Producing Co	78/09/20	102	012
6566	Pennzoil Producing Co	79/01/23	103	012
2704	Pennzoil Producing Co	71/12/23	104	005
2703	Pennzoil Producing Co	71/12/23	104	005
2698	Pennzoil Producing Co	70/07/28	102	005
2698	Pennzoil Producing Co	70/07/28	103	005
2698	Pennzoil Producing Co	70/07/28	104	005
2698	Pennzoil Producing Co	70/07/28	108	005
5925	Pennzoil Producing Co	76/03/01	108	003
5925	Pennzoil Producing Co	76/03/01	104	003
2693	Pennzoil Producing Co	60/04/21	104	005
2568	Pennzoil Producing Co	44/04/27	104	005
2695	Pennzoil Producing Co	68/11/11	103	005
2695	Pennzoil Producing Co	68/11/11	104	005
2686	Pennzoil Producing Co	62/01/31	102	005
2686	Pennzoil Producing Co	62/01/31	104	005

Appendix C.—*United Gas Pipe Line Co. —Continued*

	Contract No. and seller name	Date	NGPA	Type
2628	Pennzoil Producing Co	50/12/29	102	064
2628	Pennzoil Producing Co	50/12/29	104	064
2621	Pennzoil Producing Co	50/01/09	104	005
2621	Pennzoil Producing Co	50/01/09	108	005
5784	Pennzoil Producing Co	74/12/11	104	003
6426	Pennzoil Producing Co	78/06/28	104	012
2605	Pennzoil Producing Co	47/10/15	104	005
2678	Pennzoil Producing Co	59/08/05	104	005
2687	Pennzoil Producing Co	62/03/15	104	109
5721	Pennzoil Producing Co	74/10/07	104	003
2706	Pennzoil Producing Co	71/12/23	104	005
2701	Pennzoil Producing Co	71/12/23	104	005
2701	Pennzoil Producing Co	71/12/23	108	005
5865	Pennzoil Producing Co	75/07/01	104	003
2728	Pennzoil Producing Co	73/05/24	103	005
2728	Pennzoil Producing Co	73/05/24	104	005
2728	Pennzoil Producing Co	73/05/24	108	005
2727	Pennzoil Producing Co	73/05/24	108	005
5864	Pennzoil Producing Co	75/07/01	104	003
5864	Pennzoil Producing Co	75/07/01	108	003
2716	Pennzoil Producing Co	72/11/06	102	005
2716	Pennzoil Producing Co	72/11/06	103	005
2716	Pennzoil Producing Co	72/11/06	104	005
2716	Pennzoil Producing Co	72/11/06	108	005
3100	Pennzoil Producing Co	29/12/20	103	112
3100	Pennzoil Producing Co	29/12/20	108	112
4903	Penton & Penton	68/12/30	104	042
6188	Petro-Lewis Corp	77/07/12	104	003
4061	Petro-Lewis Corp	58/04/14	104	003
6188	Petro-Search, Inc	77/07/12	103	003
4520	Petro-Search, Inc	63/07/02	104	000
6277	Petrofunds, Inc	77/12/15	104	108
0734	Petroleum Corp. of Texas	35/06/12	104	003
6325	Phillips, Jack L	78/04/11	104	009
4816	Phillips Petroleum Co	67/12/20	102	038
4816	Phillips Petroleum Co	67/12/20	104	038
6489	Phillips Petroleum Co	78/09/22	102	032
6145	Phillips Petroleum Co	77/06/01	102	086
6145	Phillips Petroleum Co	77/06/01	103	038
6355	Phillips Petroleum Co	78/02/25	103	085
4323	Phillips Petroleum Co	59/09/09	104	099
5105	Phillips Petroleum Co	71/10/07	104	083
5101	Phillips Petroleum Co	71/05/10	104	083
5069	Phillips Petroleum Co. et al	71/03/15	104	083
1036	Phillips Petroleum Corp	46/02/01	104	003
5013	Phoenix Resources Co	70/07/30	104	003
6192	Pintail Mineral Corp	77/07/25	104	003
6192	Pintail Mineral Corp	77/07/25	108	003
5790	Pinto, Inc	75/01/02	104	037
6368	Pinto, Inc	78/04/27	104	037
6370	Pinto, Inc	78/04/27	104	094
6047	Pioneer Production Corp	76/10/08	104	003
5959	Pioneer Production Corp	76/04/28	104	069
5364	Pirtle, Geroge W	70/05/23	104	003
6384	Placid Oil Co	78/05/12	104	009
5972	Pogo Producing Co	76/06/10	104	058
5974	Pogo Producing Co	76/06/10	104	058
6019	Pogo Producing Co	76/09/01	104	058
6020	Pogo Producing Co	76/09/01	104	035
6252	Pogo Producing Co	78/02/01	102	035
6252	Pogo Producing Co	78/02/01	104	035
6255	Pogo Producing Co	78/02/01	104	035
6554	Pogo Producing Co	79/01/12	102	097
6555	Pogo Producing Co	78/05/16	102	000
6556	Pogo Producing Co	78/05/16	102	000
6556	Pogo Producing Co	79/01/12	104	097
6557	Pogo Producing Co	79/12/12	104	097
6022	Pogo Producing Co	76/09/01	104	035
5046	Prentice Oil & Gas Co	71/01/21	104	016
6001	R. Lacy, Inc	76/03/01	104	016
1276	Ragars Oil & Gas Co	49/07/19	104	003
1396	Ragars Oil & Gas Co	50/11/09	104	003
6651	Raider Oil Co	79/05/08	103	000
1274	RDA Petroleum, Inc	49/07/15	104	003
4462	RDA Petroleum, Inc	61/08/23	104	000
5311	RDA Petroleum, Inc	72/08/04	104	003
5157	Relco Exploration Co., Inc	71/07/22	104	003
5117	Reserve Oil & Gas Co	71/05/28	104	003
5117	Reserve Oil & Gas Co	71/05/28	108	003
1039	Roberts & Murphy, Inc	46/03/23	104	000
5950	Robinson, George A	76/01/01	104	069
4129	Robinson, L.L	58/07/27	104	000
5818	Rogers, Hellena Fox W.	75/03/14	104	077
1621	Rosett & Motes, Inc	54/03/10	104	003

Appendix C.—*United Gas Pipe Line Co. —Continued*

	Contract No. and seller name	Date	NGPA	Type
6455	Ross & Glenn Petroleum, Inc	79/02/14	102	106
6590	Ross & Glenn Petroleum, Inc	79/02/14	104	075
1271	Rowe, W. Earl	49/07/15	104	003
6571	Rutherford, P.R	79/01/08	106	017
6494	S P G Operating Co	78/10/23	102	032
6494	S P G Operating Co	78/10/23	104	032
1060	S S C Gas Producing Co	46/06/17	104	000
6518	SA-Gu Corp	78/11/02	103	032
6518	SA-Gu Corp	78/11/02	104	032
6432	Sabino Production Co	78/07/24	104	032
6482	Saga Petroleum, Inc	78/08/15	102	000
6482	Saga Petroleum, Inc	78/08/15	103	000
1589	Samedan Oil Corp	53/09/11	104	003
6341	San Antonio Oil & Gas Corp	78/01/17	104	003
4098	Sands, Caroline Hunt	58/06/24	104	000
4697	Sand, Loyd B	67/02/17	104	000
6329	Scanlon, Leo C	77/12/27	104	003
4208	Schimmel Oil Co	58/12/15	104	003
5546	Schlachter, David A	73/09/10	104	000
5696	Scogin, Arlis D	74/08/09	104	089
5683	Scott, Francis W., estate of	74/06/29	104	003
5993	Scott, Francis W., estate of	76/03/01	104	003
4432	Shields, Fred W	60/12/27	104	000
6570	Shelby, Michael H	78/04/01	104	009
6570	Shelby, Michael H	78/04/01	104	009
4844	Shell Oil Co	68/02/21	104	006
4937	Shell Oil Co	69/06/30	104	007
5855	Shell Oil Co	75/08/14	104	008
4297	Shell Oil Co	59/06/29	104	000
4293	Shell Oil Co	59/08/04	104	006
4270	Shell Oil Co	59/04/30	104	006
6624	Shell Oil Co	79/05/01	104	025
6624	Shell Oil Co	79/05/01	106	025
6619	Shell Oil Co	79/05/01	106	025
4268	Shell Oil Co	59/04/30	103	006
6621	Shell Oil Co	79/05/01	104	025
6621	Shell Oil Co	79/05/01	106	025
4269	Shell Oil Co	59/06/29	104	006
4271	Shell Oil Co	59/05/01	104	006
6623	Shell Oil Co	79/05/01	106	025
5190	Shell Oil Co	71/12/27	104	006
5192	Shell Oil Co	71/12/29	104	006
5143	Shell Oil Co	71/08/09	104	006
6622	Shell Oil Co	79/05/01	104	025
6622	Shell Oil Co	79/05/01	106	025
4753	Shell Oil Co	67/07/27	104	003
6620	Shell Oil Co	79/05/01	104	025
6620	Shell Oil Co	79/05/01	106	025
4302	Shell Oil Co et al	59/06/29	103	000
6562	Shettle, George O	79/02/05	104	000
4432	Shield, Fred W	61/01/01	104	016
0523	Shield, Fred W	29/10/15	108	003
0523	Shovan Gas Production Co. et al	29/10/15	104	003
5520	Sierra Oil & Gas Corp	74/04/25	104	003
4609	Singer-Fleischaker Oil Co	66/03/07	104	003
1587	Smith, Charles R. et ux	53/07/23	104	069
6479	Smith Petroleum Co	78/09/06	104	032
6321	Sohio Petroleum Co	78/01/31	104	009
6606	Sotrana Corp	00/00/00	109	075
5171	South Central Natural Gas Corp	71/12/06	108	003
5171	South Coast Oil, Inc	71/12/06	104	003
6029	South Louisiana Production Co., Inc	76/09/14	104	090
5945	South Louisiana Production Co., Inc	76/04/19	104	003
5970	South Louisiana Production Co.,	76/05/25	104	003
6041	South Louisiana Production Co.,	76/10/13	104	003
5515	South States O & G Co	73/06/05	104	003
6298	Southern Natural Gas Co	78/01/06	104	031
5906	Southern Natural Gas Co	74/11/01	104	078
5280	Southern Natural Gas Co	72/06/23	104	042
4995	Southern Natural Gas Co	70/04/14	104	003
6433	Southwestern Electric Power Co	00/00/00	104	032
5712	Southwestern Electric Power Co	74/09/25	104	089
5402	Southwestern Electric Power Co	73/03/15	104	003
6441	Soverign Exploration Co	78/07/12	102	009
6441	Soverign Exploration Co	78/07/12	103	009
6441	Soverign Exploration Co	78/07/12	104	009
6418	Stack, J.E., Jr	78/06/21	104	009
6013	Stanwood Corp	76/08/13	104	003
6649	Staples, James W	79/04/26	106	000
1402	Starrett, C.E	50/12/21	104	003
5099	Strahan, O. & G Co., Inc	71/05/20	104	003
5169	Strahan, O & G Co., Inc	71/10/26	104	003
5987	Stritt, Harry & Robert	76/04/01	104	003
6036	Suburban Propane Gas Corp	76/10/19	104	069

Appendix C.—*United Gas Pipe Line Co.—Continued*

	Contract No. and seller name	Date	NGPA	Type
6216	Summers, Frank J. II	77/08/23	104	003
4067	Sun Oil Co	58/05/01	103	003
4067	Sun Oil Co	58/05/01	104	003
4617	Sun Oil Co	66/04/28	104	003
4328	Sun Oil Co	59/09/24	104	000
6155	Sun Oil Co	77/05/13	104	003
5995	Sun Oil Co	76/08/01	104	003
5996	Sun Oil Co	76/03/01	104	003
5996	Sun Oil Co	76/08/01	102	003
5996	Sun Oil Co	76/08/01	103	003
5081	Sun Oil Co	71/04/16	104	045
4393	Sun Oil Co	60/06/20	104	003
5113	Sun Oil Co	71/06/17	103	052
5113	Sun Oil Co	71/06/17	104	052
1278	Sun Oil Co	49/07/19	104	054
1530	Sun Oil Co	52/08/21	104	054
5528	Sun Oil Co	73/08/23	104	009
1273	Sun Oil Co	49/07/15	104	003
4185	Sun Oil Co	58/07/11	104	003
4898	Sun Oil Co	68/12/03	104	003
5529	Sun Oil Co	73/08/23	104	000
1293	Sun Oil Co	49/10/23	104	003
1293	Sun Oil Co	49/10/28	102	003
1141	Sun Oil Co	47/05/28	103	084
4921	Sun Oil Co	69/04/14	102	003
4921	Sun Oil Co	69/04/14	103	003
4921	Sun Oil Co	69/04/14	104	003
4626	Sun Oil Co	66/06/10	104	003
5783	Sun Oil Co	74/12/01	103	003
5783	Sun Oil Co	74/12/01	104	003
4379	Sun Oil Co	60/02/15	104	000
4632	Sun Oil Co	66/07/01	104	003
6489	Sun Oil Co	78/07/12	104	009
6473	Sun Oil Co	78/08/01	104	102
6473	Sun Oil Co	78/08/01	102	102
6473	Sun Oil Co	78/08/01	104	102
4338	Sun Oil Co	59/11/17	104	074
5686	Sun Oil Co	74/08/29	104	089
5832	Sun Oil Co	75/07/01	104	003
4147	Superior Oil Co	58/09/08	103	003
4147	Superior Oil Co	58/09/08	104	003
5756	Superior Oil Co	74/10/18	104	003
1878	Superior Oil Co	57/02/05	104	003
1899	Superior Oil Co	57/03/21	104	003
6310	Superior Oil Co	78/01/30	107	011
4147	Superior Oil Co	58/09/08	104	000
4147	Superior Oil Co	59/09/08	103	000
4147	Superior Oil Co	59/09/08	107	000
4703	Superior Oil Co	67/02/22	103	003
4703	Superior Oil Co	67/02/22	104	003
6436	Superior Oil Co	67/02/22	103	011
4203	Superior Oil Co	58/12/09	102	011
4203	Superior Oil Co	58/12/09	104	011
4733	Superior Oil Co	67/05/19	104	011
4446	Superior Oil Co	61/03/21	104	099
4157	Superior Oil Co., superseded by 6517	58/09/24	104	011
6374	T. J. Wintermute	78/04/24	104	057
6284	T. L. James & Co., Inc	77/12/08	104	009
6284	T. L. James & Co., Inc	77/12/08	104	009
4310	T. L. James & Co., Inc	59/07/10	104	003
4094	Taggart, George K., Jr	58/07/02	104	059
6385	TBP Offshore Co	78/04/27	104	094
6373	TBP Offshore Co	78/04/27	104	094
6528	Tee Operating Co	79/01/12	102	000
6528	Tee Operating Co	79/12/12	104	000
5527	Teel, Roy M	73/08/27	108	003
5527	Teel, Roy M	73/08/22	104	003
6285	Tenneco Oil Co	77/12/21	104	024
0451	Tenneco Oil Co	30/10/23	103	003
0451	Tenneco Oil Co	30/10/23	104	003
5005	Tenneco Oil Co	70/06/12	104	016
5598	Tenneco Oil Co	73/12/12	104	003
0451	Tenneco Oil Co	30/10/23	104	003
5005	Tenneco Oil Co	70/06/12	104	016
5005	Tenneco Oil Co	70/06/12	108	016
5598	Tenneco Oil Co	73/12/12	104	003
1042	Tenneco Oil Co	46/03/19	104	003
5590	Tenneco Oil Co	73/11/16	104	003
4053	Tenneco Oil Co	58/03/31	103	026
4053	Tenneco Oil Co	58/03/31	104	026
5591	Tenneco Oil Co	73/01/16	104	003
5628	Tenneco Oil Co	74/02/20	104	003
6032	Terra Resources, Inc	76/11/04	104	030
5819	Terra Resources, Inc	75/03/27	104	077
6033	Tesoro Petroleum Corp	76/10/12	104	090
4712	Texaco, Inc	67/03/07	102	014
4712	Texaco, Inc	67/03/07	104	014
4908	Texaco, Inc	69/01/13	104	015
5570	Texaco, Inc	73/10/18	104	019

Appendix C.—*United Gas Pipe Line Co.—Continued*

	Contract No. and seller name	Date	NGPA	Type
6226	Texaco, Inc	77/08/25	104	021
4386	Texaco, Inc	60/06/02	104	003
4171	Texaco, Inc	59/10/20	104	003
5960	Texaco, Inc	76/04/27	104	003
0516	Texaco, Inc	27/12/01	104	003
5704	Texaco, Inc	74/06/23	104	003
0516	Texaco, Inc	27/12/01	104	003
5027	Texaco, Inc	70/12/21	104	003
5704	Texaco, Inc	74/06/23	104	003
5704	Texaco, Inc	74/06/23	108	003
6309	Texaco, Inc	78/01/26	103	040
5114	Texaco, Inc	71/06/21	104	052
4293	Texaco, Inc	59/07/07	104	055
1343	Texaco, Inc	50/04/03	104	003
4587	Texaco, Inc	65/09/03	104	003
5781	Texaco, Inc	74/12/17	104	080
5781	Texaco, Inc	74/12/17	108	080
4711	Texaco, Inc	67/03/07	104	003
4675	Texaco, Inc	00/00/00	102	003
4675	Texaco, Inc	00/00/00	108	003
4675	Texaco, Inc	67/03/07	104	003
4237	Texaco, Inc	59/03/10	104	104
6407	Texas Energy Exploration, Inc	78/06/12	103	009
6407	Texas Energy Exploration, Inc	78/06/12	104	009
6648	Texas Energy Exploration, Inc	00/00/00	109	000
6648	Texas Energy Exploration, Inc	79/05/18	107	000
5214	Texas Gas Exploration Corp	72/02/18	104	042
5062	Texas International Petroleum Corp	70/10/11	104	003
1157	Texas Oil & Gas Corp	48/03/29	104	003
4213	Texas Oil & Gas Corp	58/12/31	104	002
6572	Texas Pacific Oil Co., Inc	79/01/15	103	000
6369	Texas Production Co	78/04/27	104	094
6640	Texlan Oil Company, Inc	79/04/04	109	075
6416	Texoil Co. et al	00/00/00	102	020
5203	Thomason, D	72/01/25	104	003
5203	Thomason, D	72/01/25	104	003
4961	Thompson, J. Cleo O	69/10/09	104	003
4961	Thompson, J. Cleo O	69/10/09	109	003
1209	Three S & T Oil Co	49/01/13	104	008
6492	Transcontinental Exploration Co., Inc	78/10/16	104	032
1638	Transocean Oil, Inc	54/05/04	104	000
6435	Trident Oil & Gas Corp	78/07/14	102	108
6435	Trident Oil & Gas Corp	78/07/14	104	108
6069	Trident Oil & Gas Corp	76/12/03	104	090
4895	Turner, J. S	68/12/02	104	003
4853	Union Oil Co. of California	68/10/14	104	003
1365	Union Oil Co. of California	51/11/01	104	003
4353	Union Oil Co. of California	60/01/05	103	003
4353	Union Oil Co. of California	60/01/05	104	003
5107	Union Oil Co. of California	71/06/08	103	052
5107	Union Oil Co. of California	71/06/08	104	052
5187	Union Oil Co. of California	71/11/23	104	042
6160	Union Oil Co. of California	77/05/20	104	003
6389	Union Oil Co. of California	78/05/15	102	103
6389	Union Oil Co. of California	78/05/15	104	103
5854	Union Oil Co. of California	75/08/07	104	003
6243	Union Texas Petroleum	77/10/06	104	003
6471	Vanderbilt Energy Corp	78/08/29	104	032
5920	Various Small Producers	76/02/03	104	003
6323	Vasser, D. E	78/02/10	104	003
6371	VSEA, Inc	78/04/27	104	094
4856	Walker, Tigner	60/05/06	104	003
5468	Walker, Tigner	73/06/01	104	003
6009	Wall, Lallage Frazel	76/03/01	104	003
4951	Warner, Guy L	69/08/11	104	002
5018	Warren Petroleum Corp	70/09/25	104	045
6167	Watson Oil Corp	77/07/31	104	000
6234	Watson Oil Corp	77/09/06	104	003
6460	Watson Oil Corp	00/00/00	104	032
6401	Watson Oil Corp	78/06/09	104	049
5877	Weaver, Curt	75/10/01	104	003
6410	Weltman, Louis H	78/06/27	104	032
4414	Wheless Industries, Inc	60/10/06	104	074
4496	Whitaker, Douglas	62/05/07	104	000
6334	William, S. Evans	78/02/28	104	003
4606	Wilson, Fred Drilling Co., Inc	65/12/03	104	000
6203	Wintershall Oil & Gas Co	77/08/17	104	095
6475	Wm. T. Burton Industries, Inc	57/05/25	104	000
5199	Woodfin, D. F	72/12/15	104	042
1331	Woods, Harold L	50/02/24	104	112
1331	Woods, Harold L	69/12/02	108	112
6608	Woolf & Magee, Inc	79/03/20	109	000
6356	Zenith Exploration Co	78/04/10	103	009
1227	Zephyr Oil Co	49/03/25	104	003

[FR Doc. 79-38829 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP80-8 and RP79-8]

Kansas-Nebraska Natural Gas Co., Inc.; Order Accepting for Filing and Suspending Proposed Rate Increase, Subject to Conditions, Rejecting Certain Proposed Tariff Sheets Without Prejudice, Granting Waiver, Consolidating Proceedings, Establishing Procedures and Granting Intervention

November 30, 1979.

On October 31, 1979, Kansas-Nebraska Natural Gas Company, Inc. (K-N) filed revised tariff sheets [1] reflecting an increase in its jurisdictional rates to provide an increase in annual revenues of $3,029,268 or approximately 6.3% above revenues at rates currently in effect subject to refund in Docket No. RP79-8. The proposed rates are based on actual data during the twelve month period ending June 30, 1979, as adjusted for changes in costs and revenues known and measurable through March 31, 1980. The proposed effective date of the tariff sheets is December 1, 1979.

K-N's filing includes claimed cost increases related to plant additions in excess $29 million, increased operating expenses including higher costs of labor, increased income, payroll and property taxes, and increased gas supply and royalty costs. K-N proposes a rate of return of 11.45% which includes a 14.50% allowance on common equity comprising 50.10% of the company's total capitalization.

Public notice of the instant filing was issued on November 6, 1979, providing for protests or petitions to intervene to be filed on or before November 26, 1979. A timely petition to intervene was filed by Peoples Natural Gas Division of Northern Natural Gas Company (Peoples) on November 13, 1979. Peoples has demonstrated an interest in this proceeding not otherwise protected and its participation may be in the public interest. Accordingly, we shall grant its petition to intervene.

Based upon a review of K-N's filing the Commission finds that the proposed rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept K-N's Eleventh Revised Sheet No. 4, suspend its effectiveness for five months until May 1, 1980 subject to refund and the conditions set forth below, and set the matter for hearing. Further, for the reasons set forth below, we will reject without prejudice proposed Second Revised Sheet No. 25, Second Revised Sheet No. 26, Second Revised Sheet No. 26-A and First Revised Sheet No. 26B to Third Revised Volume No. 1.

K-N's proposed tariff sheets reflect changes to Section 19 of the General Terms and Conditions of its FERC Gas Tariff, which would provide for the tracking of increased gas-well royalties attributable to company-owned production which is priced on a cost of service basis, and for the tracking of changes in prices of company-owned production not priced on a cost of service basis. K-N request waiver of Section 154.63(e)(2)(ii) of the Commission's Regulations to permit the inclusion in the instant filing of costs related to proposed gas supply and other facilities which are currently pending Commission certification in K-N's most recent budget-type application. K-N anticipates that such facilities will be authorized and in service by the end of the test period.

K-N states that the base tariff rates included in the instant filing reflect the current average cost of purchased gas included in its latest PGA filing proposed to be effective December 1, 1979. However, K-N states that it intends to file a request with the Commission to withdraw such PGA filing, as it is required to file a tariff sheet reflecting a reduced PGA effective January 1, 1980, pursuant to Commission Order No. 49 in Docket No. RM79-14 to implement incremental pricing on K-N's system. K-N believes such procedure would relieve a burden on is wholesale customers who are faced with filing back to back rate adjustments with their state commissions. K-N states its intention to request the Commission's permission to refile its annual PGA at the end of November, 1979, to become effective January 1, 1980, in conjunction with the implementation of incremental pricing on its system. K-N states that it intends to file substitute tariff sheets to reflect the current average cost of purchased gas contained in any PGA filing which is effective as of the effective date of the instant filing. While it believes that such procedure is not in violation of Commission Order No. 16, K-N requests such waivers as the Commission may deem necessary.

K-N's request for such waivers as may be necessary to permit the inclusion in its filed rates of the level of purchased gas cost reflected in its latest PGA filing is reasonable in view of the fact that K-N will restate its rates to reflect only such PGA costs as have been authorized at the time its rates are placed into effect. Accordingly, the request is granted.

K-N's proposal to track changes in royalty costs associated with cost-of-service priced company-owned production is in conflict with the Commission's Regulations. Section 154.38(d)(3) provides that no permanent automatic rate adjustment provision shall be permitted except for purchased gas and research and development expenditures. Accordingly, the tariff sheets setting forth such proposal shall be rejected. However, the propriety of this tracking provision for possible prospective approval may be explored in these proceedings.[2]

K-N requests waiver of the Commission's Regulations to include in its filing costs related to facilities pending Commission certification. The Commission will grant waiver of 154.63(e)(2)(ii) of the Commission's regulations subject to the condition that revised tariff sheets be filed eliminating costs related to any facilities not in

[1] Eleventh Revised Sheet No. 4, Second Revised Sheet No. 25, Second Revised Sheet No. 26, Second Revised Sheet No. 26-A and First Revised Sheet No. 26B to its FERC Gas Tariff, Third Revised Volume No. 1.

[2] Kansas-Nebraska's companion proposal to track changes in the cost of company-owned production *not* priced on a cost of service basis (i.e. on a parity basis with gas produced by independent producers) is consistent with current Commission policy. Section 154.38(d)(4) (footnote 1) permits recovery through the PGA clause of the costs of pipeline-owned production which "qualifies for and is being afforded area or nationwide rate treatment or is otherwise being afforded rate treatment as though the gas were being produced by an independent producer." (See also Notice of Rulemaking issued November 14, 1979, in Docket No. RM80-8.) Accordingly, rejection of the tariff sheets reflecting the gas well royalty cost tracking provision is without prejudice to Kansas-Nebraska's right to amend its PGA clause to track any of its own production valued on an independent producer parity basis as set forth above.

service as of March 31, 1980. The company shall also adjust its rates to reflect the actual balances of advance payments in Account 166 on that date, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver is granted upon the condition that K–N shall not be permitted to make off-setting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order and those required by other Commission orders.

As previously noted, K–N has a prior increase pending in Docket No. RP79–8. A review of the instant filing reveals that the two proposals contain similar issues of fact and law. Accordingly, they shall be consolidated for purposes of hearing and decision.

The Commission Orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Kansas-Nebraska.

(B) Pending hearing and decision, and subject to the conditions enumerated in this order, Kansas-Nebraska's Eleventh Revised Sheet No. 4 is accepted for filing and suspended for five months until May 1, 1980 at which time it may become effective, subject to refund, in the manner prescribed by the Natural Gas Act, subject to the conditions set forth below.

(C) Waiver of § 154.63(e)(2)(ii) is granted upon the condition that Kansas-Nebraska file substitute revised tariff sheets to reflect: (1) the elimination of costs associated with facilities not in service on or before March 31, 1980; (2) the inclusion in the base rate of the current average purchased gas costs reflected in Kansas-Nebraska's then effective PGA; (3) the actual balance in Account 166 as of March 31, 1980; and (4) the effective GRI Funding Unit on March 31, 1980. This waiver is granted upon the further condition that Kansas-Nebrasks shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders. Reflection of the actaul advance payments balance in Account 166 in the rates shall not be permitted to increase the overall level of original suspended rates in this docket.

(D) Kansas-Nebraska's Second Revised Sheet No. 25, Second Revised Sheet No. 26, Second Revised Sheet No. 26–A and First Revised Sheet No. 26B to Kansas-Nebraska's FERC Gas Tariff, Third Revised Volume No. 1 which contain provisions permitting tracking of royalty cost related to company-owned production are rejected without prejudice to the parties presenting evidence in this proceeding as to the propriety of such provisions. This rejection is also without prejudice to Kansas-Nebraska's right to amend its PGA clause to track costs associated with its own production valued on a producer parity, non-cost of service basis, as prescribed by § 154.38(d)(4) (footnote 1) of the Regulations.

(E) Docket Nos. RP79–8 and RP80–8 are hereby consolidated for the purposes of hearing and decision.

(F) Peoples Natural Gas Division of Northern Natural Gas Company (Peoples) is permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That the participation of Peoples shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene; and, *Provided, further,* That the admission of Peoples shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(G) The Commission Staff shall prepare and serve top sheets on or before March 31, 1980.

(H) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 C.F.R. 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–38821 Filed 12–18–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–88]

Locust Ridge Gas Co.; Application

November 30, 1979.

Take notice that on November 15, 1979, Locust Ridge Gas Company (Applicant), 4100 Southwest Freeway, Houston, Texas 77027, filed in Docket No. CP80–88 an application pursuant to section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing construction, during the 12-month period commencing with the date of this order, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and supplies of natural gas from Applicant's owned production or acquired for system supply under sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities would not exceed $500,000 with no single project to exceed the amount specified in § 157.7(b)(1)(iv) of the regulations as modified by Order No. 56, issued November 1, 1979. It is stated that such costs would be financed through internally generated funds and borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38822 Filed 12-18-79 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-63]

State of Louisiana, Section 102 NGPA Determination, Mullins & Pritchard, Mabie G. Myers No. 1 Well, 9,700 Feet Miocene Sand Reservoir; Preliminary Finding

Issued: November 30, 1979.

On October 16, 1979, the Louisiana Department of Natural Resources, Office of Conservation (LDNR) submitted to the Commission a notice of determination [1] which states that production of natural gas from the Mullins & Pritchard, Mabel G. Myers No. 1 Well (subject well) from the 9700' Miocene Sand Reservoir (subject reservoir) qualifies as natural gas produced from a new onshore reservoir under section 102(c)(1)(C) of the Natural Gas Policy Act of 1978, Pub. L. 95-621 (NGPA). The Commission published notice of the determination on October 29, 1979.

Section 102(c)(1)(C)(i) of the NGPA contains the general rule that, with certain exceptions, natural gas will qualify as "new natural gas" if it is produced from a reservoir from which natural gas was not produced in commercial quantities before April 20, 1977. The record in this case reflects that while sales of natural gas were made from the subject reservoir before April 20, 1977, all such sales were made pursuant to the authority of section 6 of the Emergency Natural Gas Act of 1977. Pursuant to section 102(c)(3)(B)(i) of the NGPA, these sales are not to be taken into account in determining whether natural gas was produced in commercial quantities from the subject reservoir before April 20, 1977. Consequently, the subject reservoir meets the requirements of the general rule in section 102(c)(1)(C)(i) of the NGPA.

However, according to section 102(c)(1)(C)(ii) of the NGPA (the Behind-the-Pipe Exclusion) a reservoir shall not qualify as a new onshore reservoir if it was penetrated before April 20, 1977, by an old well which produced crude oil or natural gas in commercial quantities (whether or not such production was from such reservoir) and natural gas could have been produced in commercial quantities from such reservoir through such old well before April 20, 1977.

The record underlying LDNR's determination shows that the subject well, which is an old well, penetrated the subject reservoir prior to April 20, 1977, and produced crude oil in commercial quantities. The record does not contain substantial evidence supporting a finding that the subject reservoir could not have been produced in commercial quantities through the subject well prior to April 21, 1977. The burden falls on the applicant to prove that the Behind-the-Pipe Exclusion does not apply.

Accordingly the Commission hereby makes a preliminary finding (pursuant to § 275.202(a)(1)) that the subject determination submitted by the LDNR is not supported by substantial evidence in the record on which the determination was made and may be inconsistent with information which is contained in the public records of the Commission and which was not part of the record on which the jurisdictional agency made the determination.

Pursuant to our direction in Order No. 42-A, issued November 29, 1979, in Docket No. RM79-68, we shall provide applicants the opportunity to supplement their application in accordance with the amended regulations promulgated by that order.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38820 Filed 12-18-79 8:45 am]

BILLING CODE 6450-01-M

[1] Louisiana Docket No. NGPA 79-1680; FERC JD No. 80-2999.

[Docket Nos. CP66-121 (CP66-110, et al.) CP79-161]

Midwestern Gas Transmission Co.; Petition To Amend

November 30, 1979

Take notice that on October 31, 1979, Midwestern Gas Transmission Company (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CP66-110, *et al.*, a petition to amend the Commission's order of September 25, 1979, issued pursuant to Section 3 of the Natural Gas Act so as to authorize the importation of up to 600,000 Mcf of natural gas per day, to be purchased from TransCanada Gas Pipelines Limited (TransCanada), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued by the Economic Regulatory Administration (ERA) on August 9, 1979, at Docket No. CP79-04-NG and by order of the Commission issued September 25, 1979, in Docket Nos. CP66-110, *et al.*, it was authorized to import an additional 114 Bcf of natural gas from Canada at a point on the United States-Canadian boundary near Emerson, Manitoba, until and including October 31, 1980, at daily volumes up to 350,000 Mcf. Petition further states that it in turn received authorization to resell to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company (Northern) and Natural Gas Pipeline Company of America (Natural), until and including October 31, 1980, up to 350,000 Mcf of gas on any day.

The natural gas to be imported by Petitioner is to be purchased from TransCanada and is to be exported from Canada by TransCanada under authority of export License GL-18 issued by the National Energy Board of Canada (NEB), it is stated.

Petitioner then states that pursuant to an October 2, 1979, petition to amend, the Commission granted temporary authorization on October 10, 1979, for Petitioner to import and sell for a period of sixty days up to 120,000 Mcf per day to Tennessee at an existing interconnection between the facilities of TransCanada and those of Tennessee near Niagara Falls, New York (Niagara Interconnection).

Petitioner asserts that it has been informed that TransCanada now expects to have from time to time daily quantities up to 600,000 Mcf of gas available for export from Canada. Consequently, Petitioner requests authorization to import and resell to

Tennessee, Northern, and Natural up to 600,000 Mcf of natural gas on any day. Petitioner states that no change is requested in the total volumes of 114 Bcf to be imported by Petitioner up to and including October 31, 1979.

Petitioner asserts that the proposal would allow Petitioner, Tennessee, Natural, and Northern to take maximum advantage of the availability of natural gas from TransCanada as that availability is affected by TransCanada's system operation.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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 petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38823 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-86]

Natural Gas Pipeline Co. of America; Application

November 30, 1979.

Take notice that on November 15, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed Docket No. CP80-86 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during an indefinite period commencing January 1, 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas supplies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant, and supplies of natural gas from Applicant's owned production or acquired for system supply under sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total cost of the proposed facilities would not exceed $20,000,000, with no single onshore project to exceed a cost of $2,500,000 and no single offshore project to exceed a cost of $3,500,000. The cost of the proposed facilities would be financed from funds on hand, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in a subject ot jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rule of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this Application if no petition 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 petition 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 otherwide advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38824 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-16]

Pacific Power & Light Co.; Application

November 30, 1979.

Take notice that on November 16, 1979, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing it to issue not to exceed 4,000,000 shares of its Common Stock of the par value of $3.25 per share (Additional Common Stock).

Applicant proposes to sell the Additional Common Stock at competitive bidding in accordance with the applicable requirements of Section 34.1a of the Commission's Regulations.

Proceeds from the issuance and sale of the shares of Additional Common Stock will be used to repay short-term borrowings prior to or as they mature and the remainder will be used to finance, in part, Applicant's 1979-1980 construction program currently estimated at $577,173,000.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 13, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38625 filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2941]

S. D. Warren Co., Application for Short-Form License (Minor) for a Constructed Project

November 30, 1979.

Take notice that on August 14, 1979, S. D. Warren Company filed an applicaion for license [pursuant to the Federal

Power Act, 16 USC, Section 791(a)-825(r)] for an existing water power project known as the Little Falls Project, FERC Project No. 2941, located on the Presumpscot River, a navigable waterway of the United States, near Gorham and Windham, in Cumberland County, Maine.

Correspondence with the Applicant should be directed to the following persons: Mr. William H. Marra, Vice President, S. D. Warren Company, 225 Franklin Street, Boston, Massachusetts 02101; Mr. John B. Blatz III, Associate Counsel, Scott Paper Company, Scott Plaza Two, Philadelphia, Pennsylvania 19113; and Mr. Bernard A. Foster III of Ms. Nancy J. Hubbard, Ross, Marsh & Foster, 730-15th Street, N.W., Washington, D.C. 20005.

Purpose of the Project—Project energy is used by the Applicant in the operation of its Westbrook paper plant. Applicant states that because of the urban setting, industrial and commercial use of the land at the project, high population density, and the limited availability of open space, recreational opportunities are minimal. The project was constructed in the early 1900's.

Project Description—The existing project consists of: (1) a 12-foot-high, 200-foot-long concrete spillway dam with a crest elevation of 110.50 feet m.s.l.; (2) a wastegate structure; (3) a 110-foot-long stone sluiceway dam located at a right angle to the spillway dam, containing three sluice gates; (4) a powerhouse at a right angle and adjacent to the spillway dam with an installed capacity of 1000-kW; and (5) appurtenant facilities. The annual generation for the project averages 6,800,000 kWh which represents about 4% of the Westbrook paper plant's electric energy requirements. The project is a run-of-the-river operation.

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 any agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 21, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

Competing Application

Anyone desiring to file a competing application must submit to the Commission, on or before January 28, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 2, 1979. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38829 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-95]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., and Florida Gas Transmission Co.; Application

November 30, 1979.

Take notice that on November 19, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, FLorida 32790, filed in Docket No. CP80-95 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that pursuant to a gas transportation and exchange agreement dated October 8, 1979, Tennessee proposes to transport up to 2,000 Mcf of natural gas per day for Florida Gas which gas has been purchased by Florida Gas from Shell Oil Company, Florida Gas Exploration Company, Barber Oil Exploration and Drillamex, Inc. from reserve produced from Mississippi Canyon area, Blocks 150, 151, 194 and 195, offshore Louisiana. It is further stated that Tennessee would receive the subject gas through its existing facilities located in the South Pass Block 24 Field, Plaquemines Parish, Louisiana, and would deliver such volumes at the tailgate of the Yscloskey Processing Plant, St. Bernard Parish, Louisiana, where the gas would be exchanged for delivery to Florida Gas at the tailgate of the Sun Oil Company's Starr County Plant, Starr County, Texas.

It is stated that Florida Gas would reimburse Tennessee for transportation services at a volume charge equal to 2.91 cents per Mcf with a minimum bill provision based on the transportation quantity and would provide Tennessee with a volume of gas equal to 1.2 percent of the volumes received for transportation to compensate Tennessee for fuel and use requirements.

Applicants state that the proposed transportation service would provide Florida Gas with immediate availability of gas supplies for its system supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 service 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by

Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 petition 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 70-38327 Filed 12-18-79 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-62]

Texas Eastern Transmission Corp., and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

November 30, 1979.

Take notice that on November 7, 1979, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-62 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to transport and exchange gas produced in West Cameron Block 540 and South March Island Block 146, offshore Louisiana, pursuant to a gas exchange and transportation agreement dated October 8, 1979. It is stated that Tennessee would receive daily, or cause to be received daily as exchange gas, such quantities which are delivered by Texas Eastern at the point of interconnection of Texas Eastern's facilities extending from West Cameron Block 540 and Stingray Pipeline Company's (Stingray) facilities in West Cameron Block 550.

Tennessee, it is stated, would not be obligated to accept as exchange gas daily quantities in excess of 10,000 Mcf, except to the extent operating and capacity conditions permit. Such gas would be delivered into Tennessee's system by means of its capacity entitlement in Stingray's offshore system, it is asserted.

It is stated that Texas Eastern would receive daily, or cause to be received daily as exchange gas, such quantities as Tennessee delivers at the point of interconnection of the facilities of Texas Eastern and Michigan Wisconsin Pipe Line Company (Mich Wis) in South Marsh Island Block 132. Texas Eastern would not be obligated to receive for exchange quantities exceeding 10,000 Mcf per day, except to the extent operating and capacity conditions permit, it is stated. Such gas, it is stated, would be delivered to Texas Eastern by means of an exchange with Mich Wis and Transcontinental Gas Pipe Line Corporation.

It is asserted that gas exchanged between Texas Eastern and Tennessee would be on a gas-for-gas basis with no monetary compensation and would be adjusted for plant fuel and shrinkage volumes, if any. It is asserted that to the extent volumes received by one party exceed volumes received by the other party during any month, quantities thermally equivalent to the excess volumes would be delivered by the first party to the second party at their existing interconnections near Fords, Allen Parish, Louisiana, and/or at Bayou Chaland, Plaquemines Parish, Louisiana, and/or other mutually agreeable points.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) 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 petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 petition 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-38828 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

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 Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/SD(EU)-27, retransfer from West Germany to Switzerland of 4,000 kilograms of heavy water of U.S. origin, to be used for neutron flux measurements.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than January 3, 1980.

Dated: December 17, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-38061 Filed 12-18-79; 8:45 am]

BILLING CODE 6450-01-M

Office of the Special Counsel for Compliance

Action on Consent Order With Cities Service Co.

AGENCY: Department of Energy (DOE).

ACTION: Adoption of Proposed Consent Order as Final.

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it has adopted the consent order with Cities Service Company, executed on October 31, 1979 and published for comment in 44 FR 64486 on November 7, 1979. The consent order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with two exceptions noted below, for the period August 1973 through September 1979. To remedy any overcharges that may have occurred during the period, Cities Service agrees to $220 million in remedies.

As required by the regulation cited above, OSC received comments on the consent order for a period of not less than 30 days following publication of the notice cited above. Eight comments were received. OSC considered those comments and determined that the consent order should be made final without modification. The consent order is effective as an order of the Department of Energy (DOE) on December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania, N.W., Washington, D.C. 20461, 202–633–8288. Copies of the consent order may be received free of charge by written request to: Cities Service Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461. Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., Room GB–145.

SUPPLEMENTARY INFORMATION:

The Consent Order

On November 7, 1979, OSC published notice in the Federal Register at page 64486, announcing the execution of a consent order between Cities Service Company and OSC. In compliance with DOE regulations, that notice, and a press release issued on November 1, 1979 briefly summarized the consent order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the consent order.

The consent order can be summarized as follows:

1. The consent order marks the conclusion of OSC's audit of Cities' compliance with the mandatory Petroleum Price and Allocation Regulations, including the entitlements and oil import regulations, for the period August 19, 1973 through September 30, 1979. All but two disputes between OSC and Cities were resolved by the consent order: a proposed remedial order concerning an allocation dispute raised by a single customer, and a matter in litigation concerning the DOE position that an injection well is not a producing well to be considered in determining average daily production.

2. The audit issues were resolved by an aggregate adjustment of $220 million including $42.6 million in adjustments previously made by Cities.

3. Of the balance of $177.4 million, Cities will return $20 million to the marketplace through a reduction of not less than $.03 in the wholesale prices of No. 2 heating oil and No. 2 diesel fuel during the 1979–1980 winter heating season. That reduction began within ten days of execution of the consent order. OSC has obtained the assistance of heating oil distributors to pass the price reduction on to consumers.

4. An additional $10 million will be refunded to or on behalf of purchasers of Cities' products. Cities will establish an interest bearing fund from which to satisfy judgments or to pay settlements negotiated by Cities Service and approved by OSC, arising out of alleged violations of the regulations during the audit period. Any balance remaining after 18 months will be distributed by a price reduction of a petroleum product, by payment to the Treasury or in some other manner to be determined.

5. The remaining $147.4 million will be removed from Cities' bank of unrecouped increased product costs as follows: $15 million from unrecouped increased costs of propane, and $132.4 million from unrecouped increased costs of gasoline. Additionally, Cities agreed to exclude from its unrecouped increased costs of general refinery products (other than gasoline and No. 2 oils), those costs allocated to exempt products.

Comments Received

Eight comments were received. They may be categorized into three groups, litigants commenting on the nature of the impact of the consent order on their claims; potential claimants seeking advice; and associations representing specific interests.

The concern of the litigants is that the consent order may be dispositive of their private actions.

The consent order states that it resolves the controversies between Cities and the Department of Energy arising out of OSC's audit. The consent order does not by its terms foreclose or resolve outstanding or future private actions. To the contrary, under the consent order Cities must disburse $10 million and accrued interest to satisfy judgements, or in settlement of claims. Rather than foreclose suits, the consent order contemplates that suits may be filed or claims submitted. The only qualification on payment out of this fund is that OSC reserves the right to approve settlements to assure that they are bona fide.

Further, the consent order does not limit Cities' liability to $10 million. Rather, it provides an amount which must be disbursed, and may be used to settle claims. To the extent that judgements are awarded in excess of $10 million, the judgement creditors will have remedies normally available for collection of the judgement. Thus, the consent order is not intended to, nor does it, affect the rights of any person (other than the DOE) to file and pursue an independent private action against Cities for alleged violations of DOE regulations.

In the same vein, one comment questions the propriety of OSC's agreement to Cities' statement of certain data elements essential to compliance with the regulations. These elements, summarized in term and condition 8 of the consent order, include the costs of crude oil and purchased product in May 1973, costs associated with natural gas liquids for each processing plant, determination of crude oil producing properties and their base production control levels, class of purchaser structure, May 15, 1973 prices to those classes and a statement of Cities' unrecouped increased product costs as of July 31, 1979. These items are proprietary in nature and are set out in a letter to OSC dated October 30, 1979.

This comment is apparently premised either on the assumption that OSC merely accepted information offered by Cities, or that the information is the result of a compromise. In fact, the letter from Cities is a summary of the data determined by Cities and OSC in the course of the audit and verified by OSC as correct. By using such data, Cities will not be subject to enforcement action by OSC. It should be noted that the consent order does not require court acceptance of such data in a private action brought against Cities.

One litigant has raised an additional matter which is also the subject of Petition for Special Redress. Because that comment was addressed at length in OSC's response to the Petition which was served on the petitioner, it will only be summarized here.

In its comment and Petition, the litigant asserts that OSC did not make the entire consent order available for public comment as required by DOE regulations at 10 CFR § 205.199J(c). To the contrary, the entire document was and still is available to anyone, free of charge, at the address noted. The October 30, 1979 letter, previously discussed, and a memorandum of understanding concerning an item in litigation that was excepted from the consent orders and thus is not settled, are not part of the consent order, nor do they contain additional terms and conditions. As previously noted, the October 30 letter contains explicit data resulting from OSC's audit. The letter does not bear upon the remedy provided in the consent order. Further, its contents are proprietory to Cities and is subject to exemptions from release.

Another party in litigation with Cities requested an additional 10 days to submit comments concerning the consent order due to their late receipt of a copy of the consent order, and the belief that a violation may have occurred which may not have been addressed in the consent order.

OSC has not granted the delay requested because it would postpone the effective date of the consent order and thus the implementation of the remedies. The party commenting had ample opportunity to obtain a copy of the consent order and to submit its comments. Further, the party is in litigation with Cities and can raise in its action any additional violations it may believe to have occurred.

The second category of comments is comprised of questions concerning claims against the $10 million fund established in term and condition 3 of the consent order. The comments sought to file claims with OSC, to have OSC negotiate a settlement with Cities, or to amend the consent order to resolve specific private controversies. In addition to the written comments, numerous telephone calls have been received concerning procedures for filing of claims.

Persons who believe they may have been overcharged by Cities should refer to section 210 of the Economic Stabilization Act of 1970, as amended, now found at 12 United States Code, section 1904. That section provides a private right of action which begins with the filing of a claim for a refund. Claims should be filed with Cities Service directly. DOE's sole role in the negotiations is to approve any resulting settlement. The consent order does not provide for participation by OSC in resolving private litigation or claims.

The last category of comments is that of organizations representing interest groups. A trade group supports the consent order but suggested that the procedures of subpart V of 10 CFR Part 205 should be utilized for the processing of claims. OSC avoided this procedure because of the difficulties currently encountered in attempting to implement a subpart V procedure for the disbursement of $42 million to be paid by Gulf Oil Corporation pursuant to a consent order executed by OSC. Rather than a pro rata distribution under Subpart V, the Cities consent order provides a fund against which parties who believe they have been overcharged may seek the amount to which they believe they are entitled.

A comment from an organization representing consumer interests states that the consent order fails to afford restitution to consumers who may have been overcharged. However, the comment addresses only the $10 million fund for the satisfaction of claims, and, even then, ignores the fact that consumers may make claims against that fund. However, the consent order also provides for a $20 million reduction in heating oil and diesel fuel prices which is to be passed through to the consumer. Given the anonymity of individual consumer purchaser and the fact that the quantities purchased by individuals, and thus the amount of overcharges which would result, are too small to be given a meaningful quantification, the price rollback presents an economical and equitable remedy to assure a return of overcharges to the marketplace.

OSC has considered all comments submitted, including those which were received late. No reason to modify or reject the consent order has been presented. Accordingly, OSC has determined that the proposed consent order with Cities Service should be made final, effective upon publication of this notice.

Issued in Washington, D.C., December 14, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-39055 Filed 12-18-79; 8:00 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1377-8; OPP-50442B]

Amendment to Experimental Use Permit Issued to American Cyanamid Co.

On Monday, September 17, 1979 (44 FR 53786), information appeared pertaining to the issuance of an experimental use permit, No. 241-EUP-94, to American Cyanamid Company. At the request of the company, that permit has been amended. A temporary tolerance for residues of the insecticide (±)-cyano(3-phenoxyphenyl)methyl(±)-4-difluoromethoxy-alpha-(1-methylethyl) benezeneacetate in or on cottonseed has been established. Therefore, the crop destruct provision of the permit is cancelled. (PM-17, Franklin Gee, Room: E-343, Telephone: 202/426-9417.)

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819 (7 U.S.C. 136))

Dated: December 12, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-38848 Filed 12-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1378-1; PP 9G2211/T224]

Establishment of a Temporary Tolerance; (±)-Cyano(3-phenoxyphenyl)methyl (±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate

American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, submitted a pesticide petition (PP 9G2211) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the pesticide (±)-cyano(3-phenoxyphenyl)methyl (±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity cottonseed at 0.05 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit 241-EUP-94, that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the

public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the insecticide to be used will not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires July 23, 1980, Residues not in excess of 0.05 ppm remaining in or on cottonseed after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Franklin Gee, Product Manager 17, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460 (202/426-9417).

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).

Dated: December 12, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-38849 Filed 12-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1378-2; OPTS-59001]

Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of application for exemption from premanufacture requirements for test marketing purposes; request for comments.

SUMMARY: Section (§) 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to publish in the Federal Register a notice of receipt of any such application. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by January 19, 1980. Persons should submit written comments on the application no later than January 3, 1980.

ADDRESS: Written comments should bear the identifying notation "OPTS-59001", and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M St., S.W., Washington, D.C. 20460. All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room 447, East Tower, at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Flamm, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (202/426-3980).

SUPPLEMENTARY INFORMATION: Under section of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558)). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979 and 44 FR 59764, October 16, 1979) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy (44 FR 28564, May 15, 1979) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Dated: December 12, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

Test Marketing Exemption Application No.: 5AHQ-1279-0075

Close of Application Review Period: January 19, 1980

Applicant's Identity: 3M Co., St. Paul, MN 55101

Chemical Identity: Claimed confidential.

Generic Name: Substituted, pentamethine oxanol dye, potassium salt.

Specific Use Information: Claimed confidential.

Data: This material is a solid with an indefinite melting point; it sinters about 285°C.

400 grams will be manufactured for test marketing purposes.

Five customers will be provided rolls of paper containing the chemical.

Estimate of exposure information to result from test marketing activities:

a. During chemical manufacture: four employees will be exposed to the solid for up to one hour when removing and handling the chemical prior to packaging.

b. During processing: two people will be exposed to the solid when it is dissolved in an appropriate solvent prior to addition to coating solutions. Two employees will be exposed for up to two hours to a 1% aqueous solution during the manufacture of the final product. The manufacturer states that proper industrial hygenic procedures will be followed.

c. Customer-employee exposure is almost non-existent and is limited to exposure to the chemical confined in a dried layer for periods no longer than 5 minutes.

d. Aqueous effluent from processing the color paper will contain no more tha 2 parts per million (ppm) of the chemical.

The test market will be conducted in January or February 1980.

Health and Environmental Effects Data: There are no known data on health or environmental effects. However, toxicological and environmental testing are in progress, and the results will be submitted as part of a Premanufacture Notification to be submitted in the first quarter of 1980.

[FR Doc. 79-38850 Filed 12-18-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Basic Skills and Educational Proficiency; State Formula Grant Program and State Leadership Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Submission of State Agreements.

States are invited to propose agreements with the U.S. Office of Education under the State Formula Grant Program and the State Leadership Program in Basic Skills.

Authority for these programs is contained in Part B of Title II of the Elementary and Secondary Education Act as amended.

(20 U.S.C. 2901-2904)

These programs award grants to State eduction agencies.

The purpose of the awards in the Formula Grant Program is to help a State plan and implement basic skills improvement projects primarily through subgrants to eligible agencies and institutions in the State.

The purpose of the awards in the State Leadership Program is to support a State in carrying out leadership and training in the area of basic skills.

Closing Date for Transmittal of State Agreements

To ensure the Commissioner's consideration, a proposed State agreement for Fiscal Year 1980 must be mailed or hand delivered by January 20, 1980.

Applications delivered by mail: An agreement sent by mail must be addressed to the U.S. Office of Education, Basic Skills Office, (Donohoe Building, Room 1167) 400 Maryland Avenue, S.W., Attention: 13.599, Washington, D.C. 20202.

Applications delivered by hand: An agreement that is hand delivered must be taken to the U.S. Office of Education, Basic Skills Office, (Donohoe Building, Room 1167), 400 6th Street, S.W., Washington, D.C.

Available funds: It is expected that approximately $7,750,000 will be available for these programs in FY 1980 and the funds will be divided equally between the two programs.

Applicable regulations: Regulations applicable to these programs include the following:

(a) Proposed regulations to govern the State Formula Grant Program and the State Leadership Program (45 CFR Part 162) were published in the Federal Register on April 27, 1979 (44 FR 25148). States should base their proposed agreements on the proposed rules. When they are published as final regulations and become effective, these regulations will govern State agreements and grants under these programs.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100b and 100c).

EDGAR was published in proposed from or in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as a final regulation and becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d) and also govern State agreements and grants under these programs.

If material changes relating to the preparation of State agreements for the current fiscal year are made in the final regulations governing these programs or in the EDGAR final regulations, the Commissioner may extend the closing date to permit States to amend their proposed agreements accordingly.

FOR FURTHER INFORMATION CONTACT: Mrs. Shirley Jackson, Diretor, Basic Skills Office, U.S. Office of Education, Room 1169, Donohoe Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-8537.

(20 U.S.C. 2901-2904)

Dated: December 13, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

(Catalog of Federal Domestic Assistance No. 13.599, Basic Skills and Educational Proficiency)

[FR Doc. 79-38603 Filed 12-18-79; 8:45 am]

BILLING CODE 4110-02-M

Emergency School Aid Act

AGENCY: Office of Education, HEW.

ACTION: Notice of Availability of Funds.

SUMMARY: Applications are invited for new projects under the Emergency School Aid Act for planning grants and transitional grants.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in Sections 604(b)(2), 606(a)(1)(E), and 608(a) of Title VI of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561 (20 U.S.C. 3194(b)(2), 3196(a)(1)(E), 3198(a)).

Planning grants are available to local educational agencies (LEAs). Transitional grants are available to LEAs and to State educational agencies (SEAs), other public agencies, and private nonprofit organizations that receive requests for assistance from LEAs.

Types of assistance available under the planning and transitional grant programs:

(a) *Planning Grants.* A planning grant helps an LEA in the development of a desegregation or other qualifying plan. The need for this assistance may arise from a court or agency order requiring the development of a plan or an LEA's decision to develop a voluntary plan to prevent, reduce or eliminate minority group isolation.

(b) *Transitional Grants.* A transitional grant provides three types of assistance

(1) *Pre-implementation assistance.* Pre-implementation assistance helps an LEA that has adopted but not implemented a required plan to prepare for the reassignment of children or faculty under the plan.

(2) *Out-of-cycle assistance:* Out-of-cycle assistance helps an LEA meet educational needs that arise from the implementation of a plan that was adopted too late to serve as the basis for an Emergency School Aid Act (ESAA) basic grant application in the regular funding cycle.

(3) *Special discretionary assistance.* Special discretionary assistance helps an LEA meet an unexpected educational need that arose from the implementation of a plan after the deadline for ESAA basic grant applications.

Closing Date for Transmittal of Applications: Applications for awards will be accepted at any time. However, applications received so late that they cannot be processed by September 30, 1980, will be returned to the applicant.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.685, Planning Grants; 13.686 Pre-implementation Assistance Grants; 13.687 Out-of-cycle Assistance Grants; or 13.688 Special Discretionary Assistance Grants, Washington, D.C. 20202.

An applicant is encouraged to use registered, certified, or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information: The Commissioner will consider for funding: (1) under a planning grant, any activity that is reasonably related to developing a qualifying plan; (2) under a pre-implementation assistance grant, any activity designed to meet an educational need that is reasonably related to the LEA's preparing for the reassignment of children or faculty under a qualifying plan; (3) under an out-of-cycle assistance grant, any activity designed to meet an educational need that arises from the implementation of a qualifying plan; and (4) under a special discretionary assistance grant, any activity designed to meet an unexpected educational need that arose from the implementation of a qulifying plan after the deadline for basic grant applications.

Available funds: The Commissioner anticipates that $29,000,000 will be made available for planning grants and transitional grants. This estimate does not bind the U.S. Office of Education.

Application forms: Application forms and program information packages may be obtained by writing to the Division of Program Operations, Equal Educational Opportunity Programs, Office of Education, Room 2007A, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instruction, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: The regulation applicable to this program is the interim final regulation governing planning and transitional grants (45 CFR Part 185a) published in the Federal Register on November 26, 1979.

FURTHER INFORMATION: For further information, contact Dr. Shirley McCune, U.S. Office of Education, Room 2007, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-8484.

(20 U.S.C. 3191-3207)

Dated: December 13, 1979.

John Ellis,

Executive Deputy Commissioner for Educational programs.

(Catalog of Federal Domestic Assistance Numbers: 13.685 Planning Grants; 13.686 Pre-implementation Assistance Grants; 13.687 Out-of-Cycle Assistance Grants; 13.688 Special Disretionary Assistance Grants)

[FR Doc. 79-38600 Filed 12-18-79; 8:45 am]

BILLING CODE 4110-02-M

Emergency School Aid Act

AGENCY: Office of Education, HEW.

ACTION: Closing Date for Transmittal of Applications.

SUMMARY: The closing date of December 7, 1979 for the transmittal of applications for the Emergency School Aid Act program for grants to nonprofit organizations is withdrawn. The new closing date will be announced when the new notice of proposed rulemaking for that program is published in the Federal Register.

SUPPLEMENTARY INFORMATION: Proposed regulations for the Emergency School Aid Act were published in the Federal Register on June 29, 1979. The proposed regulations governing awards to public and private nonprofit organizations (NPOs) are being extensively revised in light of the reduced level of funding for Fiscal Year 1980 and the public comments received in response to the proposed regulations. As a result, the Education Division will publish a new notice of proposed rulemaking for the NPO program in the near future.

A new notice of closing date will be published at the time the new proposed regulations appear in the Federal Register. That notice will include instructions for submitting applications and program information.

FOR INFORMATION CONTACT: Albert Macias, Division of Program Operations, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2007A, Washington, D.C. 20202. Telephone: (202) 245-7965.

(20 U.S.C. 3191-3207)

Dated: December 13, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

(Catalog of Federal Domestic Assistance Number: 13.529 Nonprofit Organization Grants)

[FR Doc. 79-38301 Filed 12-18-79; 8:45 am]

BILLING CODE 4110-02-M

State Student Incentive Grant Program and State Student Financial Assistance Training Program; Notice of Closing Dates for Receipt of State Applications for Fiscal Year 1980

This notice specifies closing dates for receipt of State applications for Fiscal Year 1980 funds under the State Student Incentive Grant Program (SSIG) and the State Student Financial Assistance Training Program (SSFAT). These two programs are separately authorized under the Higher Education Act of 1965, as amended: SSIG by Title IV-A-3 (20 U.S.C. 1070c-4) to assist States in providing initial and continuation grants to undergraduate students with substantial financial need; and SSFAT by Section 493c (20 U.S.C. 1088b-3) to help States design and develop programs to increase the proficiency of institutional and State financial aid administrators in all aspects of student financial assistance. Both authorizations specify that applications must be submitted by the same agency in each State.

As specified in the authorizations, applications will be accepted from the 50 States, the District of Columbia, Guam, American Samoa, the Virgin Islands, Puerto Rico, the Commonwealth

of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. Request for Fiscal Year 1980 SSIG funds must be received by the Office of Education on or before January 15, 1980; requests for SSFAT funds must be received on or before March 17, 1980.

CLOSING DATE: January 15, 1980, for SSIG and March 17, 1980, for SSFAT.

A. Application forms and information: Required application forms for SSIG and SSFAT will be mailed to officials of designated State agencies at least 30 days before the due date for submission. These forms contain table showing basis allotment amounts for individual States under each program, together with specific instructions for requesting the Federal funds.

Applications must be prepared and submitted in accordance with program regulations and pertinent instructions.

B. Application sent by mail: Applications sent by mail should be addressed to the Bureau of Student Financial Assistance, U.S. Office of Education, Regional Office Building 3, 7th and D Sts., S.W., Washington, D.C. SSIG applications should be marked for the attention of Ms. Lanora G. Smith, Acting Chief, State Student Incentive Grant Program, Room 4004; SSFAT applications should be marked for the attention of Ms. Patricia Hopson, Director, Division of Training and Dissemination, Room 4654. Applications must be received in the Office of Education on or before the closing date. The Office of education suggests that applicants consider the use of registered or certified mail as explained below to assure meeting the established deadlines.

An application sent by mail will be considered to be received on time by the Office of Education if:

(1) The application was sent by registered or certrified mail not later than Juanary 10, 1980, for SSIG and not later than March 12, 1980, for SSFAT, as evidence by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. Hand-Delivered Applications: An application to be hand delivered must be taken to the U.S. Office of Education, Bureau of Student Financial Assistance (Room 4004 for SSIG, and Room 4654 for SSFAT), Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program Information: Applications are required annually for both SSIG and SSFAT. In formulating applications, the designated State agencies will be guided by the allotment tables provided with the application forms.

In each program, basic State allotment's are determined by formula and are not subject to negotiation. For SSIG, States may also request a share of reallotments, in addition to their basic allotments, contingent upon the availability of such funds through release by any States unable to use all their basic allotments. In FY 1979, all 50 States the District of Columbia, and six outlying areas participated in the SSIG student assistance delivery network.

Out of the $76.750 million FY 1980 SSIG appropriation, only $50 million is authorized for initial student awards. As provided in 45 CFR 192.3(f), States may divide their applications for SSIG basic allotments between initial and continuation students awards to meet their individual requirements; however, if the total of the State requests for initial student awards exceeds the $50 million authorized for these awards, the Office of Education reserves the right to adjust State requests in order to conform with the overall initial award authorization. State scholarship agencies should note the reference in SSIG regulations, 45 CFR 192.10(b), to "45 CFR 100b.92" (alternative matching procedures for States) should be changed to read "45 CFR 74.52."

States which operate student-loan insurance programs under the provisions of Section 428(b), Higher Education Act, as amended, or which will have agreements with the Office of Education for the conduct of such programs by July 1, 1980, may also for SSIG "bonus" funds for making additional student grants in 1980–81, as provided in Section 415E, Higher Education Act, as amended. Bonus funds not earned by any States will be reallotted to States which are eligible for the bonus.

Amount available to individual States for SSFAT for FY 1980 will be based on State allotments in the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan programs. State application forms, to be supplied to agency officials in February, will contain lists of State entitlements. States which have previously participated in this program should focus their applications on continuation and expansion of activities under way, including provisions for program evaluation. For States not participating in FY 1979 (Hawaii, Louisiana, New Hampshire, Puerto Rico, and Wyoming), FY 1980 applications should indicate plans for carrying out SSFAT programs.

E. For further information: Regarding SSIG, contact Mrs. Lanora G. Smith, Acting Chief, State Student Incentive Grant Program, Bureau of Student Financial Assistance, U.S. Office of Education, Washington, D.C. 20202, Telephone (202) 472–4265. Regarding SSFAT, contact Ms. Patricia Hopson, Director, Division of Training and Dissemination, Bureau of Student Financial Assistance, U.S. Office of Education, Washington, D.C. 20202, Telephone (202) 472–3278.

F. Applicable regulations: For the SSIG program, the applicable regulations are found in 45 CFR Part 192. For the SSFAT program, the applicable regulations are found in 45 CFR Part 178a.

(SSIG–20 U.S.C. 1070c—1070c–4; SSFAT–20 U.S.C. 1088b–3)

Dated: December 13, 1979.

John Ellis,

Executive Deputy Commission for Educational Programs.

(Catalog of Federal Domestic Assistance Numbers: 13.548, State Student Incentive Grant Program; and 13.582, State Student Financial Assistance Training Program)

[FR Doc. 79-38802 Filed 12-18-79; 8:45 am]

BILLING CODE 4110-02-M

National Institute for Occupational Safety and Health

Carcinogenicity of Dimethylformamide; Laboratory Investigation of the Toxicity of Dimethylformamide; Control Technology Assessment Study of the Pulp and Paper Industry; Experimental Design for a Planned Study of Industrial Stairway Safety

Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Carcinogenicity of Dimethylformamide

Date: January 8, 1980.
Time: 2:00 p.m. to 4:30 p.m.
Place: Room B-36, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
Purpose: To discuss the details of a research investigation that will be concerned with the long-term biological and possible carcinogenic effects on experimental animals from inhalation of dimethylformamide.
Additional information may be obtained from Dr. Choudari Kommineni, National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control (CDC), 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone: 513/684-8356.

Laboratory Investigation of the Toxicity of Dimethylformamide

Date: January 8, 1980.
Time: 2:00 p.m. to 4:30 p.m.
Place: Room B-36, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
Purpose: To discuss the details of a research protocol for an investigation of the carcinogenic effects of dimethylformamide in laboratory animals.
Additional information may be obtained from: Mr. William D. Wagner, Division of Biomedical and Behavioral Science, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone: 513/684-8433.

Control Technology Assessment Study of the Pulp and Paper Industry

Date: January 10, 1980.
Time: 9:30 a.m.
Place: Holiday Inn (Holidome), 2100 Dixie Highway, Ft. Mitchell, Kentucky.
Purpose: To discuss protocol for the control technology assessment study of the pulp and paper industry.
Additional information may be obtained from: C. Ilana Howarth, Ph.C., Division of Physical Sciences and Engineering, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone: 513/684-4295.

Experimental Design for a Planned Study of Industrial Stairway Safety

Date: January 15, 1980.
Time: 1:00 p.m. to 4:30 p.m.
Place: Room S-120, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.
Purpose: To discuss the details of the experimental design to be used in an investigative study of industrial stairways.
Additional information may be obtained from: Mr. Roger C. Jensen, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, telephones: Commercial: 304/599-7454, FTS: 923-7454.
Dated: December 13, 1979.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 79-38859 Filed 12-18-79; 8:45 am]

BILLING CODE 4110-87-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 27551]

Colorado; Order Providing for Opening of National Forest Lands

December 13, 1980.

The Federal Energy Regulatory Commission issued an order, March 29, 1978 (FR 43, Page 14354) (FR doc. 78-8929) vacating in their entirety land withdrawn for power development Projects No. 736, 1056, and 1825—Colorado affecting the following described National Forest lands:

Uncompahgre National Forest

New Mexico Principal Meridian

Project No. 736:
T. 42 N., R. 10 W.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, E½NE¼ and NE¼SE¼;
Sec. 35, NW¼NW¼.
The area described contains approximately 240 acres.
Project No. 1056:
T. 42 N., R. 8 W. (surveyed suspended)
Certain lands (acreage not determined), shown on a map in two sheets designated FPC No's 1056-1 and -2, withdrawn pursuant to the filing on January 15, 1930 of an application for license for Project 1056.
Project No. 1826:
T. 35 N., R. 5 and 6 W.,
Certain lands (acreage not determined), withdrawn pursuant to the filing on January 27, 1941, of an application for license for Project No. 1826.

2. At 10 a.m. on January 24, 1980 the above described lands shall be open to such forms of appropriation as may by law be made of National Forest land.

Inquiries concerning the lands should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 79-38850 Filed 12-18-79; 8:45]

BILLING CODE 4310-84-M

[Colorado 27549]

Colorado; Order Providing for Opening of National Forest Lands

December 13, 1980.

The Federal Energy Regulatory Commission issued an order February 23, 1978 (FR 43, pages 8586-88) (FR Doc. 78-5375) vacating in their entirety land withdrawals for power development Projects, Nos. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, 1682, and 1750-Colorado, affecting small portions of the following described National Forest Lands:

Sixth Principal Meridian (Unless Otherwise Noted)

1. Project No. 385 (White River National Forest):
Portions (totaling about 5 acres) of the following described subdivision were withdrawn pursuant to the filing on February 5, 1923, of an application for license for Project No. 385 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated February 23, 1923:

T. 5 S., R. 88 W.,
Sec. 32, SW¼.

2. Project No. 445 (Arapaho National Forest):
Portions (totaling about 10 acres) of the following described subdivisions were withdrawn pursuant to the filing on October 23, 1923, of an application for license for Project No. 445 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated November 5, 1923:

T. 7 S., R. 77 W.,
Sec. 29, NW¼SW¼;
Sec. 30, SE¼NW¼, S½NE¼, NE¼SE¼.

3. Project No. 506 (Arapaho National Forest):
Portions (totaling about 4 acres) of the following described subdivisions were withdrawn pursuant to the filing on May 23, 1924, of an application for license for Project No. 506 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated May 29, 1924:

T. 4 S., R. 74 W.,
Sec. 1, lots 16, 48;
Sec. 12, lots 2, 40, 45, 46, 100.

4. Project No. 519 (Arapaho and Roosevelt National Forests):
Portions (totaling about 56 acres) of the following described subdivisions were withdrawn pursuant to the filing on July 18, 1924, of an application for license for Project No. 519 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated August 21, 1924:

T. 2 S., R. 74 W.,
Sec. 2, SW¼NW¼;
Sec. 5, S½S½;
Sec. 6, S½SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, N½NW¼, SW¼NE¼;
T. 2 S., R. 75 W.,
Sec. 1, S½;
Sec. 2, SE¼;
Sec. 10, E½;
Sec. 11, N½;
Sec. 12, N½N½.

5. Project No. 1220 (Roosevelt National Forest):
Portions (totaling about 6 acres) of the following described subdivisions were withdrawn pursuant to the filing on September 21, 1932, of an application for license for Project No. 1220 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated October 4, 1932:

T. 4 N., R. 73 W.,
Sec. 11, SW¼NE¼, NW¼SE¼.

6. Project No. 1296 (Pike National Forest):
Portions (totaling about 1 acre) of the following described subdivisions were withdrawn pursuant to the filing on January 10, 1935, of an application for license for Project No. 1296 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated March 3, 1936:

T. 12 S., R. 68 W.,
Sec. 31, W½SW¼, SE¼SW¼.

7. Project No. 1418 (Arapaho National Forest):
Portions (totaling about 6 acres) of the following described subdivision were withdrawn pursuant to the filing on January 18, 1937, of an application for license for Project No. 1418 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated February 18, 1937:

T. 8 S., R. 78 W.,
Sec. 2, S½NW¼.

8. Project No. 1519 (Arapaho National Forest):
Portions (totaling about 8 acres) of the following described subdivisions were withdrawn pursuant to the filing on October 28, 1938, of an application for license for Project No. 1519 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated December 23, 1938:

T. 2 S., R. 75 W.,
Sec. 3, SW¼SE¼, SE¼SW¼, W½SW¼;
Sec. 4, NW¼NE¼, S½NE¼, NE¼SE¼;
Sec. 10, NE¼, NE¼NW¼.

9. Project No. 1576* (Arapaho Forest):
Certain lands (acreage not determined) lying within or near the following described sections were withdrawn pursuant to the filing on February 14, 1939, of an application for license for Project No. 1576:

T. 3 S., R. 74 W.,
Secs. 2, 11.

10. Project No. 1615* (Roosevelt National Forest):
Portions (totaling about 1.5 acres) of the following described subdivision were withdrawn pursuant to the filing on August 12, 1939, of an application for license for Project No. 1615:

T. 5 N., R. 72 W.,
Sec. 21, SE¼SW¼.

11. Project No. 1616* (Roosevelt National Forest):
Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on August 21, 1939, of an application for license for Project No. 1616:

T. 5 N., R. 70 W.,
Secs. 6, 7.
T. 5 N., R. 71 W.,
Secs. 1, 2, 3, 4.
T. 6 N., R. 71 W.,
Sec. 33.

12. Project No. 1618* (Rio Grande National Forest):
Portions (acreage not determined) of the following described sections were withdrawn pursuant to the filing on August 30, 1939, of an application for license for Project No. 1618:

T. 39 N., R. 3 E., New Mexico Principal Meridian, Colorado,
Secs. 3, 9.

13. Project No. 1678* (Arapaho National Forest):
Portions (acreage not determined) of the following described sections were withdrawn pursuant to the filing on February 3, 1940, of an application for license for Project No. 1678:

T. 5 S., R. 71 W.,
Sec. 31.
T. 6 S., R. 71 W.,
Sec. 6.

14. Project No. 1682* (Pike National Forest):
Portions (acreage not determined) of the following described sections were withdrawn pursuant to the filing on February 6, 1940, of an application for license for Project No. 1682:

T. 7 S., R. 72 W.,
Sec. 30.
T. 7 S., 73 W.,
Secs. 25, 27.
T. 7 S., R. 74 W.,
Sec. 12.

15. Project No. 1750* (Rio Grande National Forest):
Portions (acreage not determined) of the following described section were withdrawn pursuant to the filing on August 20, 1940, of an application for license for Project No. 1750:

T. 40 N., R. 3E., New Mexico Principal Meridian, Colorado,
Sec. 29.

2. At 10 a.m. on January 24, 1980 the above described National Forest lands shall be open to such forms of appropriation as may by law be made of National Forest land.

Inquiries concerning the lands should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

Robert D. Dinsmore,
Chief, Branch of Adjudication.

[FR Doc. 79-38861 Filed 12-18-79; 8:45 am]
BILLING CODE 4310-84-M

[Colorado 27550]

Colorado; Order Providing for Opening of National Forest Lands

December 13, 1980.

The Federal Energy Regulatory Commission issued an order February 23, 1978 (FR 43, page 8588) (FR Doc. 78-5376) vacating in their entirety land withdrawals for power development Projects, Nos. 373, 521, 937, 1024, 1415, 1546, 1547, and 1825, affecting small portions of the following described National Forest lands:

Sixth Principal Meridian

1. Project No. 373 (Arapaho and Pike National Forests):
Portions (totaling about 42 acres) of the following described subdivisions were withdrawn pursuant to the filing on December 18, 1922, of an application for license for Project No. 373 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated January 22, 1923:

T. 5 S., R. 76 W.,
Sec. 35, E½SE¼.
T. 6 S., R. 76 W.,
Sec. 2, NW¼, NW¼SW¼;
Sec. 3. S½NE¼, SE¼;
Sec. 10, W½NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 14, NW¼, NE¼SW¼;
Sec. 15, NE¼NE¼.
T. 6 S., R. 77 W.,
Sec. 7, NE¼SW¼.

2. Project No. 521 (Roosevelt National Forest):
Portions (toaling about 4 acres) of the following described subdivisions were withdrawn pursuant to the filing on July 18, 1924, of an application for license for Project No. 521 for which the Commission (FPC) gave notice if land withdrawal to the General Land Office by letter dated August 21, 1924, as corrected by letter dated September 17, 1924:

T. 1 N., R. 71 W.,
Sec. 6, NE¼SW¼ (outside National Forest).
T. 1 N., R. 72 W.,
Sec. 1, N½SE¼, SW¼SE¼.

3. Project No. 1825* (San Isabel National Forest):
Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on January 25, 1941, of an application for license for Project No. 1825:

T. 21 S., R. 69 W.,
Sec. 34.
T. 22 S., R.69 W.,
Sec. 24.

New Mexico Principal Meridian, Colorado

1. Project No. 937 (San Juan National Forest):
Portions (totaling about 47 acres) of the following described subdivisions were withdrawn pursuant to the filing on December 1, 1928, of an application for license for Project No. 937 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated January 2, 1939:

T. 36 N., R. 11 W.,
Sec. 2, N½N½, SW¼NW¼;
Sec. 3. S½NE¼, NE¼SW¼, NW¼SE¼;
Sec. 9, NE¼NE¼, S½NE¼, E½SW¼, NW¼SE¼;
Sec. 16, E½NW¼;
Sec. 21, E½NW¼, SW¼;
Sec. 28, NW¼NW¼;
Sec. 33, NW¼NE¼, SE¼NE¼, E½SE¼.
T. 37 N., R. 11 W.,
Sec. 36, S½SW¼.

2. Project No. 1024 (San Juan National Forest):
Portions (totaling about 4 acres) of the following described subdivisions were withdrawn pursuant to the filing on October 5, 1929, of an application for license for project No. 1024 for which the Commission (FPC) gave notice of land withdrawal to the

* Notice of Land Withdrawal not issued.

General Land Office by letter dated December 11, 1929, as corrected by letter dated December 21, 1929, and adjusted by letter dated December 15, 1931:

T. 36 N., R. 12 W.,
Sec. 31, NE¼NE¼.
T. 36 N., R. 13 W.,
Sec. 25, lot 1 (outside National Forest);
Sec. 26, S½NW¼.

3. Project No. 1415* (Uncompahgre National Forest):

Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on December 28, 1936, of an application for license for Project No. 1415:

T. 43 N., R. 7 W.,
Secs. 7, 8, 17, 18.

4. Project No. 1546* (Uncompahgre National Forest):

Certain lands (acreage not determined) lying within the following described section were withdrawn pursuant to the filing on February 9, 1939, of an application for license for Project No. 1546:

T. 44 N., R. 7 W.,
Sec. 31.

5. Project No. 1547* (Uncompahgre National Forest):

Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on February 9, 1939, of an application for license for Project No. 1547:

T. 44 N., R. 7 W.,
Secs. 29, 30.

At 10 a.m. on January 24, 1980 the above described lands shall be open to such forms of appropriation as may by law be made of National Forest land.

Inquiries concerning the lands should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 79-38862 Filed 12-18-79; 8:45 am]

BILLING CODE 4310-84-M

*Notice of land withdrawal not issued.

[U-44230]

Consolidated Coal Co.; Coal Exploration Program

Consolidation Coal Company hereby invites all interested parties to participate on a cost sharing basis in its coal exploration program concerning federally owned coal located in Sevier and Emery Counties, Utah. The proposed areas of interest are located in:

T. 24 S., R. 5 E., SLM, Utah
Sec. 13, E½, E½NW¼, NE¼SW¼.
T. 22 S., R. 6 E., SLM, Utah
Sec. 13, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 14, S½SE¼;
Sec. 23, E½NE¼, S½SW¼, SE¼;
Sec. 26, all;
Sec. 34, S½;
Sec. 35, N½, SW¼, N½SE¼, SW¼SE¼.
T. 23 S., R. 6 E., SLM, Utah
Sec. 3 and 10, all;
Sec. 11, W½E½, W½.
T. 24 S., R. 6 E., SLM, Utah
Sec. 5, S½;
Sec. 6, E½SE¼;
Sec. 7, S½NE¼, SE¼;
Secs. 8 and 18, all.

The purpose of the drilling program is to determine the quality and quantity of the coal in the area.

A detailed description of the drilling program is available for review during normal business hours in the following offices:

State Director, Bureau of Land Management, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111; and Bureau of Land Management, 900 North 7th East, Price, Utah 84501.

Any persons electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Consolidation Coal Company no later than thirty calendar days after publication of this invitation in the Federal Register.

The written notice for Consolidation Coal Company must be sent to the following address:

Consolidation Coal Company, Western Exploration Group, No. 14 Inverness Drive East, Bldg., 6, Englewood, Colorado 80112.

The written notice to the Bureau of Land Management should be sent to:

State Director, Bureau of Land Management, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111.

L. Pollick,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-38863 Filed 12-18-79; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

[Federal Leases Nos. C-22644, C-20900, C-128433, C-081330, D-052547, and C-16284]

Availability for Public Review of Proposed Major Modification to a Coal Mining and Reclamation Plan; Energy Fuels Corp.—Energy No. 1 and Energy No. 2 Mines; Routt County, Colo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior

ACTION: Availability for public review of proposed modification to a Coal Mining and Reclamation Plan

SUMMARY: Pursuant to § 211.5 of Title 30 and § 1506.6 of Title Code of Federal Regulations, notice is given that the Office of Surface Mining has received a major modification of a previously-approved mining and reclamation plan. The proposed modification is described below.

Location of Lands To Be Affected by Modification

Applicant: Energy Fuels Corporation
Mine Name: Energy No. 1 & No. 2
State: Colorado
County: Routt
Township, Range, Section: T. 5 N., R. 86 W., Sections 19, 20, 21, 28, 29, 31, 32, 33, 34; T. R., 87 W., Sections 24, 25, 36; T. 4 N., R 86 W., 7, 8, 9, 16, 17, 18, 19, 30; and T. 4 N., R 87 W., Sections 13, 24, 25.
Office of Surface Mining Reference No.: CO-0003

The mines are located approximately 25 miles west-southwest of Steamboat Springs, Colorado in Routt County along County Road number 27 which runs between Oak Creek and Hayden. The proposed modification involves mining and associated disturbance of 1,800 acres of the total permit area of 6,680 acres. The mines are dragline and shovel operations removing predominantly Federal coal and a small percentage of private coal. The coal is shipped by the Denver and Rio-Grande Railroad to Illinois Power Company and the Public Service Company of Colorado. The reported annual production rate would be 3.9 million tons per year over a six year period (1980 to 1985). The proposed modification involves an extension of mining activities southwest from the presently mined area. The operation would involve the extraction of coal primarily from the Wadge seam and, where economically feasible, from the overlying Lennox seam. The area scheduled for mining is outside the mining boundaries previously approved by the Department. Energy Fuels is requesting variances from contemporaneous reclamation in 3 areas, that portion of the mine where auger mining is to occur, a portion of the mine associated with the initial boxcut because of spoil handling problems and a portion of the mine where a proposed underground portal would be located.

Energy Fuels No. 1 and No. 2 mines were discussed in the final environmental impact statement titled the *Northwest Colorado Coal Regional Analysis* prepared by the Bureau of Land Management (BLM) in January, 1977. This EIS is available for review at the Office of Surface Mining, the BLM, State Office, Denver, Colorado and the BLM District Office, Craig, Colorado.

The project modification submitted by Energy Fuels for these mines is available for public review in the Library, Office of Surface Mining, Region V, Brooks Towers, 1020 15th

Street, Denver, Colorado and at the Routt County Clerks office in Steamboat Springs, Colorado.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not determined whether the proposed modification is technically adequate. OSM will request additional information during the technical review. Any information so obtained will also be available for public review.

No action with respect to approval of the plan shall be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability in the Federal Register. Prior to making a final decision regarding this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 21.5(c)(2) of Title 30, Code of Federal Regulation.

FOR FURTHER INFORMATION CONTACT: Keith G. Kirk or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; (303)(837-3773).

Robert H. Hagen,

Acting Regional Director.

[FR Doc. 79-38864 Filed 12-18-79; 8:45 am]

BILLING CODE 4310-05-M

Water and Power Resources Service

[INT-DES 79-61]

Salmon Falls Division, Upper Snake River Project; Availability of 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 water development plan that would provide both full and supplemental irrigation water and enhance wildlife habitat in Twin Falls and Cassia Counties in central southern Idaho. Written comments may be submitted to the Regional Director on or before February 4, 1980.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Water and Power Resources Service, Washington, DC 20240, telephone: (202) 343-4991.

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, telephone: (303) 234-3019.

Regional Director, Water and Power Resources Service, Federal Building, 550 West Fort Street, Boise, ID 83724, telephone: (208) 384-1908.

Minidoka Project Office, Water and Power Resources Service, 1359 Hansen Avenue, Box 549, Burley, ID 83318, telephone: (208) 678-0461.

Single copies of the statement may be obtained on request to the Commissioner, Water and Power Resources Service, or the Regional Director, at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: December 14, 1979.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 79-38845 Filed 12-18-79; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-75]

Certain Large Video Matrix Display Systems, and Components Thereof; Notice of Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 25, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Stewart-Warner Corporation, 1926 West Diversey Parkway, Chicago, Illinois 60614, alleging that unfair methods of competition and unfair acts exist in the importation of certain large video matrix display systems or components thereof into the United States, or in their sale, because such large video matrix display systems are: (a) Allegedly covered by the claims of U.S. Letters Patent Nos. 3,495,762; 3,941,926; 4,009,335; and 4,148,073, and (b) sold on such terms and conditions as to represent no reasonable expectation of a profit or to break even and which are predatory in nature.

The complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests a temporary order of exclusion from entry into the United States of the imports in question. Complainant further requests that, after a full investigation, a permanent exclusion of said imports be ordered and a cease and desist order be issued.

Having considered the complaint, the Commission, on November 20, 1979, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine only whether there is, or there is reason to believe there is, a violation of subsection (a) of this section in the unlawful importation of certain large video matrix display systems or components thereof into the United States, or in their sale, because such large video matrix display systems are allegedly covered by the claims of U.S. Letters Patent Nos. 3,495,762; 3,941,926; 4,009,335; and 4,148,073, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Steward-Warner Corporation, 1826 West Diversey Parkway, Chicago, Illinois 60614.

(b) The respondents are the following parties upon which the complaint is to be served:

SSIH Equipment S.A., a member of the Omega Electronics Group, Rue Stampfli, CH-2503 Bienne, Switzerland.

The Milwaukee Brewers Baseball Club, Inc., Milwaukee County Stadium, 201 S. 46th Street, Milwaukee, Wisconsin 53214;

(c) Donald R. Dinan, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and

a final determination containing such finding.

Pursuant to section 337(b)(3) of the Tariff Act of 1930, as amended by section 1105(a)(2) of the Trade Agreements Act of 1979, and section 201.4(d) of the Commission's Rules of Practice and Procedure, the Commission is notifying the Secretary of the Treasury that it has reason to believe that this matter is based in part on alleged acts and effects which are within the purview of section 303 of the Tariff of 1930 or of the Antidumping Act, 1921.

The complaint, except for the confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. Transportation Trade Commission, 701 E Street, NW., Washington, D.C. 20436 and in the Commission's New York City Office, 6 World Trade Center, New York, New York 10048.

Issued: December 14, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-38922 Filed 12-18-79; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts and Artifacts Indemnity Panel; Advisory Committee Renewal

December 14, 1979.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with the Committee Management Secretariat, notice is hereby given that renewal of the Arts and Artifacts Idemnity Panel (Advisory Committee) has been approved by the Chairman of the Federal Council on the Arts and the Humanities.

The Arts and Artifacts Idemnity Panel (Advisory Committee's) activities include: (1) Advising the Federal Council on policy options related to the administration of the Arts and Artifacts Idemnity Act (Pub. L. 94-158); (2) Reviewing and making recommendations on applications for Federal indemnity; (3) Providing expert judgment with respect to the dollar valuation, the adequacy of packing, shipping, and security arrangements, and the cultural, historical, educational, and scientific significance of the objects to be idemnified; and (4) Reviewing claims submitted for payment under the Idemnity Act.

The charter for the Arts and Artifacts Idemnity Panel has been filed with the standing committees of the Senate and the House of Representatives having jurisdiction over the Federal Council and with the Library of Congress.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-38933 Filed 12-18-79; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Major Degradation of Primary Containment Boundary

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the Federal Register on February 24, 1977 (42 FR 10950). Appendix A (Example II.A.2) of the Policy Statement notes that major degradation of the primary containment boundary can be considered an abnormal occurrence. The following description of the event also contains the remedial actions taken.

Date and Place—On September 14, 1979, the Consumers Power Company notified the NRC of discovery of two improperly positioned valves in the containment purge system at their Palisades Nuclear Plant. The Palisades Nuclear Plant utilizes a pressurized water reactor designed by Combustion Engineering Co. and is located in Van Buren County, Michigan.

Nature and Probable Consequences—While preparing to perform a "Type C" (local isolation valve) leak test between two manual valves in a 4 inch bypass line around the main 48 inch containment purge valve, plant personnel discovered that both of these manual isolation valves were locked in the open position. These valves should have been locked closed. Investigation by the licensee indicated that the valves may have been improperly positioned since April, 1978 when an efficiency test of the bypass line filters was performed. The plant has operated at power for the major portion of that time period.

The valve misalignment did not result in any actual adverse impact on the public health. However, had an accident occurred wherein fuel was damaged and primary coolant released into the containment while the valves were misaligned in the open position, a significant release of radioactive material from the containment could have occurred. Were such a release to occur, there is no instrumentation to identify those open valves as the cause.

The initial design purpose for the bypass system was to provide a long term hydrogen control captability for the containment atmosphere following a design basis accident.[1] It was intended that after approximately 30 days following an accident, when containment pressure and activity levels dropped sufficiently to permit venting, this system would be manually valved to vent the containment atmosphere, through high efficiency and charcoal filters, to the exhaust stack. Thus the components in the bypass line beyond the two manual isolation valves were not designed for the severe service they would be exposed to with the valves open during the initial pressure surge of the design basis accident, and significant uncontrolled release would result. High radiation in the vicinity of the bypass line would also make immediate closing of the manual isolation valves, even if identified as the source of leakage, an extremely hazardous operation.

Cause or Causes—The principle cause for this event was lack of the necessary attention to detail in development of procedures for ensuring containment integrity. The master containment integrity valve line-up checklist, which is used to perform a valve line-up prior to each startup from cold shutdown, did not include these valves. The filter efficiency test procedure for the 4 inch bypass line did not adequately specify the final position of these valves, and this is the probable cause for the valves being left incorrectly positioned in April of 1978.

Actions Taken to Prevent Recurrence

Licensee—The licensee has revised both of the above mentioned procedures to assure that proper positioning of these valves is addressed. Concurrently the licensee is reviewing all other paths from containment to assure that procedures and checklists are complete. The licensee has also asked a qualified consultant to perform an independent review for the same purpose.

NRC—The NRC site inspector verified the corrective actions taken by the licensee. The regional office determined that this event constitutes an item of noncompliance of the violation category.

[1] Palisades now has recombiners installed for hydrogen control.

The NRC staff determined that the event demonstrated a weakness in the licensee's ability to control testing and maintenance activities, to develop and review procedures, to adhere to approved proceures and to conduct audit activities. The Director, Office of Inspection and Enforcement (IE), also determined that the potential public hazard had been high. As a result on November 9, 1979 the staff proposed imposition of civil penalties in the amount of $450,000.00 for the prolonged violation of containment integrity. On the same date, the staff issued an Order to require that appropriate review of checklists and procedures be performed to assure that engineered safety features are in compliance with the specifications of the license and that monthly inspections of these features be conducted. The Order further required a meeting with NRC management prior to resumption of operation.

IE Information Notice 79-26 was issued on November 5, 1979 to all holders of operating licenses and construction permits to provide them with the details of this occurrence. On November 16, 1979 the Director, Office of Inspection and Enforcement, sent a letter to chief executives of all utilities with operating licenses and construction permits informing them of the enforcement action against Consumers Power Company and stating the intention to take similar action in any future instances where ineffective management leads to a serious breach of safety.

Dated at Washington, D.C., this 13th day of December 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-38809 Filed 12-18-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on Three Mile Island, Unit 2, Accident Bulletins and Orders and the Emergency Core Cooling System Subcommittee; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Bulletins and Orders and the Emergency Core Cooling System Subcommittee will hold a joint meeting in January 3-4, 1980 at the Airport Park Hotel, 600 Avenue of Champions, Inglewood, CA 90301 to consider the NRC Office of Inspection and Enforcement Bulletins and NRC Orders pertaining to the TMI-2 Accident, including information related to the small-break loss of coolant accident. Notice of this meeting was published December 20, 1979.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday, January 3, and Friday, January 4, 1980

8:30 a.m. Until the Conclusion of Business Each Day

The Subcommittees may meet in Executive Session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittees will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons.

In addition, it may be necessary for the Subcommittees to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close these sessions to protect proprietary information. See 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling or requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Andrew L. Bates (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: December 13, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-38804 Filed 12-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-58, and Amendment No. 15 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of issuance.

The amendments require the maximum allowable purge isolation valve closure times to be reduced from 10 to 5 seconds.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1), the application for amendments dated February 3, 1978 and March 7, 1979, (2) Amendment Nos. 34 and 15 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon

request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 7th day of December 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operatiang Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 79-38805 Filed 12-8-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric & Power Co., North Anna Power Station, Unit No. 2, Order Extending Construction Completion Date

Virginia Electric and Power Company is the holder of Construction Permit No. CPPR-78 issued by the Atomic Energy Commission [1] on February 19, 1971, for construction of the North Anna Power Station, Unit No. 2, presently under construction at the Company's site in Louisa County, Virginia.

On October 31, 1979, the applicant filed a request for an extension of the completion date. Construction has been delayed due to:

1. Additional or modified pipe hanger designs for various Category I piping systems;

2. Additional high energy whip restraints;

3. Modifications to the reserve station service transformer, and

4. Licensing delays as a result of the Three Mile Island accident.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation, dated December 11, 1979.

The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for the North Anna Power Station, Units 1 and 2 published in April 1973. A Negative Declaration and a Environmental Impact Apparisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the local public document room established for the North Anna Power facility in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901 and at the Board of Supervisors, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093.

It is hereby ordered, That the latest completion date for CPPR-78 be extended from December 1, 1979 to December 1, 1980.

Date of issuance: December 11, 1979.

Domenic B. Vassallo,

Acting Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-38807 Filed 12-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Negative Declaration Regarding Extension of Construction Permit No. CPPR-78 For North Anna Power Station Unit 2, Virginia Electric & Power Co.

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed request from Virginia Electric and Power Company for a 12 month extension of the construction permit for North Anna Power Station Unit 2, located in Louisa County, Virginia. The extension would permit revisions of the contruction completion date to December 1, 1980.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to the proposed extension. Based on the appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact other than those which have been described in the Commission's Final Environmental Statement for North Anna Power Station, Unit Nos. 1, 2, 3, and 4, published in April 1973, the Addendum to Final Environmental Statement published in November 1976, the Environmental Impact Appraisal dated December 29, 1978, or evaluated in the present environmental impact appraisal.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia 23093 and Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety And Environmental Analysis.

Dated at Bethesda, Md., this 3rd day of December.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Chief, Environmental Projects Branch 2 Division of Site Safety and Commission Analysis.

[FR Doc. 79-38808 Filed 12-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344 (Control Building)]

Portland General Electric Co., et al. (Trojan Nuclear Plant); Hearing on Trojan Interim Operation Motions and Orders

December 12, 1979.

On November 30, 1979, the Licensing Board entered a Modification of Order Permitting Interim Operation of Trojan Nuclear Plant. That Order had the effect of preventing the resumption of operation of the Trojan nuclear facility (shut down since October 12, 1979, to repair steam generator leakage and to inspect piping supports in inaccessible areas), pending further orders by the Board. That Order further provided as follows:

2. The Staff shall immediately inform the Board, explicitly and clearly, what unresolved problems remain which might have a bearing upon the seismic and other issues in this proceeding. This information shall be kept current upon a regular basis.

3. The Licensee shall immediately render a full written report to the Board as to the status of all information requested of it by the Staff and not fully supplied to the Staff's satisfaction. Current and updated information as to the wall problem and any other matters which might affect the issues in this proceeding shall also be furnished upon a regular basis.

4. The Staff shall furnish a date reasonably anticipated for the completion and filing of its SER, and a full justification and explanation for any further slippage in that regard.

5. All parties shall state and document their views as to how long interim operation of the Trojan facility should be permitted, in the absence of the submission of firm plans for control room modifications, adequate from a safety standpoint to bring the facility into substantial compliance with the license.

The Staff, on December 7, 1979, filed with the Board an explicit description of the unresolved problems which might have a bearing upon the seismic and other issues in this proceeding, in the form of Attachments. Attachment 1 was entitled "Affidavit of Kenneth S. Herring on the Unresolved Problems Regarding

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[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

the Adequacy, From a Safety Standpoint, of the Proposed Control Building Modifications to Bring the Facility into Substantial Compliance With the License." Paragraph 4 of Attachment 1 stated that the "adequacy of the margins against seismic failure, after the modifications, of the Control Building Complex itself (i.e., the level of wall structural integrity) has not been established. Resolution of this major unresolved problem requires the satisfactory resolution of the following items", and listed such items as subparagrahs (a) through (x). Paragraph 5 described another major unresolved problem related to the adequacy of the stiffness assumed in certain analyses for the derivation of floor response spectra.

Attachment 2 consisted of four affidavits setting forth the unresolved problems with regard to the effects of the proposed modification work itself on plant safety. The Staff deemed the unresolved problems described in Attachments 1 and 2 as clearly matters within the jurisdiction of the Board. Attachment 3 related to the so-called wall problem, which might be covered by a license condition (2.C(10).c) already imposed for interim operation. The Staff anticipated that it would respond to paragraphs (4) and (5) of our November 30 Order, *supra,* during the week of December 17, 1979.

The Licensee, on December 8, 1979, furnished information requested immediately by paragraph 3 of the November 30 Order, and filed the affidavits of Robert H. Short and Donald J. Broehl, President and Assistant Vice President respectively of Licensee. Additional data or information was to be filed by December 13, 15 and 22. The Licensee also requested the Board (which we treat as a motion) to issue a further order removing the prohibition on resumption of operation, describing the adequacy of the information furnished and the serious need of the region for electricity at this time from the Trojan facility.

The Board believes that the public interest requires expeditious consideration and resolution of the issues implicit in the November 30 Order, and addressed by the parties in their subsequent filings. Accordingly, a hearing will be held on these matters, as well as the establishment of a schedule for the completion of discovery, filing of motions, and commencement of an evidentiary hearing on Phase II issues. This hearing will consider all affidavits, analyses and reports filed by the parties and may include the testimony of witnesses if deemed necessary to clarify, supplement or update previously filed information.

Please take notice that on December 28, 1979, extending to December 29, 1979 if necessary, a special hearing will be held at the Bonneville Power Administration Auditorium, located at 1002 Northeast Holladay Street, Portland, Oregon, commencing at 9:00 a.m., local time.

The Licensee, Staff and Intervenors are directed to attend this hearing and to participate. The public is invited to attend but there will be no opportunity for public participation during this hearing on motions. A subsequent session will be held at which public limited appearance statements may be made, and notice will be given as to the date and place for such limited appearances. Written limited appearance statements may be submitted to the Board at any time, and may be mailed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555. Both oral and written statements will be made part of the official record of this proceeding.

Dated at Bethesda, Md., this 12th day of December 1979.

It is so ordered.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman.

[FR Doc. 79-38806 Filed 12-18-79; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; 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.

Regulatory Guide 1.9, Revision 2, "Selection, Design, and Qualification of Diesel-Generator Units Used as Standby (Onsite) Electric Power Systems at Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's requirements with regard to the capacity and qualification of diesel-generator units intended for use as onsite power sources in nuclear power plants. This guide endorses IEEE Std. 387-1977, "IEEE Standard Criteria for Diesel-Generator Units Applied as Standby Power Supplies for Nuclear Power Generating Stations." It was revised as a result of public comment and additional staff review.

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. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office (GPO) price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current GPO prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 11th day of December 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-38810 Filed 12-18-79; 8.45 am]

BILLING CODE 7590-01-M

OFFICE OF THE SPECIAL REPRESENTATIVES FOR TRADE NEGOTIATIONS

[Docket 301-20]

American Home Assurance Co.; Petition Alleging Unreasonable and Unjustifiable Trade Practices and Policies by the Government of the Republic of Korea

On November 5, 1979, the Chairman of the Section 301 Committee received a petition from American Home Assurance Company alleging unreasonable and unjustifiable trade practices and policies by the Government of the Republic of Korea which burden or restrict United States commerce. The petition was filed pursuant to Section 301 of the Trade Act of 1974, as amended (19 USC 2411 et seq.), petitioner has not requested a public hearing. The text of the petition follows:

American Home Assurance Company,
70 Pine Street, New York, N.Y., November 2, 1979.

Chairman, Secton 301 Committee,
Office of the Special Representative for Trade Negotiations, Room 725, 1800 G. Street, N.W., Washington, D.C.

Re: Petition of American Home Assurance Company, filed pursuant to § 301 of the Trade Act of 1974 (19 U.S.C.A. § 2411), as amended by the Trade Agreements Act of 1979, for the Relief from Unfair Trade Practices by the Republic of Korea.

Mr. Chairman: The Petitioner, American Home Assurance Company ("American Home"), presents this petition by its Vice President and General Counsel, Patrick J. Foley. Petitioner is an interested party seeking enforcement of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979. Petitioner's interests are materially affected by the actions of the Republic of Korea ("Korea"), detailed below. The items of this petition follow numbering of 15 CFR 2006.1, (1979) (as amended by 44 FR 53535 (1979)).

(a) Petitioner, American Home, is a New York corporation engaged, through branches, subsidiaries and affiliates, in the business of general and life insurance in approximately 135 countries and jurisdictions, including Korea. By its failure to comply with the terms of the agreements entered into between itself and Petitioner, and generally discrimatory practices explained *infra.*, the Government of Korea has breached agreements which Petitioner has completely honored, as well as treaty obligations undertaken towards the United States itself. Additionally, Korea has behaved contrary to the spirit of the Trade Agreements Act of 1979 as expressed in the legislative history of the Act and pronouncements by the President of the United States, and contrary to the letter of the Act by violating § 301(A)(2), as amended, as well as general principles of international trade law, Because of these acts and practices of the Government of Korea, the Petitioner, and American commerce in insurance, has suffered severe economic hardship and loss, as detailed *infra.*

In Korea, American Home operates a general insurance business under a license from the Korean Government. The license originally restricted Americah Home to US-dollar insurance of non-Koreans, but was expanded somewhat in 1977, enabling American Home to become the first foreign insurer permitted to write insurance in Korean currency. Nevertheless, American Home must now seek remedial treatment for the practices of the Korean Ministry of Finance ("MOF") in three specific areas which have resulted in serious competitive injury to the petitioner (detailed in paragraph (b), *infra.*). Correction of the practices alleged herein would place American Home in a competitive position similar to Korean insurers in these areas.

(b) The Petitioner alleges that the following described restrictions, acts, practices and policies of the Republic of Korea are included under § 301(a)(2) of the Trade Act of 1974, as amended, in that they are discriminatory, unjustifiable and unreasonable and burden and restrict U.S. commerce:

(i) Despite an agreement reached with an office of the MOF of Korea on April 8, 1977 (Attachment 1), the Korean authorities have failed to expand the license of American Home, as agreed, to permit it to write marine insurance in Korea.

(ii) American Home has not been permitted to join the Fire Pool, to which all local Korean insurers writing fire insurance belong, or to write most forms of joint venture fire insurance as originally promised and agreed to by the MOF in the agreement of April 8, 1977.

(iii) The Korean Reinsurance Corporation (KRIC) has discriminated against American Home in Korea by granting it retrocessions from KRIC's reinsurance pool in an amount 1/10 the size of the retrocessions granted to local Korean insurers (as explained in paragraph f(i)(c) of the petition).

The gravamen of our complaint is that the MOF is discriminating against American Home by refusing to take actions which would allow American Home, an American corporation, to operate and compete in Korea on a basis equivalent to the numerous other Korean insurers, in spite of their agreement of April 8, 1977.

(c)(i). There is a special law regulating (*inter alia*) foreign insurers in Korea entitled *Insurance Business Law* of March 1978 (Attachment 8). Although this legislation permits foreign companies to operate in Korea under the same terms and conditions as domestic companies, it has not been so used. American Home is the only foreign insurance company with even limited permission to operate directly in the Korean market for indigenous Korean business; other foreign insurers have not been permitted to operate in an agency or branch form, or to set up locally-incorporated subsidiaries to write local Korean insurance.

(ii). Korea, having allowed American Home, operating as a branch, to establish itself in the Korean market, now denies it the right to complete effectively with the other companies. This discriminatory treatment of American Home is in violation of the basic standard of "national treatment" provided for in the *Treaty of Friendship, Commerce and Navigation between the U.S. and the Republic of Korea* signed on November 28, 1956 and still in force at this date (Attachment 2). That treaty provides:

Article VI. 3. Neither Party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other Party in the enterprises which they have established, in their capital, or in the skills, arts or technology which they have supplied.

Article VII. 1. Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other activities for gain (business activities) within the territories of the other Party, whether directly or by agent or through the medium of any form of lawful juridical entity. Accordingly, such nationals and companies shall be permitted within such territories: (a) To establish and maintain branches, agencies, offices, factories and other establishments appropriate to the conduct of their business; (b) to organize companies under the general company laws of such other Party, and (c) to control and manage enterprises which they have established or acquired. Moreover, enterprises which they control, whether in the form of individual proprietorships, companies or otherwise, shall in all that relates to the conduct of the activities thereof, be accorded treatment no less favorable than that accorded like enterprises controlled by nationals and companies of such other Party.

2. Each Party reserves the right to limit the extent to which aliens may establish, acquire interests in, or carry on enterprises engaged within its territories in transport, communications, public utilities, banking involving depository or fiduciary functions, or the exploitation of land or other natural resources. However, new limitations imposed by either Party upon the extent to which aliens are accorded national treatment, with respect to carrying on such activities within its territories, shall not be applied as against enterprises which are engaged in such activities therein at the time such new limitations are adopted and which are owned or controlled by nationals and companies of the other Party. Moreover, neither Party shall deny transportation, communications and banking companies of the other Party the right to maintain branches and agencies to perform functions necessary for essentially international operations in which they are permitted to engage.

3. The provisions of Paragraph 1 of the present Article shall not prevent either Party from prescribing special formalities in connection with the establishment of alien-controlled enterprises within its territories; but such formalities may not impair the substance of the rights set forth in said paragraph.

4. Nationals and companies of either Party, as well as enterprises controlled by such nationals and companies, shall in any event be accorded most-favored-nation treatment with reference to the matters treated in the present Article.

(d). The Republic of Korea is the country against which American Home files this petition.

(e). Insurance and reinsurance are the services subject to restrictions imposed by the Republic of Korea.

(f). Paragraph (b) to this petition (*supra.*) sets forth the manner in which the Korean government injuries U.S. commerce in insurance. It notes that the Korean government has not permitted American Home—or any other U.S. insurer—to write marine business in Korea. In Petitioner's case, this amounts to a breach of the agreement of April 8, 1977; Petitioner has complied with all the terms imposed thereunder by the MOF (Attachment 3). The MOF will not now honor its own commitments thereunder. As a result of this breach, American Home suffers discrimination in the Korean insurance market.

Secondly, American Home, the only American insurance corporation permitted to do local business directly in Korea, has been denied the opportunity to join the Korean Fire Pool or to compete for Bank fire business

currently assigned to the Fire Pool. Under local regulations, corporations or persons with bank loans, mortgaged properties, or government guarantees were required to be insured with the Bank Pool. Korean regulation now designates the Fire Pool as the insurer for former Bank Pool fire business. Present regulations effectively eliminate most joint venture business from the competitive fire insurance market. This violates the agreement of April 8, 1977, in which the MOF promises to remove joint venture business from the Fire Pool by June 30, 1978 or to allow American Home to join the Fire Pool by that date. It is now sixteen months past June 1978, and joint venture business has neither been removed from the Fire Pool, nor has American Home been allowed to join the Fire Pool.

Thirdly, KRIC does not treat American Home in the same manner as it treats local Korean insurers regarding retrocessions, resulting in American Home receiving from KRIC substantially smaller retrocessions of insurance premiums as explained in f(i)(C), *infra*.

(i) *Volume of Trade.* (A) *Marine Business:* The inability to compete with Korean insurers for marine insurance business substantially and significantly prevents U.S. insurers from full and meaningful participation in the Korean insurance market. The volume of marine insurance is tied to the very substantial foreign trade of Korea.

The rounded figures below (representing CIF prices) show the size and growth of Korea's foreign trade:[1]

	Exports (million)	Imports (million)
1976	$7,700	$8,700
1977	10,000	10,800
1978	12,700	15,000

In 1978, the most recent year for which accurate figures are available, the dollar value of marine insurance premium written in Korean was US $86,928,000.

Total Marine Premium, 1978: [2]

		Percent
Cargo	$55,285,000	63.6
Hull	31,643,000	36.4
Total	86,928,000	100

As sales of non-life premium in Korea for 1978 totalled $418,100,000, it can be seen that Marine business represented approximately 20.8% of all such business. It is thus the second largest line of business, second only to Automobile business. However, as the Automobile business is monopolized by the Korean Auto Insurance Company, Marine business is the largest line freely marketed in Korea.

(B) *Fire Pool Business:* American Home has a Korean license to write fire insurance but its economic value is greatly diminished by the fact that the MOF has not allowed American Home to join the Fire Pool. In Korea, most fire insurance business must be placed through the Fire Pool, which includes the Bank Pool fire business as explained earlier. In 1978, Korean fire premiums totaled approximately US$61,300,000; however, 76% of that figure, or US$46,588,000, was placed through the Fire Pool.[3]

(C) *Retrocessions from Compulsory Reinsurance:* The MOF's *Reinsurance Exchange Regulations* (Attachment 4) which regulates every aspect of reinsurance business in Korea, requires that all insurance companies operating in Korea cede a part of every risk to KRIC. Formerly a quasigovernmental organization, KRIC is now owned by Korean shareholders (including insurance companies) and enjoys a reinsurance monopoly. It receives cessions from all the original writing companies and, in turn, retrocedes to them part of each risk. In compliance with this compulsory reinsurance regulation, American Home cedes to KRIC; however, American Home is discriminated against in the amount of reinsurance that it receives from KRIC.

Insurers in Korea receive retrocessions from KRIC in accordance with the following procedure. The volume of business to be retroceded is divided into two equal parts. The first half of the retrocession is distributed to each local insurer based on the volume of business ceded to KRIC in the past year by each, in relation to the aggregate volume ceded by all insurers. The other half is divided equally among the local insurers required to cede to KRIC (currently numbering 10).

Since American Home has been blocked from writing in major market areas such as Fire Pool and Marine business and is new to the Won market, it has not been able to contribute sizable amounts to KRIC. As a result, American Home receives a small share of the business retroceded from KRIC from the first half of the retrocessions. In connection with the second half of retrocessions from KRIC, American Home receives only 1/10 of the full share allotted to local companies. Thus, American Home is doubly penalized by the KRIC allocation method.

In 1978, the portion of KRIC's business retroceded to companies operating in Korea amounted to US$66,183,000, excluding retrocessions from Automobile, Long-Term savings-type insurance, and overseas business. An equal share (i.e., one eleventh of the total), of the second half of the retrocessions from KRIC would have been US$3,008,318 in 1978.[4]

(ii) *Economic Impact of Discrimination Against U.S. Insurers.* (a) *Marine Business:* If U.S. insurers were allowed to write Marine business in Korea, it is estimated they together might write 5% of the Korean marine insurance business. American Home, the U.S. company with the longest involvement in the Korean market, might by itself write 3% of the total Korean marine business. Using these percentages and the 1978 total marine premium volume of US$86,928,000, U.S. insurers licensed to do marine business in Korea might have written premiums in the amount of US$4,346,400 and American Home might have written US$2,607,840 worth of marine insurance premiums.

It has been shown that the increase in marine premium volume is almost directly proportional to the volume of increase in trade (paragraph f(i)(A)). For example, when the total trade figures are examined, it will be seen that between 1977 and 1978 Korean trade grew by 33.2%. Marine premium volume grew 34.6%, from $64,588,000 to $86,928,000.

If the average trade figures for 1976–78 are examined, it will be seen that trade growth in Korea averaged 30% *per annum*.

Taking the more conservative 30% trade growth figure, and assuming a directly proportional increase in marine premium volume (the percentage of growth in marine premium is actually higher, as shown in the paragraph above), it is estimated that Korea's total trade in 1979 will be more than $83,710 million. A concomitant 30% increase in marine premium volume would bring the total 1979 marine premium to $113,006,400.

Therefore, in 1978, the U.S. insurers' 5% of the market would have amounted to $4,346,400; in 1979 (assuming no growth in market share) it would be an amount greater than $5,650,320.

American Home's 3% of the marine premium market would have amounted to $2,607,840 in 1978 and $3,390,192 in 1979.

(b) *Fire Pool:* If American Home had been permitted to belong to the Fire Pool in 1978, its 1/11 share of the pool premiums might have been as much as US$4,236,363, based on published Korea statistics.[5]

(c) *Reinsurance from KRIC:* In 1978, the difference in premium volume between the 1/10 share given to American Home and the full share given to each local company would have been US$2,680,377 (American Home's 1/10 share would have amounted to US$327,623 while a full share amounted to US$3,008,000.)

The total value of insurance premiums lost to American Home in 1978 as a result of the three aforementioned restrictions placed on its operations in Korea was US$9,524,560. Because the Korea economy, its foreign trade, and Korean use of insurance are all growing at such a rapid rate, the adverse economic impact on American Home from existing insurance restrictions in Korea undoubtedly will grow to ever greater proportions in future years.

(iii) As outlined above, the actions of the Government of Korea toward U.S. insurers, and American Home in particular, amount to discrimination in favor of local Korea companies and violate the *Treaty of Friendship, Commerce and Navigation* of 1956 as well as general principles governing the exchange of goods, commodities and services in international commerce.

7. Petitioner has not filed for other forms of relief under the Trade Act of 1974 or any other Act.

[1] *Major Statistics of the Korean Economy*, 1979, Economic Planning Board, Seoul, Korea (June 5, 1979).

[2] *Monthly Insurance Statistics*, September, 1979, Korea Non-Life Insurance Association.

[3] *Annual Statistics Report*, 1978, Korea Insurance Corporation.

[4] *Ibid.*

[5] *Ibid.*

Relief Requested

A this time, Petitioner seeks the right to engage in the business of general insurance in Korea, free of all restrictions not imposed on Korea national insurers.

Specifically, Petitioner seeks: (1) A marine license without conditions or restrictions (2) permission to join the Korean Fire Pool and (3) equal treatment with local insurers regarding cessions of reinsurance from KRIC.

If the Korean government is not willing to grant Petitioner such fair and equal access to the Korea insurance market, then Petitioner requests that the sanctions provided under § 301 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, be imposed against the Republic of Korea.

Background

Korean Insurance Industry

In Korea, there are 13 domestic general insurance companies and six life insurance companies. All are wholly owned by Korean nationals, except for two companies with small non-Korean equity participations. Three of the general insurers are specialized and enjoy monopolies in automobile insurance (KAICO), fidelity and surety (KFSC) and reinsurance (KRIC). Virtually all the larger fire insurance risks are pooled among the general insurers. Thus, it will be appreciated that the Korea insurance market tends toward monopoly, condoned by the government.

The government closely controls the insurance industry. For example, although the Fire Pool is established to pool risks amongst the general insurers (which are privately owned), the Government of Korea retains the right, by the enabling statute (Attachment 5), to change the internal governing regulations of the Pool at any time (Article 21).

Once the market is reduced by the business of govenment-approved monopolies, only 63.7% is available to other insurers. Of that 63.7%, only 16% is open to American Home. So, in 1978, out of US$422.1 million total market, US$67 million was potentially open to American Home, and American Home actually wrote premiums of US$3.1 million, or .73% of the total market.[6]

The Korean insurance industry is also closed; the last licensing of an indigenous insurance company took place in 1958.

It is not an infant industry deserving government protection. The Korean Government acknowledged this fact in its 1972 Five-Year Plan for Capital Money Market Development, which expressed the need for strengthening the rapidly expanding industry through participation by foreigners in joint ventures.

The statistics published by the Korean insurance industry proclaim a strong, rapidly growing and well-established industry. The following chart shows the growth in premium volume 1977–79, broken down by insurance companies. The chart is in millions of dollars, using a conversion rate of 485 Won to US$1.[7]

[6] American Home statistics.

[7] *Annual Statistics Report*, 1978, Korea Insurance Corporation.

Name of company	1977		1978		1979		
	Premium volume	Percent of total market	Premium volume	Percent of total market	Premium volume first 6 mo	Estimated annual premium volume	Estimated percent of total market
Oriental Fire and Marine Insurance Co	$21.4	8.03	$40.0	9.5	$19.8	$39.6	6.93
Shindong A Fire and Marine Insurance Co	15.4	5.78	22.4	5.30	14.6	29.2	5.14
Daihan Fire and Marine Insurance Co	18.5	6.94	23.5	5.56	14.1	28.2	4.97
International Fire and Marine Insurance Co	14.7	5.52	21.6	5.12	14.0	28.0	4.93
Koryo Fire and Marine Insurance Co	15.2	5.71	23.9	5.66	16.4	32.8	5.78
First Fire and Marine Insurance Co	16.5	6.2	23.6	5.59	14.6	29.2	5.14
Haedong Fire and Marine Insurance Co	7.9	2.97	11.2	2.65	7.8	15.6	2.75
Ankuk Fire and Marine Insurance Co	23.0	8.64	33.0	7.82	20.5	41.0	7.22
Eastern Marine and Fire Insurance Co	27.5	10.32	36.7	8.69	21.4	42.8	7.54
Pan Korea Marine and Fire Insurance Co	21.9	8.23	31.3	7.42	18.6	37.2	6.55
Subtotal	182.0		267.2		161.8	323.6	
KAICO	67.3	25.27	129.0	30.56	103.8	207.6	36.58
KFSC	14.1	5.29	22.8	5.40	15.7	31.4	5.53
American Home[1]	2.9	1.1	3.1	.73	2.5	5.0	.9
Total	266.3		422.1		283.8	567.6	

[1] American Home statistics.

The overall 1978 Korean insurance market grew in premium volume by approximately 60% over 1977 figures. Based on annualized figures for the first half of 1979, the projected 1979 growth is 34.5% above the 1978 figure. Average annual business of US$418 million, and average growth of US$150 million *per annum* does not suggest a fledgling industry.

It will be noted that American Home's market share averaged 0.91% over the three-year period in the chart above; that is, an average US$7.9 million premium volume less than the Haedong Fire and Marine Insurance Company, which has the smallest share of the market amongst the local companies. Although American Home expects an increase of 0.1% in its market share for 1979, such an increase could not be considered disruptive to the local industry.

American Home in Korea

Immediately following the Korean war, American International Underwriters (AIU), an American Home affiliate, was granted a license to sell insurance in Korea by the Supreme Commander Allied Powers (SCAP). The license allowed it to insure non-Koreans in US dollars for all lines of insurance except Life. At the time, business was primarily with the U.S. military. AIU operated under this license for many years.

Beginning in the 1960's, efforts were made to secure an expansion of the license to enable AIU and the company it represented in Korea, the American Home Assurance Company, to do business in the Korean currency and with the Korean people. The Koreans were reluctant, arguing that their fledgling insurance industry needed protection and could not stand up to foreign competition. After years of negotiation, the Korean government in 1968 formally granted American Home a Korean license to replace AIU's original SCAP license, but limited American Home to insuring foreigners in Korea in US dollars against non-Life risks. This limited license was accepted with reluctance by American Home, but assurances were given at that time by the Korean MOF that, if American Home were patient, such license would be extended "in due course".

In the decade following the granting of the limited license, senior executives of American Home's head office made frequent visits to Korea in an attempt to secure the promised extension of the license. Their discussions with the MOF were to no avail.

Meanwhile, in 1971, American Home was granted a license to write Accident insurance jointly with a local Korean company, the Eastern Marine & Fire Insurance Company. However, Accident insurance forms a very small part of the general insurance market.

Finally, in 1974, the MOF suggested that if American Home wished to write Won business for Koreans in Korea, it must form a joint venture with a Korean partner. American Home negotiated with the Whashin Industrial Group for six months and was able to conclude a Joint Venture Agreement with them.

At that point, the MOF "discovered" that local insurance companies disapproved of the Whashin Group getting into the insurance business, so the MOF found the proposal unsatisfactory. American Home was told to look for a partner already in the insurance business. Soon the MOF changed its mind again.

In June 1975 the MOF proposed that American Home form a joint venture for general insurance with the 10 existing Korean general companies as partners. American Home's holding was to be limited to 35% of the equity. This percentage was eventually raised to 45% but, according to the terms of the agreement, was to be reduced to 30% when the company was required to become public. Thus, American Home would have been denied the benefit of the Foreign Capital Inducement Law, which provides protection against such dilution of equity. The new company was to be excluded from the Fire Pool, a major source of Korean business, for an indeterminate period. Although initially

American Home was to sell its portfolio of business to the new company, the MOF later insisted that American Home's business be "donated" to the new company. In short, American Home was expected to become partners with all its competitors in a joint venture, saddled with major competitive disadvantages.

Despite the unfairness of the proposal, American Home, after considerable expenditure of time and money, told the MOF it was prepared to enter into the joint venture with the 10 local insurers in October, 1976. When advised of this decision, the MOF representative stated that the proposal was withdrawn and the whole matter of American Home's entry into the Korean market was to be re-thought.

Finding its efforts frustrated at every level, on March 25, 1977 American Home finally indicated its intention to file a Section 301 complaint with the Office of the Special Representative for Trade Negotiations. The preliminary filing of that complaint was withdrawn by American Home the day its announcement was to have been made in the Federal Register. Following the withdrawal of that complaint and the ending of American Home's opposition to the application of KRIC to operate on Guam, the MOF agreed that on July 20, 1977 it would grant a somewhat expanded license, which would enable American Home to do a certain amount of Won business with the Koreans without a Korean partner. This agreement was reached on April 8, 1977 by M. R. Greenberg, Chief Executive Officer of the parent company of American Home, and Houghton Freeman, a senior parent company official responsible for Far East operations, with Lee Dong Ho, at that time Director of the Security and Insurance Bureau of the Ministry of Finance.

A copy of a letter, dated April 9, 1977 written by American Home's Manager in Korea, Ronald C. Hugel, to Director Lee confirming Minutes of the April 8th meeting is attached (Attachment 1). The MOF refused to sign a copy of these Minutes as requested because, they said, it was not their standard procedure. The MOF did not, however, voice disagreement with any part of the contents, and retained the original. They did not return a signed copy to American Home.

Despite this agreement, the Korean government moved slowly in granting the promised license and insisted upon further concessions. American Home was required to submit a Letter of Intent dictated to it by the Korean government. A copy of this Letter of Intent, dated July 7, 1977, is also attached hereto (Attachment 6). American Home has complied with that agreement in all respects as evidenced by Attachment 3.

The MOF has not honored two items in the Agreement of April 8, 1977. Under 4(b) it was agreed that:

"Expanded operations during the first year will not include authorization to underwrite Marine insurance. Authorization to underwrite Marine insurance will be granted AIU after one year."

Item 4(e) states: "Further regarding Fire insurance it is our understanding that within one year from June 30, 1977, all joint venture business presently insured through the Fire Pool will be eliminated from the Fire Pool and AIU will be authorized to underwrite this class of business at that time. Should a decision be made during the next year not to eliminate the joint venture business from the Fire Pool then according to our understanding a verbal agreement has been reached between Director Lee Dong Ho and Mr. M. R. Greenberg stating AIU will be authorized to participate in the Fire insurance underwritten for joint venture business."

Nothing has been done by the MOF with regard to either point of the agreement or its alternate understanding. Joint ventures are still underwritten in the Fire Pool, and American Home is still not allowed to join.

American Home is currently making application for membership in the Fire Pool. According to Korean law, non-Life insurers are qualified to join the Fire Pool *(Law regarding Fire Insurance and Liability Insurance due to Fire,* Article 21). "Non-Life insurers" are defined as insurance companies duly license under Article 5 of the *Insurance Business Law.* American Home is so licensed.

As of the date of this Petition, American Home is able to operate in seven areas, with varying degrees of restriction.

(1) *Foreign Business:* American Home is able to sell every type of insurance it offers in Korea—but only to non-Koreans. It also competes with indigenous local companies for the business of non-Koreans.

(2) *Fire Business:* American Home may compete for any fire insurance business which is not in the Fire Pool. That means, basically, it is relegated to insurance of small homes, shops, and some peasant farms. No major buildings or businesses may be insured outside the Fire Pool, of which American Home is not a member.

(3) *Workmen's Compensation:* Almost all of this business is carried by the State Fund Scheme; American Home competes with local insurers for a miniscule amount of business.

American Home is also permitted to compete for Won business in casualty (Liability/burglary/glass), Inland Marine, Personal Accident and Health, and Engineering Insurance lines.

On the other hand, American Home is *not* permitted to write marine business, which in 1978 accounted for 20.8% of the total market; nor can it write Auto insurance, which was 30.9% of the 1978 market; nor can it write bonds (5.4% of the 1978 market); nor can American Home write Long-Term insurance (Savings-Type, Fire, Personal Accident), or Aviation lines.

American Home has been an active and friendly force in the Korean insurance market, as detailed in Attachments 3 and 7. American Home has trained local Koreans in the industry, has introduced new policy lines, has aided and advised Korean insurers in establishing world-wide business, and has provided numerous other services to the local industry. American Home's cessions to KRIC increase each year.

American Home in Korea has complied with all Korean laws with regard to statutory deposits, reserves, taxes, retention limits, reinsurance cessions, satisfying the same requirements as Korean insurers. However, American Home is being limited and discriminated against with regard to the share of the market available to it.

Although in the agreement preceding the granting of the expanded license, American Home agreed to the above-described limitations and discrimination for a period of time, the Korean MOF has not honored its side of the agreement and has allowed the discrimination to continue.

Referring to Article VII of the *Treaty of friendship, Commerce & Navigation between the U.S. and the Republic of Korea,* American Home contends that it is not being "accorded treatment no less favorable than that accorded like enterprises controlled by nations and companies of such other parties."

Sincerely,

Patrick J. Foley,

Vice President and General Counsel.

Note.—The attachments to the Complaint are not published in the Federal Register. They are available in the public reading file of the Section 301 Committee, Office of the Special Trade Representative, Room 715, 1800 G Street, Washington, D.C.

Interested parties are invited to submit views on the petition. Submissions should conform to the requirements for section 301 complaints and comments as outlined in the Code of Federal Regulations (15 CFR 2006). Twenty copies of the submission should be sent to Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Room 715, Washington, D.C. 20506. Submissions should be received by the Chairman no later than the close of business on January 2, 1980.

Michael Gadbaw,

Chairman, Section 301 Committee.

[FR Doc. 79-38844 Filed 12-18-79; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21333; 70-6386]

Arkansas Power & Light Co.; Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

December 7, 1979.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to issue and sell up to 2,000,000 shares of a new series of its Preferred Stock, cumulative, $25 par value, subject to the Competitive bidding requirements of Rule 50 under the Act. The new preferred stock will be created by appropriate corporate action and, except as to designation, dividend rate, the date from which dividends commence to accumulate, redemption premiums, the terms and conditions of redemption, a sinking fund, and matters pertaining to par value and certain voting rights, will have the same characteristics as, and rank *paripassu* with, the presently outstanding preferred stock of Arkansas.

The dividend rate of the new preferred stock (which will be a multiple of ½₅ths of 1%) and the price to be paid to Arkansas (which will be not less than $25 nor more than $25.70 per share, plus accumulated dividends, if any) will be determined by competitive bidding. The terms of the new preferred stock will include a prohibition, until January 1, 1985, against refunding such stock, directly or indirectly, with the proceeds of funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with the new preferred stock as to dividends or assets, at a lower effective dividend cost.

The terms of the new preferred stock will include provisions for a sinking fund designed to redeem at $25 per share, plus accumulated dividends, 100,000 shares on each January 1 commencing in the year 1985, with Arkansas having a non-cumulative option to redeem an additional 100,000 shares on each January 1 during the sinking fund redemption period.

Arkansas intends to use the net proceeds derived from the issuance and sale of the new preferred stock for the payment of short-term indebtedness incurred or estimated to be incurred to finance Arkansas' construction program, estimated to cost approximately $285,990,000 during 1980.

The fees and expenses paid or to be incurred in connection with the proposed transaction are estimated to total $170,000, including counsel fees of $52,500, accountants' fees of $16,000, and fees of Middle South Services, Inc., at cost of $8,500. It is stated that the Arkansas Public Service Commission and the Tennessee Public Service Commission have jurisdiction over the issuance and sale of the new preferred stock by Arkansas and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-38331 Filed 12-18-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 10983; 812-4533]

John Hancock Cash Management Trust, and John Hancock Distributors, Inc.; Filing of an Application for an Order of the Commission Amending a Previous Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Rules 2a-4 and 22c-1 Under the Act

December 13, 1979.

Notice is hereby given that John Hancock Cash Management Trust ("Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, and John Hancock Distributors, Inc. ("Distributors") John Hancock Place, P.O. Box 111, Boston, Massachusetts 02117, the principal underwriter for the Fund (referred to collectively with Fund as "Applicants") John Hancock Place, P.O. Box 21, Boston, Massachusetts 02117, filed an application on November 16, 1979, and an amendment thereto on December 7, 1979, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated October 19, 1979 (Investment Company Act Release No. 10906). This earlier order, pursuant to Section 6(c) of the Act, exempted Applicants from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit the Fund to compute its net asset value per share, for purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicants state that the Fund is "money market" fund, designed as an investment vehicle for individuals, institutions and fiduciaries with temporary cash balances or cash reserves. The Fund's investment objective is to provide maximum current income consistent with capital preservation and liquidity. According to the application, the Fund invests exclusively in high-quality money market instruments consisting of (i) obligations issued or guaranteed as to principal or interest by the United States Government, or an agency or authority controlled or supervised by and acting as an instrumentality of the United States Government pursuant to authority granted by Congress; (ii) obligations (including certificates of deposit and bankers acceptances) of United States banks and savings and loan associations which at the date of the investment have capital, surplus and undivided profits (as of the date of their most recent published financial statements) in excess of $100,000,000, including obligations of foreign branches of United States banks and United States branches or agencies of foreign banks if such banks meet the stated qualifications; (iii) commercial paper which at the date of the investment is rated (or guaranteed by a company whose commercial paper is rated) A-1 by Standard and Poor's Corporation, P-1 by Moody's Investors Service, Inc., or F-1 by Fitch's Investors Service or, if not rated, issued by a company which at the date of the investment has an outstanding debt issue rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's; (iv) corporate obligations maturing in one year or less which at the date of the investment are rated A or higher by Standard & Poor's or A or higher by Moody's; and (v) repurchase

agreements with respect to any of the foregoing obligations. In this regard, Applicants represent that investments in repurchase agreements will be limited to transactions with financial institutions believed by the Fund's investment adviser to present minimal credit risks. Applicants further state that John Hancocok Advisers, Inc. serves as the investment adviser to the Fund ("Adviser").

Applicants represent that pursuant to the earlier order of the Commission dated October 19, 1979, the Fund presently computes its net asset value per share to the nearest one cent on a share value of one dollar using the "penny rounding" method of valuation. Applicants now seek an order of the Commission, pursuant to Section 6(c) of the Act, amending this earlier order, which amended order would exempt Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Fund's assets to be valued according to the amortized cost valuation method. Applicants state that under the amortized cost method, portfolio instruments are valued at cost on the date of acquisition, and the difference between cost and the face amount of the instrument is amortized over the maturity of the instrument. For example, Applicants represent that if an instrument is acquired at a discount from its face value, the discount would be amortized to maturity, resulting in the Fund's realizing income in a steady flow of equal increments. Applicants further assert that by valuing the Fund's portfolio instruments at amortized cost and declaring dividends daily, the Fund will achieve constant net asset value with respect to instruments held to maturity.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefore issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemble security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicants state that they believe that the Fund's shareholders would be unfairly treated if the Fund were forced to price its portfolio instruments in a manner which would produce artificial price and yield volatility for instruments which the Fund expects to hold until maturity. Applicants believe that potential investors in the Fund's shares—whether individuals or institutions—are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost as described above. Applicants further believe that such potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis. Applicants state that they believe that potential investors may forgo investment in a fund which does not meet these requirements.

Applicants further state that by maintaining a portfolio of high quality money market instruments of short maturities, they believe that it will be possible to provide the required stability to individuals and institutional investors. Applicants state that they, with the advice of the Adviser and based on the Adviser's experience, have determined that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of the Fund's investors by obviating the possibility of significant volatility in the value of portfolio instruments while at the same time accomplishing a yield on portfolio instruments commensurate with yields available in the general money market.

Applicants further state that they believe that computing the value of the Fund's portfolio instruments at amortized cost as described above will facilitate maintaining a constant net asset value per share of $1.00 under usual or ordinary circumstances and will thereby permit the Fund to serve the interests and requirements of its shareholders.

Applicants further state that their request for exemption is based on the Fund's existing management policies. Applicants have agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

(1) In supervising the Fund's operations and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the Fund's Trustees undertake—as a particular responsibility within their overall duty of care owed to the Fund's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objective, to stabilize the Fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included within the procedures to be adopted by the Trustees shall be the following duties and responsibilities:

(a) Review by the Trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Fund's $1.00 amortized cost price per

share, and the maintenance of records of such review.[1]

(b) In the event that such deviation from the Fund's $1.00 amortized cost price per share exceed one-half of one percent, a requirement that the Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Trustees believe that the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, the Trustees shall take such action as they deem appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of the Fund; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.[2]

(3) The fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; *provided,* however, that the Fund will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[3]

(4) The Fund will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and the Fund will include in the minutes of Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to the rules adopted under Section 31(a) of the Act.

(5) The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Trustees determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by the Trustees.

(6) The Fund will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, the Fund will describe the nature and circumstances of such action.

Applicants note that under the conditions to the granting of the exemption described above (specifically, conditions 1 and 2) even under unusual or extraordinary circumstances there is little risk of unfairness to or dilution of existing shareholders. Applicants assert that this is so because the Trustees have undertaken promptly to consider appropriate action if amortized cost valuation of the Fund's security portfolio deviates from market valuation by more than one-half of one percent. Finally, Applicants state that they believe they would be at a competitive disadvantage in selling the Fund's shares if the Fund were not permitted to use amortized cost valuation as set forth above.

Applicants represent that the Fund's Trustees have determined in good faith that, in light of the characteristics of the Fund, amortized cost valuation is appropriate and preferable to the use of market valuation. According to Applicants, the Trustees have further determined that the Trustees and the Adviser will monitor valuations indicated by methods other than the amortized cost method so that any necessary changes in the portfolio or in the valuation method may be made to assure that the valuation method being used results in a close approximation of fair value in view of all pertinent factors.

On the basis of the foregoing, Applicants submit that the exemptions they request are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 3, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-38327 Filed 12-18-79; 8:45 am]
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[1] The Fund states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Trustees in the exercise of their discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In determining what action might be appropriate under this condition, the Trustees further proposed to consider the possibility of splitting, combining or otherwise recapitalizing outstanding shares of the Fund.

[3] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[File No. 1-7257]

La Quinta Motor Inns, Inc., Common Stock, Par Value $0.10; Application To Withdraw From Listing and Registration

December 10, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. La Quinta Motor Inns' ("La Quinta's") common stock was listed and registered for trading on the Amex on November 27, 1978.

2. La Quinta's common stock became listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE") on April 18, 1979. Simultaneously, Amex suspended trading in the issue pursuant to Rule 12d2-1 of the Act.

3. La Quinta has determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining common stock listings on both the Amex and NYSE.

This application relates solely to withdrawal of the applicant's common stock from listing and registration on the Amex and will have no effect upon the continued listing of that stock on the NYSE. The Amex has posed no objections in this matter.

Any interested person may, on or before December 28, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-38930 Filed 12-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16423; File No. SR-MSTC-79-3]

Midwest Securities Trust Co.; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 3, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

MSTC Proposed Retroactive Surcharge for Bulk Inventory Deposits

"Bulk Inventory Deposits" are defined as those assets which were deposited physically at MSTC from 1976 through October 31, 1979.

The valuation of the bulk inventory deposits will be determined by:

1. Establishing the market value of securities held in the major Chicago bank participant accounts at MSTC as of October 31, 1979 (valuation as of October 31, 1979)

2. Subtracting from the valuation of assets held as of October 31, 1979 an amount equal to the value of bookentry movements made to the respective accounts in the acquisition of new business. (i.e. bookentry movements of account transfers from other institutions in the depository system). (bookentry movements of new business: Note I)

3. "Adjusted value" of bulk deposits will be established by subtracting "bookentry movements of new business" from "valuation as of October 31, 1979" which equals the "adjusted value" which is subject to the proposed surcharge (Note I).

The surcharge which has been established as being $.02 per $1,000 valuation will then be multiplied by the "Adjusted Value" to determine the total surcharge which each participant is subject to.

Calculation

Value of assets held at MSTC as of October 31, 1979
  less
Value of assets moved to participants account via bookentry movements for account transfer. (Note I)
  equal
Adjusted value of securities held
  multiplied by
$0.02 per $1,000 valuation
  equals
MSTC Bulk Inventory Surcharge

Note I.—Bookentry movements of purchase transaction to a participant account are not to be considered deductible as MSTC assumes most purchase transactions are offset by the sale of assets which were deposited at MSTC and for which MSTC incurred the cost of re-registration and safekeeping.

MSTC Proposed Surcharge on Deposits Effective November 1, 1979

The following proposed fees and surcharges will be applicable to all MSTC participants for all securities delivered physically to MSTC facilities located in Chicago or regionally (Depository Input Satellites: DIS) assuming said securities are definitive and will eventually be processed by MSTC in Chicago for the purpose of re-registration.

The proposed surcharge will be at a rate of $0.02 per $1,000 valuation for each deposit consisting of securities which have a value in excess of $15,000.

The $0.02 charge will be considered a surcharge and in addition to the standard deposit fee: an example being; a deposit valued at $25,000 would incur the standard deposit fee with an additional surcharge fee of 20¢, (10,000 × .02 per $1,000).

In conjunction with the above described surcharge a rate increase for each deposit processed (assumes maximum $15,000 valuation without being subject to surcharge) will be increased, effective November 1, from the current $0.70 deposit to $0.80 ($0.75 for p.m. deposit).

Basis and Purpose of Proposed Rule Change

In the last several years, MSTC has experienced a significant increase in the number of shares and dollar value of safekeeping positions. This is mainly attributed to several Chicago institutions making bulk deposits as they transferred large positions from their respective vaults to MSTC. The rate of deposits has accelerated during the last three-four months.

MSTC incurs two primary costs in processing these bulk deposits; namely, the physical clerical processing costs and the courier service costs to move certificates to and from transfer agents (mostly outside of Chicago) to re-register them into nominee name. MSTC charges a deposit charge, currently $0.70, for a deposit item. This charge is predicated on an assumption that each deposit will contain only a few certificates and have a dollar value within a certain range.

When bulk deposits are made, each item contains a number of certificates, measured in inches and occasionally feet, and is of a dollar value many times greater than a normal deposit. As a result, MSTC incurs costs well in excess of the revenue received for the item.

The bulk of MSTC's deposits have and will continue to come from the Chicago banks. These banks, along with the Midwest Stock Exchange community, were committed to build a Chicago depository. However, the funds for building the system came primarily from the broker/dealers who had used the basic clearing system and paid for services which had built up equity. The banks had not made similar contributions and have only made payment for recent services which do not sufficiently cover costs.

Because a large amount of recent deficits can be attributed to the one-time cost of processing deposits (i.e. clerical handling and courier costs to re-register certificates), MSTC believes it appropriate to impose a temporary surcharge on bulk deposits. This will contribute favorably to the present operating deficit and make up some of the accumulated deficits.

In proposing this surcharge, MSTC has also considered the fact that the banks have been involved at different levels of activity and some have progressed at a faster rate than others in bringing their securities into the Depository. To be equitable, the positions at October 31, 1979 should be determined and a surcharge applied to these positions as well as their future position additions, but paid over future time.

This two phase approach to the surcharge would provide relief to the additional costs associated with bulk deposits, partially make up incurred deficits caused in some degree to the past deposits, and maintain equity between the Chicago bank participants who originally made a commitment to support the development of a Chicago-based depository as part of the national system.

The proposed rule change represents an equitable allocation of reasonable dues among its participants. It also assures prompt and accurate clearance and settlement of security transactions and fosters cooperation and coordination among persons engaged in the clearance and settlement of security transactions by making the Midwest Securities Trust Company more competitive.

The Midwest Securities Trust Company has neither solicited nor received any comments.

The Midwest Securities Trust Company believes that no burdens have been placed on competition.

The proposed rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 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 referenced above and should be submitted on or before January 9, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

December 13, 1979.

[FR Doc. 79-38924 Filed 12-18-79; 8:45 am]

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[Release No. 34-16425; File No. SR-NASD-79-11]

National Association of Securities Dealers, Inc.; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is herby given on October 18, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Association's Statement of the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") proposes to adopt new Rules regarding arbitrations, amending its existing Code of Arbitration Procedure. The new rules are being adopted to conform the Association's arbitration rules to the Uniform Code of Arbitration developed by the Securities Industry Conference on Arbitration.

Purpose of Proposed Rule Change.—The procedures set forth in the proposed Uniform Arbitration Code were developed by the Securities Industry Conference on Arbitration which is composed of representatives of the National Association of Securities Dealers, Inc. and 9 other self-regulatory organizations is anticipated that the Uniform Arbitration Code will eventually be adopted by each of these self-regulatory organizations and will provide for a uniform system of arbitration throughout the securities industry. The proposed uniform code will enable each of the self-regulatory organizations to provide investors with a simple and inexpensive procedure for the resolution of controversies with brokerage firms. The provisions of the Uniform Arbitration Code have been incorporated into new Parts II and III of the Association's Code of Arbitration Procedure, with minor grammatical changes.

A change was also made to Section 1, "Matters Eligible for Submission," under new Part I, which is not part of the uniform code. The phrase "securities related" has been deleted before "dispute," so that any dispute, claim or controversy arising out of or in connection with the business of any member may now be arbitrated. This change, which was made to conform to the uniform code, will make arbitrable certain disputes involving a member's business which were not previously eligible for arbitration.

At the same time, the Association has added an exception which would exclude from arbitration "disputes involving the insurance business of any member which is also an insurance company." The Association based its determination to exclude such disputes on its belief that the number of insurance-only claims involving insurance companies is so disproportionately large in relation to their securities business that to include such claims would unduly burden the arbitration system. In addition, the inclusion of such claims could result in a requirement to arbitrate matters that are intrinsically insurance, that is, matters with respect to which the Association does not believe it should mandate arbitration.

Basis Under the Act for Proposed Rule Change.—The proposed amendment to the Code of Arbitration Procedure is consistent with section 15A(b)(6) of the Securities Exchange Act of 1934. As proposed, the Code will incorporate the provisions of the Uniform Arbitration Code, thereby providing a more effective, efficient and economical dispute resolution system for the public and the members of the securities industry and, consequently, protecting investors and the public interest.

Comments Received from Members, Participants or Others on Proposed Rule Change.—Section 37 of the Association's Code of Arbitration Procedure provides that the Board of Governors may amend the Code without recourse to the membership. Comments of the membership were not solicited or received.

Burden on Competition.—The Association believes that no burden on competition is imposed by the proposed changes. In fact, the changes may result in improved competition because members of the Association will be subject to the same arbitration procedures as are members of the other self-regulatory organizations that adopt the Uniform Arbitration Code.

On or before January 23, 1980, or within such longer period (i) as the Commission may designate up to ninety (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 above-mentioned 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.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Person desiring to make written submissions should file six (6) copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the 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 referenced in the caption above and should be submitted by January 9, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

December 14, 1979.

[FR Doc. 79-38923 Filed 12-18-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-6869]

Prime Motor Inns, Inc., Common Stock, Par Value $0.05; Application To Withdraw From Listing and Registration

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Prime Motor Inns' ("Prime's") common stock was listed and registered for trading on the Amex on March 15, 1972.

2. Prime's common stock became listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE") on November 15, 1979. Simultaneously, Amex suspended trading in the issue pursuant to Rule 12d2-1 of the Act.

3. Prime has determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining common stock listings on both the Amex and NYSE.

This application relates solely to withdrawal of the applicant's common stock from listing and registration on the Amex and will have no effect upon the continued listing of that stock on the NYSE. The Amex has posed no objections in this matter.

Any interested person may, on or before December 28, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of Investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-38929 Filed 12-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10982; 812-4321]

Vance, Sanders Municipal Bond Fund, Ltd., et al.; Filing of Application for Amended Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Section 2(a)(19) of the Act

December 13, 1979.

Notice is hereby given that Vance, Sanders Municipal Bond Fund, Ltd., ("Bond Fund") One Beacon Street, Boston, Massachusetts 02108, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, Eaton & Howard, Vance Sanders Inc. ("EHVS"), investment adviser and principal underwriter for Bond Fund, and Eaton & Howard, Vance Sanders Distributors Inc. ("Distributors"), a newly formed wholly owned subsidiary of EHVS which will assume all of EHVS's activities as principal underwriter for Bond Fund (Bond Fund, EHVS and Distributors are hereinafter referred to collectively as "Applicants"), filed an application on September 10, 1979, for an order, pursuant to section 6(c) of the Act, amending a prior order of the Commission ("Prior") (Investment Company Act Release No. 10804, August 2, 1979) so that William M. Griffin shall not be deemed to be an "interested person" of Bond Fund, EHVS or Distributors within the meaning of Section 2(a)(19) of the Act by reason of his status as: (a) a director, executive vice president and chairman of the finance committee of Hartford Fire Insurance Company ("Hartford Fire"); (b) a director and president of Hartford Securities Company, Inc. ("Hartford Securities"), a registered broker-dealer and a wholly owned subsidiary of Hartford Fire; (c) a director, vice president and chairman of the finance committee of Hartford Life Insurance Company, ("Hartford Life") another wholly owned subsidiary of Hartford Fire; and (d) a director, vice president and chairman of the finance committee of Hartford Variable Annuity Life Insurance Company ("Variable Annuity"), a wholly owned subsidiary of Hartford Life and parent of Hartford Equity Sales Company, Inc. ("Equity Sales"), a registered broker-dealer (such companies are hereinafter referred to as "Hartford Fire and certain subsidiaries"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

According to the application, EHVS intends to change its structure so that all of the activities it now performs as principal underwriter for Bond Fund and other funds in the EHVS group will be performed by Distributors. Because the Prior Order exempted Griffin from the definition of "interested person" contained in Section 2(a)(19) of the Act only to the extent he would otherwise be deemed to be an "interested person" of Bond Fund and EHVS, Applicants have requested that the Prior Order be amended to exempt Griffin from the definition of "interested person" to the extent he would otherwise be deemed to be an "interested person" of Distributors.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company, and of any investment adviser of or principal underwriter for an investment company, to include, *inter alia*, any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, *inter alia*, any director, officer or employee of such other person. In view of Griffin's associations with Hartford

Fire and certain subsidiaries person of Hartford Securities and, possibly, of Equity Sales, Thus, Griffin appears to be an "interested person" of Bond Fund, EHVS and Distributors and Applicants request that the Prior Order be amended in the manner set forth above.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any of the provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that Griffin's relationships with Hartford Fire and certain subsidiaries will not impair his independence in acting on behalf of Bond Fund. They state that Hartford Securities has never acted as a broker or dealer or engaged in securities transactions for any person not an affiliate of Hartford Fire and that the business of Equity Sales relates solely to the marketing of variable annuity contracts issued by Variable Annuity. Applicants represent that: (1) Hartford Securities and Equity Sales do not intend to sell securities to, or to purchase any securities from, Bond Fund; (2) Bond Fund will not purchase securities from or through Hartford Securities or Equity Sales; and (3) such undertakings will not adversely affect Bond Fund.

Notice is further given that any interested persons may, not later than January 7, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-38928 Filed 12-18-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-5207]

Capital-Management Services, Inc.; Filing of Application for Transfer of Control

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to 13 CFR 107.701 (1979) for the transfer of control of Capital-Management Services, Inc. (licensee), a small business investment company licensed by the Small Business Administration on March 14, 1979, and operating under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Licensee, an Arkansas Corporation with its principal place of business located at 4801 North Hills Boulevard, North Little Rock, Arkansas 72116, was owned and managed by the following persons:

Name and office	Percent of ownership
Louise Lingo, 1918 Broken Bow, North Little Rock, Arkansas 72216, President, Director	6.5
Mahesh Kapadia, 813 Koehler, Sherwood, Arkansas 72116, Vice President, Director	7.8
George S. Ivory, Jr., 17 Lakeside Drive, Little Rock, Arkansas 72204, Secretary, Director	3.3
C. W. Tracy, Route 1, Box 648, Benton, Arkansas 72015, Treasurer, Director	16.4
David L. Hale, 2823 North Pierce, Little Rock, Arkansas 72207, General Manager, Director	36.5
Robert Byrns, P.O. Box 808, Cabot, Arkansas 72023, Director	16.4
C. C. Jones, 1715 West 35th Street, North Little Rock, Arkansas 72116, Director	13.1
Total	100.0

In connection with the recapitalization of the licensee from $151,500 to $500,500, the licensee underwent a transfer of ownership and control subject to this Agency's approval. New officers, directors and stockholders are listed below:

Name and office	Percent of ownership
David L. Hale, 2823 North Pierce, Little Rock, Arkansas 72207, President, Director	36.0
F. C. James, 6514 Sherry Drive, Little Rock, Arkansas 72204, Vice President, Director	12.5
Mahesh Kapadia, 813 Koehler, Sherwood, Arkansas 72116, Vice President, Director	2.5
Fred J. Weaver, Route 2, Vilonia, Arkansas 72173, Secretary, Director	12.5
Sam Southerland, Route 5, Box 216, Conway, Arkansas 72032, Treasurer, Director	3.0
George S. Ivory, Jr., 17 Lakeside Drive, Little Rock, Arkansas 72204, Assistant Secretary, Director	1.0
Charles H. Bishop, Route 7, Box 1799-K, Benton, Arkansas 72015, Director	12.5
Carter Dennis, 10485 Julie Beth, Cypress, California 90630, Stockholder	12.5
James C. Diemer, 14 Nitawood Drive, Little Rock, Arkansas 72206, Stockholder	7.5
Total	100.0

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new shareholders and management, and the probability of successful operations of the company under such management (including profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any person may submit written comments on the proposed transfer of control to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, not later than January 3, 1980.

A copy of this notice shall be published in a newspaper of general circulation in North Little Rock, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 12, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-38901 Filed 12-18-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1741]

New York; Declaration of Disaster Loan Area

Essex County and adjacent counties within the State of New York constitute a disaster area as a result of damage caused by excessive rainfall which occurred on November 26-27, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 8, 1980, and for economic injury until the close of business on September 10, 1980, at:

Small Business Administration, District Office, Federal Bldg., Room 1073, 100 South Clinton Street, Syracuse, New York 13260 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 10, 1979.

William H. Mauk,

Acting Administrator.

[FR Doc. 79-38925 Filed 12-18-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Pub. Notice CM-8/252]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 10, 1980 at 9:30 a.m. in Conference Room B841, Department of Commerce Building, 14th Street and Constitution Avenue, Washington, D.C.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to review results of the 1979 World Administrative Radio Conference in relation to the U.S. Study Group 1 program of work in preparation for the international meeting of Study Group 1 in June 1980.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

December 10, 1979.

[FR Doc. 79-38935 Filed 12-18-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

Tariff Classification of Substantially Complete Articles

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice—Request for Public Comments.

SUMMARY: Customs is soliciting public comments concerning the tariff classification of substantially complete articles as either unfinished articles or as parts of finished articles, in view of the decision of the U.S. Court of Customs and Patent Appeals in *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States,* C.A.D. 1228 (1979). Comments are requested concerning the application of *Daisy-Heddon* to Customs tariff classification rulings regarding merchandise imported in substantially completed form.

DATE: Comments must be received on or before March 18, 1980.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

Customs published a general notice in the Federal Register on October 17, 1979 (44 FR 59984), requesting public comments by December 17, 1979, concerning the application of an oppinion of the U.S. Court of Customs and Patent Appeals *(Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States,* C.A.D. 1228 (1979)], to the tariff classification of cab chassis.

In that opinion, which expressly overruled the majority opinion in *Authentic Furniture Products, Inc.,* v. *United States,* 61 CCPA 5, C.A.D. 1109 (1973), but approved the result reached, the court stated:

* * * There are several factors which may come into play in the determination of whether an article is substantially complete. In a case, such as this, where the article is incomplete due to the omission of one or more parts, as opposed to where an article is incomplete because the material which comprises the article is in need of further processing, the following factors can be relevant: (1) comparison of the number of omitted parts with the number of included parts; (2) comparison of the time and effort required to complete the article with the time and effort required to place it in its imported condition; (3) comparison of the cost of the included parts with that of the omitted parts; (4) the significance of the omitted parts to the overall functioning of the completed article; and, (5) trade customs, i.e., does the trade recognize the importation as an unfinished article or as merely a part of that article. This list of factors is not exhaustive; it must be recognized that fewer than all of the above factors, or additional factors, may come into play depending on the particular importation. The outcome of each case will always depend on the particular merchandise involved. It would be over-simplification of an essentially difficult juridical problem, often involving a determination of congressional intent, for us to attempt to provide anything more than guidelines for the trier of fact to follow in assessing a given case. * * *

While the notice of October 17, 1979, requested comments concerning the specific issue of the tariff classification of cab chassis, Customs is concerned that the court's opinion in *Daisy-Heddon* may affect other Customs rulings regarding the tariff classification of merchandise imported in substantially complete condition, especially those in which the issue addressed was whether an article was classifiable as an unfinished article or as part of a finished article.

To assist Customs in determining which, if any, tariff classification rulings may be affected, and to assist in re-evaluating those rulings in view of the court's opinion, comments from the public, identifying specific rulings and offering opinions concerning the application of *Daisy-Heddon* to each, are requested.

Comments

Consideration will be given to any written comments, preferably in triplicate, timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other

Customs offices participated in its development.

William T. Archey,

Acting Commissioner of Customs.

Approved: December 10, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-38951 Filed 12-18-79; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 10]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $388,000 has been established for the company.

Name of Company, Business Address, and State In Which Incorporated

The Personal Service Insurance Co., 100 East Gay Street, Columbus, Ohio 43215, Ohio.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 12, 1979.

D. A. Paglia,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79-38332 Filed 12-18-79; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Performance Review Board

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of 5 USC 4314(c)(4), notice is hereby given of the names of the members of the Performance Review Boards in the Veterans Administration.

DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: A. W. Brand, Jr., Office of Personnel (CSRS-05A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202-389-2279).

The members of the VA's performance review boards are:

VA/Wide Performance Review Board

Richard S. Sweet, Assistant Deputy Administrator for Manpower.
John J. Leffler, Associate Deputy Administrator.
Maury S. Cralle, Jr., Assistant Deputy Administrator for Financial Management and Construction.
Robert D. Vaughn, Assistant Deputy Administrator for Administration and Logistics.
James C. Crutcher, M.D., Chief Medical Director.
Dorothy L. Starbuck, Chief Benefits Director.
Carl T. Noll, Chief Memorial Affairs Director.
Guy H. McMichael III, General Counsel.
William R. Martin, Assistant Administrator for Data Management and Telecommunications.
Sydney J. Shuman, Chairman, Board of Veterans Appeals.
Conrad R. Hoffman, Controller.
Richard D. Brady, Assistant Administrator for Personnel.
Frank R. Hood, Assistant Administrator for Information Services.
Martin D. Carlin, Assistant Administrator for Planning & Program Evaluation.
Viggo P. Miller, Assistant Administrator for Construction.
Charles E. Clark, Assistant Administrator for Human Goals.
Homer D. Burge, Jr., Director, Office of Manpower Programs.

Department of Medicine and Surgery, Performance Review Board

Thomas J. Fitzgerald, M.D., Associate Deputy Chief Medical Director.
Mansell G. Piper, Executive Assistant to Chief Medical Director.
Donald B. Thompson, Executive Assistant to Deputy Chief Medical Director.
Paul E. Wisenbaugh, M.D., Deputy Associate Deputy Chief Medical Director for Operations.
William Jacoby, M.D., Deputy Associate Deputy Chief Medical Director for Program Management.
Charles V. Yarbrough, Director, Management Support Staff.
Carlton M. Smith, Director, Northeastern Region.
Charles R. Paulk, Director, Mid-Atlantic Region.
Dan G. Kradovack, Director, Southeastern Region.
James H. Caldwell, Jr., Director, Great Lakes Region.
Thomas P. Mullon, Director, Mid-Western Region.
John J. Peters, Jr., Director, Western Region.

Department of Veterans Benefits, Performance Review Board

Anthony J. Bochicchio, Deputy Chief Benefits Director.
Maurice L. Howells, Field Director, Eastern Region.
John W. Hagan, Jr., Field Director, Central Region.
John P. Travers, Field Director, Western Region.
Jerome C. Peckarsky, Director, Compensation and Pension Service.
James J. Cox, Director, Veterans Assistance Service.
Andrew H. Thornton, Director, Education and Rehabilitation Service.
Robert C. Coon, Director, Loan Guaranty Service.

Dated: December 11, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

[FR Doc. 79-38313 Filed 12-18-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Exception No. 17 to Rev. Service Order No. 1312]

Chicago and North Western Transportation Co.; Railroad Car Service Orders

Because of the inability of the railroad to assemble the cars, a movement of twenty-five (25) loaded covered hopper cars will be seriously delayed on the Chicago and North Western Transportation Company (CNW) enroute to Tacoma, Washington. Deaver-Meyer Grain Company desires to ship a twenty-five (25) car unit-grain-train to Tacoma routed CNW-BN. The consignee at Tacoma is badly in need of the grain, but only twenty-two (22) covered hoppers have arrived at the loading point of Long Pine, Nebraska. Section (a) of Revised Service Order No. 1312 authorize any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, the Chicago and North Western Tansportation Company is authorized to operate a twenty-five (25) car unit-grain-train from Long Pine, Nebraska, to Tacoma, Washington, comprised of twenty-five (25) privately owned covered hopper cars, on a one trip basis, with a minimum of twenty-two (22) loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number

of cars or allowable weight percentage, as set forth in Section (b) of this Service Order. This exception applies to privately owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or (25) cars. Partial movement of ( ) tons or (22) cars forwarded authority Exception No. 17 to ICC Revised Service Order No. 1312. ( ) tons or (3) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective November 14, 1979.

Expires 11:59 p.m., November 28, 1979.

Issued at Washington, D.C., November 14, 1979.

Robert S. Turkington,

Acting Director.

[FR Doc. 79-38832 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

[Rule 19; Ex Parte No. 241, 33d Rev. Exemption No. 129]

Exemption Under Provision of Mandatory Car Service Rules

It appearing, that the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC-RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Green Mountain Railroad Corporation [1]
Reporting Marks: GMRC
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
St. Louis Southwestern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company [1]
Reporting Marks: SOU

Effective December 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., November 28, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-38831 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

[Rule 19; Ex Parte No. 241; 75th Rev. Exemption No. 92]

Exemption Under Provision of Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
*The Ahnapee & Western Railway Company
Reporting Marks: AHW
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company
Reporting Marks: AN
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
Cadiz Railroad Company
Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Princeville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Delta Valley & Southern Railway Company
Reporting Marks: DVS
Detroit, Toledo and Ironton Railroad Company
Reporting Marks: DT&I-DTI
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Galveston Wharves
Reporting Marks: GWF
Genessee and Wyoming Railway Company
Reporting Marks: GNWR
Green Mountain Railroad Corporation [1]
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
The Hutchinson and Northern Railway Company
Reporting Marks: HN
Helena Southwestern Railroad Company
Reporting Marks: HSW
Illinois Terminal Railroad Company
Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc., d.b.a. The Hoosier Connection
Reporting Marks: HOSC
See footnote 2.
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lancaster and Chester Railway Company
Reporting Marks: LC
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Longview, Portland & Northern Railway Company
Reporting Marks: LPN
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
McCloud River Railroad Company
Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT-BKTY
See footnotes 2.
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Orleans Public Belt Railroad
Reporting Marks: NOPB

[1] Addition.

New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
Octararo Railway, Inc.
Reporting Marks: OCTR
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Port of Tillamook Bay Railroad
Reporting Marks: POTB
Providence and Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
St. Lawrence Railroad
Reporting Marks: NSL
St. Louis Southwestern Railway Company
Reporting Marks: SSW
St. Marys Railroad Company
Reporting Marks: SM
Sandersville Railroad Company
Reporting Marks: SAN
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Sierra Railroad Company
Reporting Marks: SERA
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company [1]
Reporting Marks: SOU
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Union Railroad of Oregon
Reporting Marks: UO
Vermont Railway, Inc.
Reporting Marks: VTR
Virginia Central Railway
Reporting Marks: VC
Wabash Valley Railroad Company
Reporting Marks: WVRC
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

Effective December 1, 1979, and continuing in effect until further order of this Commission.

Issued as Washington, D.C., November 28, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-38834 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

[No. 37286; Ex Parte 357A]

Kentucky Intrastate Rail Freight Rates and Charges—Bituminous Coal

Decided: December 3, 1979.

By joint petition filed on October 9, 1979, the Illinois Central Gulf Railroad Company, the Southern Railway Company, and the Cincinnati, New Orleans and Texas Pacific Railway Co., railroads operating in intrastate commerce in Kentucky, request that this Commission institute an investigation of Kentucky intrastate freight rates and charges on bituminous coal, under 49 U.S.C. 11501 and 11502.[1] Petitioners seek an order authorizing them to increase such rates and charges in the same amount approved for interstate application by this Commission in Ex Parte No. 357A. By a protest filed on October 29, 1979, Kentucky Utilities Company opposes such an investigation. Petitioners have stated grounds sufficient to warrant instituting an investigation.

Petitioners filed an application on December 15, 1978, with the Kentucky Railroad Commission, requesting application of the rate increases authorized in Ex Parte No. 357A to the Kentucky intrastate rates on bituminous coal. In an order dated September 12, 1979, the Kentucky Railroad Commission authorized a 7 percent increase in Kentucky intrastate coal rates in lieu of the 13 percent increase requested by petitioners.

It is ordered:

The petition for investigation is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Kentucky intrastate rail Freight rates and charges on bituminous coal in any respect cause any unjust discrimination against or any undue burden on their interstate or foreign commerce operations, or cause undue or unreasonable advantage, perference, or prejudice as between persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 357A. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, maintained by petitioners should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before January 3, 1980. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy or this decision shall be served upon petitioners and the Kentucky Utilities Company and copies shall be sent by certified mail to the Kentucky Railroad Commission and the Governor of Kentucky. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or consevation of energy resources.

By the Commission, Alan Fitzwater, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38233 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Petitioners do not represent all railroads operating in Kentucky. Moreover, the joint petition is filed in behalf of certain short-line connections. Since the short-line connections are not identified and it is not clear whether they have filed for intrastate rate increases on coal before the Kentucky Railroad Commission, this Commission can not include them as respondents in the investigation. All railroads who wish to participate in this proceeding should petition for intervention as respondents, and verify that they have met the jurisdictional requirements of 49 U.S.C. 11501(b)(1).

[Notice No. 217]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application

is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 4963 (Sub-82TA), filed September 27, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. & Schylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *Iron and steel articles, metal, metal alloys and metal products, lumber products, paper and paper products* between Darlington, SC on the one hand, and, on the other, SC, NC, GA, AL, TN, KY, WV, MO, WI, MI, IN, MD, PA, NJ, NY, OH, DE, VT, MA, CT, ME, VA, IL, and RI for 180 days. Service at Darlington is restricted to plant sites, warehouses and other facilities of A G Steel, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: A G Steel, Inc., RT 5 Box 12, Darlington, SC 29532. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 4963 (Sub-83TA), filed September 28, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. & Schylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *Escalators, Elevators and parts thereof* between the plant site of Otis Elevators Co (Subsidiary of United Technologies) Bloomington, IN on the one hand, and, on the other, WI, MO, MI, KY, PA, MD, SC, IL, NY, NJ, MA, RI, CT, NC, and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Otis Elevator Co., 1331 Curry Pike Rd., Bloomington, IN 47401. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 4963 (Sub-84TA), filed October 10, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *Iron or steel articles* between Altoona, PA on the one hand, and, on the other PA, RI, SC, TN, VT, VA, WV, OH, NC, NJ, NH, MO, MI, MA, MD, ME, KY, IA, IN, IL, GA, DE, CT, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Altoona Pipe & Steel, 1128 9th Ave., Altoona, PA. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA.

MC 8973 (Sub-67TA), filed October 30, 1979. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Plastic articles from the facilities of Samsill Bros. Plastic Corp. in Forth Worth, TX to Kansas City, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Samsill Bros. Plastic Corp., P.O. Box 10566, Ft. Worth, TX 76119. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 87523 (Sub-107TA), filed October 2, 1979. Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, 1730 M St., Suite 501, Washington, DC 20036. *Wine, in containers, and empty containers,* from the facilities of the Widmer's Wine Cellars, Inc., at or near Naples, NY, to Laconia, NH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: White Mountain Vinyards, P.O. Box 218, Laconia, NH 03246. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Road., Concord, NH 03301.

MC 106603 (Sub-212TA), filed October 29, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, Northville, MI 48167. *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials, glass fibre rovings, yarn and strands; glass fibre pats and mattings, flexible air ducts,* (except commodities in bulk) from the facilities of Certain-Teed Corporation located at or near Kansas City, KS to points in IL, IN, MI, WI and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Certainteed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 107323 (Sub-59TA), filed November 2, 1979. Applicant: GILLILAND TRANSFER CO., 7180 West 48th Street, Fremont, MI 49412. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. Insulation and home improvement materials, and materials, equipment and supplies used in the manufacture, sales, distribution of installation of insulation and home improvement materials, (except commodities in bulk); from Florence, KY to points in IL on and north of US Hwy 80 and on and east of US Hwy 51 and points in MI and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hi-Tech Inc. 1515 Michigan NE, Grand Rapids, MI 49503. Send protests to: C. R. Flemming, D/S I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 107403 (Sub-1280TA), filed October 1, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Landowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Lube oil additives, in bulk, in tank vehicles* from Griffith, IN to East Hanover, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chemical Components Div., Hexagon Enterprises, Inc., 20 DeForest Ave., E. Hanover, NJ 07936. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 107403 (Sub-1281TA), filed September 17, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Tetrabromobisphenol, in bulk, in tank vehicles* from El Dorado, AR to Coshocton, OH for 180 days. An underlying ETA seeks 90 days Supporting shipper(s): General Electric Co., LIMBD, 1350 S. Second St., Coshocton, OH 43812. Send protests to: I.C.C., Fed Res. Bank Bldg., 101 N. 7th St., Rm, 620, Philadelphia, PA 19106.

MC 107403 (Sub-1282TA), filed September 27, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Commodities, in*

bulk, in tank or hopper vehicles between ports of entry located on the US-Canada border located in WA, on the one hand, and, on the other, pts. in ID, OR, WY & WA for 180 days. Supporting shipper(s): Consumers Glass Co. Ltd., Lavington, B.C. Canada. Send protests to: I.C.C., Fed.Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 114273 (Sub-675TA), filed October 23, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Canned and preserved foodstuffs* from the facilities of Heinz USA at or near Iowa City, IA, to the facilities of Heinz USA at Harrison, NJ; Toledo, OH; and Mechanicsburg and Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

Note.—Common control may be involved.

MC 114273 (Sub-676TA), filed October 25, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Agricultural implements and parts* from Grinnell, IA, to Hagerstown, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Farmhand, Inc., 525—15th Ave., Hopkins, MN 55343. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

Note.—Common control may be involved.

MC 114273 (Sub-677TA), filed October 25, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Agricultural implements and parts* from Grinnell, IA, to Lansing, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Farmhand, Inc., 525—15th Ave., Hopkins, MN 55343. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

Note.—Common control may be involved.

MC 123263 (Sub-15TA), filed October 26, 1979. Applicant: FLOYD R. WANGERIN AND LORRAINE C. WANGERIN d.b.a. WANGERIN TRUCKING CO., Rural Route 2, Stephenson, MI 49887. Representative: Michael S. Varda, 121 S. Pinckney Street, Madison, WI 53703. *Dairy-based products, flour products, dry flour paste and soy products* (except in bulk), from Hager City, WI to points in IA, IL, IN, KY, MI, MO and OH. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Corporation, Checkerboard Square, 835 S. 8th Street, St. Louis, MO 63188. Send protests to: C. R. Flemming, D/S, I.C.C., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 123993 (Sub-64TA), filed October 31, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). *(1) Malt beverages; (2) materials, supplies and equipment used in the manufacture, sale and distribution of malt beverages* between Fort Worth, TX on the one hand, and, on the other, points in AR, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shippers: Vincent Dist. Co., 409 E. 2nd, El Dorado, AR, Dermott Dist. Co., Chicot Rd., Dermott, AR, Southeastern Distributing Co., P.O. Box 8868, Pine Bluff, AR 71601, 7-Up Bottling Co., 335 N. West St., Fayetteville, AR, Fraser Sales, P.O. Box 348, Hot Springs, AR 71901, Twin City Beverage Co., 1515 E. 4th St., Little Rock, AR 72202. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 124673 (Sub-45TA), filed October 31, 1979. Applicant: FEED TRANSPORTS, INC., P.O. BOX 2167, Amarillo, TX 79105. Representative: Gail Johnson, Box 2167, Amarillo, TX 79105. *Animal and poultry feed and feed ingredients, in bulk and in bags* between Ralston Purina Company at Denver, CO to points in KS, OK, TX and NM, for 180 days. Underlying ETA for 90 days filed. Supporting shipper: Ralston Purina Company, 414 East 18th St., Wichita, KS 67201. Send protests to: Marianne Minnich, TCS, ICC, Rm 9A27 Fed. Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 124673 (Sub-46TA), filed September 17, 1979. Applicant: FEED TRANSPORTS, INC., P.O. BOX 2167, Amarillo, TX 79105. Representative: Gail Johnson, Box 2167, Amarillo, TX 79105 *Animal, fish or poultry feed and/or feed ingredients, in bulk or in bags,* between the facilities of Ralston Purina Company at or near Oklahoma City, OK; Fort Worth, TX; Wichita, KS; Liberal, KS; and Kansas City, MO on the one hand; and on the other, all points in the states of OK, NE, TX, AR, KS, MO, CO, and IA for 180 days. Underlying ETA filed. Supporting shipper: Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Forth Worth, TX 76102.

MC 124673 (Sub-47TA), filed September 21, 1979. Applicant: FEED TRANSPORTS, INC., P.O. BOX 2167, Amarillo, TX 79105. Representative: Gail Johnson, Box 2167, Amarillo, TX 79105. *Fish-meal* from San Diego, CA to Denver, CO; Flagstaff, AZ; Clinton and Davenport, IA; and Oklahoma City, OK for 180 days. Underlying ETA filed. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Forth Worth, TX 76102.

MC 128273 (Sub-372TA), filed October 31, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *General commodities (except foodstuffs, commodities of unusual value, class A and B explosives, household goods as defined by the Commission,* commodities which because of size or weight require the use of special equipment, and commodities in bulk, in tank vehicles), between Cullman, AL, Phoenix, AZ, Vernon, Compton and Los Angeles, CA, Denver, CO, Tampa, FL, Atlanta, GA, Chicago and Wheeling, IL, Baltimore, MD, Leonminster and Randolph, MA, Minneapolis and Plymouth, MN, Berkeley and Kansas City, MO, Linden and South Plainfield, NJ, Cheektowaga, NY, Middleburg Heights (Cleveland), OH, Warren, PA, Dallas, TX, and Seattle, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facilities utilized by Dutch Boy, Inc. for 180 days, common, irregular. Supporting shipper: Dutch Boy, Inc., 500 Central Avenue, P.O. Box 209, Northfield, IL 60093. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128273 (Sub-373TA), filed November 1, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Cleaning solutions, cleaning compounds and air fresheners,* from facilities of Blue Cross Laboratories at North Hollywood, CA, to points in AR, FL, GA, IL, KY, MI, MO, NJ, PA, TN, VA & WI, for 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper: Blue Cross Laboratories, 7376 Greenbush Avenue, No. Hollywood, CA 91605. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128273 (Sub-374TA), filed October 5, 1979. Applicant: MIDWESTERN

DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Such commodities as are used or dealt in by manufacturers or distributors of outdoor recreational equipment and heating and air conditioning equipment* (except in bulk, in tank vehicles) from the facilities of the Coleman Company, Inc., Wichita, KS to points in CA, FL, GA, IL, IN, MI, MN, NV, NC, OR, PA, SC, WA & WI for 180 days common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper: The Coleman Company, Inc., 250 N. St. Francis, Wichita, KS 67201. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 138313 (Sub-65TA), filed October 3, 1979. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. *Solar panels,* and *materials and supplies used in the manufacture, distribution and installation thereof* from Great Falls, MT to CA, CO, ID, IA, MN, NV, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sun Wise Solar Products, Inc., 609 10th Avenue South, Great Falls, MT 59401. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 140563 (Sub-47TA), filed October 2, 1979. Applicant: W. T. MYLES TRANSPORTATION, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Paper and paper products* from the facilities of Union Camp Corporation at or near Tifton, GA to points in AR, FL, KS, KY, LA, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, New Jersey 07470. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., N.W. Room 300, Atlanta, GA 30309.

MC 141443 (Sub-46TA), filed October 3, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Printed matter, paper and paper articles, plastic articles, games, toys, puzzles, writing slates, crayons, pencils, store display racks, paints, brushes, adhesive, telescopes, microscopes, and such commodities as are dealt in or used by motels,* from Coffeyville, KS, to points in AR, AZ, CA, CO, ID, LA, MO, MT, NV, NM, OK, OR, UT, WA, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Western Publishing Co., Inc., Coffeyville Industrial Park, Coffeyville, KS 67337. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141443 (Sub-47TA), filed October 31, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Malt beverages and related advertising materials,* (2) *empty used beverage containers and materials and supplies used in and dealt with by breweries,* (1) from points in Jefferson County, CO, to points in OK, and (2) from points in OK, to Jefferson County, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Adolph Coors Company, Golden, CO 80401. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 142603 (Sub-18TA), filed October 11, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, Massachusetts 01101. Representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580. Contract carrier; irregular routes: *Metal cutting compounds, abrasive grinding wheels, abrasive grain, epoxy resins, frits, mined materials and mechanical equipment,* between Cincinnati, OH, on the one hand, and, on the other, all points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Cincinnati Milacron, Inc., 4701 Marburg Avenue, Cincinnati, OH 45209. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 142603 (Sub-19TA), filed November 1, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, Massachusetts 01101. Representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580. Contract carrier: irregular routes: *Candy (non chocolates),* From Atlanta, GA to Somerville, MA, under contract with Fine Products Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fine Products Company, Inc., 827 Telfair Street, P.O. Box 2087, Augusta, GA 30903. Send protests to: David M. Miller, DS, ICC 436 Dwight Street, Springfield, MA 01103.

MC 143423 (Sub-10TA), filed October 12, 1979. Applicant: William T. Austin, d.b.a. Austin Trucking Company, 2026 Clayton Avenue, SW, Decatur, AL 35601. Representative: D. H. Markstein, Jr., 512 Massey Building, Birmingham, AL 35203. *Containers, sheet or iron (cans), can ends, bottle caps, tin plate;* from plant sites of Crown Cork & Seal Company, Inc. at Baltimore, MD; Perrysburg, OH; Philadelphia, PA; Salisbury, MD; Winchester, VA; Lawrence, MA; North Bergen, NJ; Chicago, IL; Faribault, MN; Kankakee, IL; Lakeville, MN; Milwaukee, WI; St. Louis, MO; Atlanta, GA; Bartow, FL; Cheraw, SC; Spartanburg, SC; Abilene, TX; Forth Worth, TX; Houston, TX; La Mirada, CA; Richmond, CA; Worland, WY; to all points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, TN, TX, UT, VT, VA, WV, WI, for 180 days. Supporting shipper: Crown Cork & Seal Company, Inc., 9300 Ashton Road, P.O. Box 6208, Philadelphia, PA 19136. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 145363 (Sub-5TA), filed October 12, 1979. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as applicant). Applicant is seeking authority to operate as a *contract* carrier over irregular routes transporting *treated and untreated poles, piling, posts, timbers, ties, and crossarms, materials and supplies used in manufacturing, distribution and installation, except commodities in bulk* between the states of AL, AR, CO, KS, LA, MO, MS, NM, OK, and TX, for 180 days. This will be under a continuing contract or contracts with Koppers Co., Inc. Applicant has filed an underlying ETA seeking 90 days. Supporting Shipper: Koppers Company, Inc., 850 Koppers Building, Pittsburgh, PA 15219. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 146553 (Sub-7TA), filed October 26, 1979. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Ctr., Des Moines, IA 50309. *castings* (1) from Marion, AL, to Holland, MI, and (2) from Muskegon, South Haven, and Holland, MI to Los Angeles, CA, and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: AiResearch Industrial Division, Garrett Corp., 1661 W. 240th St., Harbor City, CA 90710. Send protests to: Herbert W. Allen, DS,

ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147442 (Sub-5TA), filed October 12, 1979. Applicant: LAVIERO TRUCKING, INC., 70 Maureen Drive, Bristol, CT 06010. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Common carrier:* irregular routes: *Circuit breakers, and circuit breaker parts and components* between Plainville, Connecticut and Elizabeth, New Jersey, restricted to shipments haviang a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: General Electric Company, Circuit Protective Devices Department, 41 Woodford Avenue, Plainville, CT 06062. Send Protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, hartford, CT 06103.

MC 147552 (Sub-6TA), filed October 18, 1979. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., 1205 St. Lousis St., New Orleans, LA 70150. Representative: Thomas N. Willess, 1000 Sixteenth St., NW, Washington, D.C. *Paper and paper products* between the facility of International Paper Company at or near Bastrop, LA, and Lake Charles, LA. Restricted to traffic having a prior or subsequent movement by water, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147712 (Sub-6TA), filed October 1, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90760. Representative: Joseph Faxio, same address as above. *Alcoholic beverages,* from Los Angeles, CA., to Boston, MA, Cleveland, OH, Chicago, IL, Detroit, MI, Philadelphia, PA, Atlanta, GA, Miami, FL, Houston, TX, Dallas and San Antonio, TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Almex & Co., Inc., General Manager, 3518 W. Cahuenga, Blvd. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angles, CA 90053.

MC 147793 (Sub-4TA), filed October 24, 1979. Applicant: C. L. Hall Route 2, Cumby, Texas 75433. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, Dallas, TX 75235. *Feed supplements, livestock or poultry, in bags or bulk,* between points in the States of LA, TX, AR, OK, MO & KS for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Bill Tate Dairies, Routes 2, Cumby, TX 75433; Hill Grain Company, P.O. Box 246, Commerce, TX 75482; Cumby Feed, Inc., P.O. Box 217, Cumby, TX 75433. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 147982 (Sub-2TA), filed October 5, 1979. Applicant: BEAVER TRUCKING, INC., Box 86, 1181 Hwy. 175, Richfield, WI 53076. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. Contract carrier; irregular routes; *Crushed limestone and stone* from points in Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties, WI to points in Cook, Lake and McHenry Counties, IL. Restricted to transportation to be performed under a continuing contract(s) with Vulcan Materials Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Vulcan Materials Company, 1501 Three Mile Road, Racine, WI. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 148152 (Sub-2TA), filed September 11, 1979. Applicant: K & H TRUCKING, INC., 3301 South Lamar, Dallas, TX 75215. Representative: Joe Hester, 3301 South Lamar, Dallas, TX 75215. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed houses, soy products paste flour products, dairy based products* and (2) *materials, ingredients, and equipment and supplies* used in development, manufacture, distribution, and sale of items in (1) above except commodities in bulk, between the facilities used by Ralston Purina Co., at or near Oklahoma City, OK and points in AR, LA, MS, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 148172 (Sub-1TA), filed October 12, 1979. Applicant: CHESTER L. BROSS, an individual, 2569 Market Street, Hannibal, MO 63401. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. *Asphalt, Asphalt products, Sand, Gravel and Crushed Stone in bulk in dump trucks,* from Huntington, Kahoka, LaGrange and Troy, MO to all points in Adams County, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Speedway Blacktop & Paving Co., Inc., R. R. 9, Lock & Dam Road., Quindy, IL 62301. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 148202 (Sub-2TA), filed September 11, 1979. Applicant: K & W ENTERPRISES, INC., 6223 Triport Court, Greensboro, NC 27410. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. *Contract* carrier-irregular routes; *Such commodities as are dealt in by a manufacturer of drugs and medicines, and materials, supplies and equipment used in the conduct of such business (except commodities in bulk)* between the facilities used by Vicks Health Care Division of Richardson-Merrell, Inc. located at or near Friendship, NC and Hatboro and Philadelphia, PA, on the one hand, and, on the other other, points in the US in and east of WI, IL, KY, TN, AR, and MS, under a continuing contract or contracts with Vicks Health Care Division of Richardson-Merrell, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Vicks Health Care Division of Richardson-Merrell, Inc., P.O. Box 8155, Philadelphia, PA 19101. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd.-Rm. CC516, Charlotte, NC 28205.

MC 148312 (Sub-2TA), Filed September 14, 1979. Applicant: N.D.T., INC., 4171 Winters Chapel Road, Doraville, GA 30340. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Such commodities as are dealt in by wholesale or retail grocery stores, other than frozen* (except commodities in bulk) between Fulton County, GA, on the one hand, and on the other, points in AL and that portion of TN on and east of Interstate 65, restricted to shipments originating at or destined to a facility of Jewel T Discount Grocery Stores, Division of Jewel Companies, Inc., for 180 days, An underlying ETA seeks 90 days authority. Supporting shipper: Jewel T Discount Grocery Stores, Division of Jewel Companies, Inc., 511 Lake Zurich Road, Barrington, IL 60010. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 148382 (Sub-1TA), filed October 4, 1979. Applicant: FRANK J. VIDAURI d.b.a. TRIANGLE REFRIGERATED TRANSPORT, 1690 Williams Highway, Grants Pass, OR 97526. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055, 206-235-4730. Contract, irregular—such commodities as are dealt in or used by agricultural associations between points in CA, OR, and WA under continuing contract(s) with Western Farmers Association of Seattle, WA, for 180

days. An underlying ETA has been filed. Supporting shipper: Western Farmers Association, Traffic Manager, E. Gary Masshoff, 201 Elliot Avenue W., Seattle, WA 98119. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oregon 97204.

MC 148383 (Sub-1TA), filed September 28, 1979. Applicant: H. PRUITT TRUCKING, INC., 2333 Wadsworth, Saginaw, MI 48601. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. *Contract carrier:* irregular routes: *Waste and reclaimed petroleum and petroleum products,* between the facilities of General Motors Corporation at or near Athens, AL, on the one hand, and, on the other, Detroit, MI, and the commercial zone thereof for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Logistics Operations, General Motors Corporation, 30007 Van Dyke, Warren, MI 48090. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148402 (Sub-2TA), filed October 15, 1979. Applicant: COOSA TRUCKING CO., P.O. Box 18, Coosa, GA 30129. Representative: Mark S. Gray, P.O. Box 56387, Atlanta, GA 30303. *Steel wire and scrap steel wire* from the facilities of Bekaert Steel Wire Corp., located at or near Rome, GA to points in AL, TN, KY, NC, SC, and VA, under a continuing contract or contracts with Bekaert Steel Wire Corp. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bekaert Steel Wire Corp., P.O. Drawer G, Rome, GA 30161. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., N.W. Room 300, Atlanta, GA 30309.

MC 148482 (Sub-1TA), filed October 9, 1979. Applicant: CRUSADER COACH LINES INC., RFD #1, Box 103AA, Logan, IA 51546. Representative: David P. Lovell, (same address as applicant). Common carrier, regular routes: *Passengers and their baggage* between Logan, IA and Omaha, NE (except between Council Bluffs, IA and Omaha, NE) serving all intermediate points; for 180 days. From Logan, IA, via U.S. Highway 30 to Missouri Valley, IA, thence via Iowa State Highway 183 to junction U.S. Highway 6, thence via U.S. Highway 6 to Omaha, NE. From Logan, IA, via U.S. Highway 30 to junction Interstate 29, thence Interstate 29 to junction Interstate 480, thence Interstate 480 to Omaha, NE. From Logan, IA, via U.S. Highway 30 to Blair, NE, thence U.S. Highway 73 to Omaha, NE as an alternate route for operating convenience only. From Logan, IA, via U.S. Highway 30 to junction Interstate 29, thence Interstate 29 to junction Interstate 680, thence Interstate 680 to Omaha, NE as an alternate route for operating convenience only. Supporting shipper(s): 37 supporting shippers (commuters). Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 148493 (Sub-1TA), filed October 29, 1979. Applicant: HAROLD NIXON, INC., P.O. Box 748, Tonopah, Nevada 89049. Representative: Mike Soumbeniotis, 402 North Division Street, Carson City, Nevada 89701. *Ore and Ore Concentrates,* in bulk, in dump truck equipment between mine sites, mills and rail heads located in the State of Nevada, for 180 days. Supporting shipper(s): Old Soldier Minerals, 8700 Commerce Park, Suite 130, Houston, TX 77036; Empire Mines and Milling, P.O. Box 283, Mina, NV 89422; Gufco International, 2375 Oddie Blvd., Reno, NV 89502. Send protests to: W. J. Huetig, ICC, 705 North Plaza Street, Carson City, NV 89701.

MC 148502 (Sub-1TA), filed October 30, 1979. Applicant: L. F. CARTER, INC., Field Avenue, PO Box 224, Pittsford, VT 05763. Representative: Jack R. Abell, 27 S Main Street, PO Box 782, Rutland, VT 05701. Contract, irregular: *Reclaimed alumina oxide,* in tandem dump vehicles, from Worcester, MA to Proctor, VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vermont Marble Company, 61 Main Street, Proctor, VT 05765. Send protests to: Carol A. Perry, TA, ICC, PO Box 548, Montpelier, VT 05602.

MC 148503 (Sub-1TA), filed October 30, 1979. Applicant: BERKSHIRE CHEMICAL HAULERS, INC., 1 Cook Street, Adams, Massachusetts 01220. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Alum, sodium aluminate, and rosin sizing, in bulk,* from the facilities of Holland Company, Inc. at Adams, MA to points in CT, ME, NH, NY, RI and VT, restricted to the transportation of traffic originating at the above-named facilities and destined to points in the above-named destination states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Holland Company, Inc., Howland Avenue, Adams, MA 01220. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 148592 (TA——) filed October October 1, 1979. Applicant: EUGENE REXER, operating as R. W. BASKERVILLE & CO., c/o 138 Horton Avenue East, Winnipeg, Manitoba, Canada R2C QT5. Representative: W. E. Norton, Q.C., 500—175 Carlton Street, Winnipeg, Manitoba, Canada R3C 3H9. *Refrigerated canned pickles,* from Woodstock, IL, to the ports of entry located on the International Boundary Line between the United States and Canada at or near Noyes, MN, and Pembina, ND, for 180 days. Supporting shipper: Northdale Ent. Ltd., 109 Hutchings St., Winnepeg, Manitoba, Canada. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U. S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

Passenger Application

MC 138252 (Sub-5TA), filed October 1, 1979. Applicant: COURTESY BUS SYSTEM, INC., 4604 Ingraham St., Hyattsville, MD 20780. Representative: Gary E. Thompson, 4304 East-West Hwy., Washington, DC 20014. *Passengers and their baggage in special operations* between St. Charles City, MD, on the one hand, and, on the other, that portion of VA located within the Washington, DC commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: St. Charles Associates, 336 Post Office Rd., St. Charles, MD 20601. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

[FR Doc. 79-38830 Filed 12-18-79; 8:45 am]
BILLING CODE 7035-01-M

Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The

notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Pohost, and Taylor.

Agatha L. Mergenovich,
Secretary.

MC-FC-78368. By decision of December 10, 1979 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, the Motor Carrier Board approved the transfer to Tiger Trucks, Inc., 1888 Century Park E., Los Angeles, CA, 90067, of Certificates Nos. MC-67646 (Sub-Nos. 2, 27, 28, 30, 33, 34, 39, 40, 43, 46, 47, 49, 50, 51, 53, 55, 56, 57, 59, 60, 62, 63, 64, 65, 67, 68, 69, 71, 72, 73, 74, 75, 76F, 78F, and 81), issued April 1, 1947, May 12, 1948, September 10, 1947, February 8, 1950, July 17, 1952, June 25, 1953, February 18, 1955, July 25, 1955, October 9, 1956, November 19, 1958, March 16, 1959, September 16, 1960, May 29, 1959, February 15, 1960, August 24, 1961, April 13, 1964, March 10, 1967, March 21, 1967, December 14, 1967, February 17, 1969, February 5, 1969, August 8, 1968, January 23, 1978, August 11, 1969, September 19, 1972, May 23, 1972, November 8, 1977, October 16, 1974, February 18, 1977, November 8, 1977, October 24, 1975, January 23, 1978, March 7, 1979, August 1, 1979, and May 2, 1979, respectively, and E-Letter Notices MC-67646 (E1, E2, E3, E4, E5, E6, and E7), published in the FR issues of February 27, 1976, February 27, 1976, December 17, 1975, October 3, 1975, December 4, 1975, December 4, 1975, and December 17, 1975, respectively, issued to Hall's Motor Transit Company, 6060 Carlisle Pike, Mechanicsburg, PA, 17055. Also those operating rights issued to Werner Continental, Inc., and purchased by Hall's Motor Transit Company pursuant to MC-F-13380, set forth in MC-8600 and Sub-Nos. 13, 14, 15, 17, 18, 20, 22, 23, 24, 25, 26, 27, 29, 32, 33, 34, and 35, issued January 25, 1952, November 17, 1972, April 1, 1957, January 20, 1956, March 30, 1961, October 12, 1962, April 26, 1968, January 8, 1968, September 27, 1968, October 20, 1969, April 3, 1969, September 19, 1972, February 7, 1973, April 19, 1974, June 7, 1974, December 11, 1974, September 27, 1978, and August 25, 1978, authorizing the transportation over regular and irregular routes, of general commodities, with exceptions, in CT, DE, IA, IL, IN, KY, MD, MA, MN, NJ, NY, OH, PA, RI, VA, WV, WI, and DC, and various specified commodities, from, to and between specified points in IL, IN, MI, MN, OH, and WI. Applicants' representatives: John W. Barnum, 1747 Pennsylvania Ave., NW, Washington, DC 20006, for Transferee; and John E. Fullerton, 407 N. Front St., Harrisburg, PA, 17101, for Transferor.

MC-FC-78376 filed November 20, 1979. Transferee: EAST COAST VAN LINES, INC., 151 Front St., Pawtucket, RI 02860. Transferor: Violet Adams, d.b.a. Adams Van & Storage Co., Box 538, Caribou, ME 04736. Representative: William Poole, Jr., 96 Sayles Ave., Pawtucket, RI 02860. By decision of November 27, 1979, the Motor Carrier Board conditionally approved the transfer to transferee of operating rights held by transferor in Certificates No. MC-19251 and Subs 9 and 11. The operating rights approved for transfer authorize the transportation of, among other things, points in Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, and the District of Columbia; (2) between points in Rhode Island, on the one hand, and on the other, points in Delaware, Maryland, and Virginia; (3) between New York, NY, and points within 25 miles of Columbus Circle, NY, on the one hand, and on the other, points in 18 eastern states; (4) between New York, NY, on the one hand, and on the other, points in Maine, Michigan, Missouri, Vermont, West Virginia, and Wisconsin, and (5) between points in Connecticut, on the one hand, and, on the other, points in Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; and household goods, office furniture, and store fixtures, between points in Rhode Island, on the one hand, and on the other, New York, NY, and points in Connecticut, Maine, Massachusetts, New Hampshire, and Vermont household goods, (1) between points in Rhode Island, on the one hand, and on the other, New York, NY, and points in Connecticut, Maine, Massachusetts, New Hampshire, and Vermont. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

[FR Doc. 79-38387 Filed 12-18-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Board Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission by January 18, 1980. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-78289 filed September 6, 1979. Transferee: W. J. FOLEY COMPANY, 444 Perry Road, Bangor, ME 04401. Transferor: Coles Express (same address as transferee). Representative: Richard J. Rushmore (same address as transferee). By decision of 12-10-79 issued under 49 U.S.C. 10926, and the transfer rules at 49 C.F.R. 1132, the Motor Carrier Board approved the transfer to transferee of the operating rights held by transferor in Certificate No. MC-93682 and Subs 2, 5, 10, 11, 12, 14, 15, 16, 17, 18, and 19 thereunder, issued December 6, 1950, November 5, 1951, May 29, 1961, August 31, 1967, July 13, 1965, August 31, 1967, January 16, 1967, January 11, 1967, December 11,

1967, August 7, 1972, March 8, 1973, and January 2, 1975, respectively, authorizing the transportation of general commodities, with the usual exceptions, over specified regular routes, between named points in ME, NH, and MA; and over irregular routes between Portland, ME, on the one hand, and, on the other, points in ME, subject to restrictions. Transferee is a wholly-owned subsidiary of transferor and holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C 11349.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-38868 Filed 12-18-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 245
Wednesday, December 19, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-261, Amdt. 1; Dec. 14, 1979]

CIVIL AERONAUTICS BOARD.

Addition of items to the December 20, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., December 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

18a. Dockets 36116, 36263, 32716, 36271, 36278, 36269, 36258, 36262, 36236, 36249, 36274, 36272, and 36286; *Seattle-San Francisco/Los Angeles/San Diego Show-Cause Proceeding.* Applications and/or amended applications for authority. (Memo No. 8956-A, BDA)

19a. Docket 37162, Application of Braniff Airways, Inc. for renewal of exemption authorizing U.S.-Benelux nonstop service and one-stop service via London. (Memo No. 9367, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Aspen Airlines has an unopposed application on file to provide service between Burbank and Bakersfield, California, that cannot be granted until after the Board acts on Burbank's objections in the above proceeding. Since Bakersfield has been particularly hard hit by service reductions, it is essential that the Board consider Item 18a as soon as possible, so prompt action can be taken on Aspen's application. Prompt action on Braniff's application is necessary to provide the carrier with authority to continue its U.S.-Benelux operations. In addition, Board consideration of Braniff's request for London-Amsterdam traffic rights at the December 20, 1979 meeting will permit the carrier to offer London-Amsterdam service immediately. On the other hand, failure to include Item 19a on the December 20 agenda could materially delay the start of Braniff's service, especially since the next Board meeting is scheduled for January 4, 1980. Accordingly, the following Members have voted that Items 18a and 19a be added to the December 20, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2459-79 Filed 12-17-79; 2:43 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m. Friday, December 28, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: CLOSED.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION:
Jane Stuckey, 254-6314.

[S-2458-79 Filed 12-17-79; 11:34 a.m.]

BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919, M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Subject: Notice of Proposed Rulemaking to consider several policy options listed by the Children's Television Task Force in its *Television Programming for Children: A Report of the Children's Television Task Force* as well as other policy options.

General—2—Title: Further Notice of Proposed Rule Making to provide regulations for the use of radio by the public utilities for distribution automation systems. SS Docket 79-18. Summary: The FCC has revised its initial proposal to amend Part 94 of the Rules to provide regulations for the use of radio in public utility distribution automation systems. A new frequency plan and revised interference criteria are proposed.

General—3—Publication of the report summarizing the result of research into minority broadcast facilities.

General—4—Title: Reimbursement of Expenses for Participation in Commission Proceedings. Summary: In response to comments filed in a Notice of Inquiry adopted on June 30, 1978, the Commission will consider (1) whether a public participation reimbursement program should be established at the Commission to reimburse certain expenses incurred by public participants in our proceeding; (2) whether the Commission possesses the legal authority to establish a reimbursement program; and (3) what specific form a reimbursement program should take should the Commission determine a program should be established.

Private Radio—1—Title: Notice of Proposed Rule Making to amend the rules to implement a system of temporary licensing for multiple licensed mobile relay systems operating in the Business Radio Service in the 450-470 MHz band. Summary: The Commission will consider whether to propose modifying its rules to institute a system of temporary licensing for additional sharers of previously licensed "community repeaters" authorized in the Business Radio Service in the 450-470 MHz band.

Private Radio—2—Title: Notice of Proposed Rule Making to amend Part 90 of the Commission's Rules to facilitate authorization of wide-area mobile radio communication systems on frequencies allocated for trunked systems. Summary: The Commission will consider whether to propose rules to permit wide-area mobile radio communication systems to operate on frequencies designated for use by trunked land mobile communication systems.

Private Radio—3—Title: Consideration of SSB channels for personal and hobby use. Summary: The Commission will consider alternatives in the allocation of spectrum for single sideband (SSB) operation in the personal radio services. This action is prompted by petitions filed by *CB Magizine* (RM-3299) and the Washington State CB Radio Association (RM-3317).

Private Radio—4—Title: Notice of Proposed Rule Making to amend mobile station authorization procedures for commercial 800 MHz common user systems. Summary: The Commission will consider whether to propose modifying its procedures by authorizing base station licensees of commercial 800 MHz common user systems for associated control stations, control points and mobile stations.

Private Radio—5—Title: Rule amendment to grant general exemption to U.S. cargo vessels of 1600 gross tons or more when engaged on domestic voyages along either

the east, west or Gulf coasts of the contiguous 48 states. Summary: The Commission will considered a combined Notice of Proposed Rule Making and Notice of Inquiry relative to amending the rules to grant a general exemption to large cargo vessels engaged solely on domestic voyages, and the impact on the radiotelegraph and radiotelephone mutual assistance safety systems.

Private Radio—6—Title: Motion for Reassignment of Staff Responsibility in Docket 21349. Summary: The FCC will consider whether to send a letter to a private attorney denying his motion to transfer responsibility for the rulemaking proceedings in Docket 21349 from the Private Radio Bureau to some other staff unit in the Commission. The Commission will consider whether the evidence cited by the attorney supports his charge of bias on the part of the staff and whether, even considering the evidence, responsibility for the rulemaking should be transferred.

Private Radio—7—Title: Report and Order which proposed to terminate the Notice of Proposed Rulemaking adopted in Docket No. 20679. Summary: The FCC will consider whether to adopt a Report and Order that terminates the Notice of Proposed Rulemaking in PR Docket NO. 20679. The FCC, in that Notice, proposed to amend the Amateur Radio Service Rules to require volunteer examiners to submit a photocopy of their own license when requesting permission to examine applicants.

Common Carrier—1—Title: Dial-A-Page, Inc. Summary: The Commission is considering a request filed by Radiocall Paging Service to set aside the Common Carrier Bureau's grant, made pursuant to delegated authority, to Dial-A-Page, Inc., of an application for a Construction Permit for a one-way paging station on frequency 43.22 MHz in the Domestic Public Land Mobil Radio Service (DPLMRS) at Oklahoma City, Oklahoma (File NO. 20408–CD–P–79). The issues to be considered are: (1) whether the request is timely filed; (2) whether the grant is a denial of equal protection where Radiocall amended its application, which previously had been mutually exclusive with Dial-A-Page's application, to request a different frequency, 43.58 MHz, which was later discovered to be "cut off" from comparative consideration with competing applications; (3) whether the grant gave Dial-A-Page a monopoly in the one-way paging market in Oklahoma City; (4) whether Dial-A-Page was required to respond to pleadings filed against it; and (5) whether the Bureau denied information to Radiocall on the availability of frequency 43.58 MHz for filing.

Common Carrier—2—Title: In Re Revocation of Licenses of Pass Word, Inc. and Rodney J. Bacon d/b/a/ Coeur d'Alene Answering Service, and In Re Applications of Courtesy Communications Inc., Pass Word, Inc., and Rodney J. Bacon d/b/a/ Coeur d'Alene Answering Service (Dockets 20939, 20940, 20941, 20942, 20943, 20944). Summary: The item resolves the issues designated in the revocation phase of the proceeding, the Dockets 20939 and 20940. The issues are whether Pass Word, Inc. and/or Rodney Bacon d/b/a Coeur d'Alene Answering Service made any misrepresentations in applications and related documents, the facts surrounding the constuction and operation of the four 454 MHz channels of the two licensees, and whether in view of the facts, Pass Word and/or Coeur d'Alene Answering Service are qualified to continue as licensees.

Common Carrier—3—Title: Western Union International, Inc. Transmittal No. 1393. Summary: WUI submits Transmittal No. 1393 which contains revisions to FCC Tariff No. 4 reducing AVR rates between Hawaii and Guam. ITT and RCA submit petition to suspend and investigate.

Assignment and Transfer—1—Title: Request for Tax Certificate in connection with the sale of station WQIZ and WQIZ(FM), St. George, South Carolina from Clarence Jones to Trident Communications Corporation. Summary: On November 16, 1979, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the application for the voluntary transfer of control of the licensee of WQIZ and WQIZ(FM), St. George, South Carolina. The transferor, Calarence Jones, has requested a tax certificate pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Aural—1—Title: Memorandum Opinion and Order in reapplication of Metropolitan School District of Wayne Township, Marion County, Indiana (File No. BPED–2124). Summary: The FCC reconsiders its action granting the above application to improve the facilities of noncommercial station WBDG, Indianapolis, and denying a petition to deny the application filed by McGraw-Hill Broadcasting Co., Inc.

Aural—2—Title: Memorandum Opinion and Order in re applications of Franklin College of Indiana (File Nos. BPED–2274 and BMPED–791004AL). Summary: The FCC reconsiders its action granting the application to improve the facilities of noncommercial station WFCI, Franklin, Indiana, and denying a petition to deny its filed by McGraw-Hill Broadcasting Co., Inc.

Aural—3—Title: Application of Renaissance Broadcastiang Corp. for authority to operate subscription television over Station WRBV(TV), Vineland, New Jersey. Summary: This application is before the Commission because it involves a request for waiver of Section 73.642(a) of the Rules (the "complement of four" rule) and because it requires interpretation of the Commission's requirement that stations holding STV authorizations offer subscription service to all persons within the Grade A contour of their nonsubscription operations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: December 14, 1979.

[S–2454–79 Filed 12–17–79; 11:34 am]

BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, December 19, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting following the Open Commission Meeting which commences at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—FY 1980 Travel Reduction.

Hearing—1—Petition for reconsideration in the Rochester, New York broadcast renewal proceeding (Docket No. 20477).

Hearing—2—Petition for leave to amend the application of TV 9, Inc., and related pleadings in the Orlando, Florida, comparative television proceeding (Docket No. 11083, et al.).

Hearing—3—Petition to consolidate other pending common carrier applications filed by Beehive Telephone Company, Inc. with the present proceeding in Docket 78–240.

Hearing—4—Decision of the United States Court of Appeals for the District of Columbia Circuit remanding to the Commission a Commission decision denying the renewal application of Cosmopolitan Broadcasting Corporation WHBI–FM, Newark, New Jersey, (Docket No. 19657).

Hearing—5—Petition for extraordinary relief in the Newark, New Jersey FM license renewal proceeding (Docket No. 19657).

Hearing—6—Petition for expedited approval of renewal and assignment applications in the WTUP, Tupelo, Mississippi, proceeding (Docket No. 21430).

Hearing—7—Motion for Extraordinary Relief requesting distress sale relief in the Salem, Virginia, AM radio proceeding (Docket No. 21280).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: December 14, 1979.

[S–2455–79 Filed 12–17–79; 11:34 am]

BILLING CODE 6712–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:00 a.m. on Friday, December 14, 1979, the Board of Directors of the Federal Deposit

Insurance Corporation met in closed session to consider amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits."

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

On motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), the Board of Directors determined that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(A)(i) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(A)(i)).

Dated: December 14, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2457-79 Filed 12-17-79; 12:59 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. 2345.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, December 18, 1979 at 10 a.m.

CHANGE IN MEETING: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED IN OPEN SESSION AT 10 A.M.:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Candidate debate regulations.
Delegate selection regulations.
Advisory Opinions: Draft AO 1979-71, Filing of pre- and post-election reports on presidential candidates in caucus states.
Draft AO 1979-58, Volunteer activities of law firm partners in Presidential campaign.
Part II—Consultant's report on audit process.
Audit advisory panel.
House and Senate bookkeeping manual.
Convention reporting form.
Public notice to banks.
1980 Presidential election and related matters: Presidential monthly status report.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

MATTERS TO BE CONSIDERED IN EXECUTIVE SESSION (CLOSED):

Compliance, Personnel, Labor-Management Relations.
Audit Policy—Materiality Thresholds.
Interim audit report—Democratic Party of New Mexico.

DATE AND TIME: Wednesday, December 19, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED IN OPEN SESSION:

Any matters not concluded on Tuesday, December 18, 1979.

MATTERS TO BE CONSIDERED IN CLOSED SESSION:

Any matters not concluded on Tuesday, December 18, 1979.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thurdsay, December 20, 1979 at 10 a.m.

FEDERAL REGISTER NO: 2345.

CHANGE IN MEETING: The originally announced matters before the Commission for this date have been placed on the agenda for Tuesday, December 18, 1979. If not concluded on December 18 or 19, they will be continued to this date.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2458-79 Filed 12-17-79; 2:20 p.m.]

BILLING CODE 6715-01-M

7

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 73205 (December 17, 1979).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, December 20, 1979.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

H—Unclassified

2. Consideration of the proposal by the Retirement System Board of Directors that a one-time cost-of-living adjustment for present retirees and beneficiaries of 2 percent be provided in addition to the 5-percent increase that was approved by the System's Board to be effective as of January 1, 1980; consideration of amendments to the Rules and Regulations of the TVA Retirement System: (1) to provide for members to withdraw their own contributions to the System made in excess of the standard rate; (2) to permit a deferred retiree to elect an optional retirement benefit that will provide the retiree's surviving beneficiaries with benefits in the event the retiree dies prior to reaching the age when benefits would have been payable; (3) to allow lost annual leave to be counted as creditable service for the purpose of computing retirement benefits; and determination of the amount to be credited under Merit Incentive Supplemental Retirement Income Plan.

CONTACT PERSON FOR MORE INFORMATION: Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: December 14, 1979.

Approved:

S. David Freeman.

Richard M. Freeman.

Robert N. Clement.

[S-2453-79 Filed 12-17-79; 10:23 am]

BILLING CODE 8120-01-M

Federal Register

Wednesday
December 19, 1979

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining Reclamation Operations; Permanent Regulatory Program

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 732

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: OSM is amending § 732.12(a)(1) of its permanent regulations, relating to the notice and public hearing requirements for State program submissions being reviewed by the Secretary of the Department of the Interior. 30 CFR 732.12(a)(1) is amended to delete the requirement to publish the complete text of the State statutes and regulations in the Federal Register notice announcing the beginning of the public comment period on the substance of the program submission. Instead, the amendment requires OSM to provide each requestor with a single copy of the complete text of the State statutes and regulations at no cost.

EFFECTIVE DATES: The amendment is effective December 19, 1979.

ADDRESSES: Director, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave. NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, 1951 Constitution Ave. NW., Washington, D.C. 20240; 202–343–4225.

SUPPLEMENTARY INFORMATION: OSM's final permanent regulations (44 FR 15323 *et seq.*, March 13, 1979) required OSM to publish the complete text of State statutes and regulations in the Federal Register at the time of publication of a notice announcing a public hearing on a State's proposed program for regulation of surface coal mining and reclamation operations. The requirement for publishing the complete text is in § 732.12(a)(1), 44 FR 15326.

On October 18, 1979, OSM published a proposed amendment to § 732.12(a)(1) to delete the requirement to publish the full text of State statutes and regulations in the Federal Register. 44 FR 60233.

Reasons given for the proposed amendment included the high cost of publication in comparison to the expected benefits, the severe burden such publication woud be on both OSM and the Government Printing Office (GPO), and the potentially misleading effect on the public. With the proposed amendment OSM stated that it would make copies of the State statutes and regulations available to the public, at a reasonable cost, to the fullest extent possible for each State submission and that the reasonable cost was expected to be $10 for copies of most statutes and regulations.

The proposed amendment included announcement of public comment period and public hearing. Eight written comments were submitted before the close of the public comment period and one of the eight commenters offered oral testimony at the public hearing in Washington, D.C. on November 21, 1979.

Of the eight comments, three strongly opposed the change. Two opposed the change, but recommended conditions under which it would be acceptable. Three commenters supported the change as proposed.

Analysis of the comments reveals two major objections to the proposed amendment:

(1) The amendment passes the cost of reproduction of State statutes and regulations to the public thereby limiting full public involvement, and

(2) The time required in which to request and receive copies of State statutes and regulations decreases the real time available for review.

In support of these objections, one commenter stated that the Surface Mining Act and Executive Order 12044 envision full and complete involvement of the public in proposed rulemaking and without the opportunity to review the State statutes and regulations which form the basis of a proposed State program, public involvement would be meaningless. The same commenter stated that review of a State program is essentially a rulemaking and failure to publish the text of State statutes and regulations "smacks of secret rulemaking." The commenter continued that mere availability of proposed rules at cost to the public, without actual publication in the Federal Register, might effectively prohibit some of the public from commenting on the rules.

Another commenter stated that the proposed changes would make State program review more cumbersome and decrease the real time for comment. The commenter warned that each time a program was revised, corrected or amended, everyone diligently monitoring would have to request copies and that the amendment would hinder public participation in the government process.

Two commenters registered objection to the amendment on the grounds that it would not be proper to pass the costs of reproduction to the interested public. They stated that even "reasonable" cost would hamper public involvment and recommended that the amendment be changed to make copies of statutes and regulations available at no cost to requestors. Commenters also registered objection to OSM's being able to change regulations that inconvenienced OSM but that the reciprocal was not available to the public or the States.

In support of the proposed amendment, one commenter stated that the present regulation is unnecessarily burdensome upon the Government Printing Office and quite likely cannot be implemented within the time available. Another commenter stated that the proposal was a step in the right direction.

In support one State pointed out that its policy has always been to furnish copies of its enabling legislation and rules promulgated thereunder to the public at a reasonable cost. It further stated that the availability of the statutes and regulations from both OSM and the State agency, as well as the opportunity at both the State and Federal levels to review the complete program in the office of OSM and the State agency at no cost, will in no way hinder a full and effective review of the proposed program by an interested person.

One commenter registered vigorous objection to the scheduling of the public hearing on the same day on which written comments are due. The commenter stated that the procedure precludes commenters from review of the transcript of the hearing and thereby prohibits full and effective development of formal written comments.

OSM has not made a practice of scheduling the public hearing on the same day that the public comment period closes. In the case of this rulemaking, however, there was only one commenter present at the public hearing and the overall results are not believed to have hampered consideration by interested commenters. The APA does not require a public hearing for every rulemaking and, if one is held, does not specify when it must be held during the comment period.

A commenter noted that on November 20, 1979 (the day before comments were due on the proposed rule), OSM published in the Federal Register three documents giving notice of public hearing and setting a comment period on the adequacy of proposed programs for the States of Montana, Mississippi and Texas. The commenter continued that conspicuously absent in the notice were the texts of State statutes and regulations. The commenter objected to OSM's basing these notices on the proposed amendment before it as finalized.

OSM stated in the Federal Register announcements for the proposed programs of Montana, Mississippi and Texas that, in lieu of printing the full text, single copies of the statutes and regulations would be available to all requestors at no charge. 44 FR. OSM believes that this procedure, plus making copies of the entire State program, including State statutes and regulations at the office of the Regional Director and the offices of the State agency will accomplish the intent of the publication requirement. Moreover, providing copies of State statutes and regulations at no cost answers the commenter's concern.

Another commenter recommended that, in lieu of publishing the entire text, OSM should make copies available at no cost and publish those areas of the proposed programs where OSM finds deficiencies. The commenter stated that this would assist citizens in their ability to offer constructive assistance.

OSM has not revised the regulations in response to this suggestion, but notes that existing regulations require the Regional Director to publish a determination on the completeness of each submission within 60 days of receipt, and that such publication must identify the elements that are determined to be missing from the submission. In addition, the regulations require the Secretary to issue a decision approving or disapproving submissions within six months of receipt and that his decision include the findings upon which it is based. These findings must detail reasons for approval or disapproval sufficiently to allow any interested person to monitor the process.

Another commenter recommended that all contacts with the States regarding the proposed State programs be published in the Federal Register, listing the topic or topics discussed, so that concerned citizens could be made aware of issues and could contact State officials or OSM.

OSM has not revised the regulations to reflect this comment, but notes that its "Guidelines for Postsubmission Contacts Between the Department of the Interior, the States and the Public" were published in the Federal Register on September 19, 1979. 44 FR 60969. Under these Guidelines, the Department will post advance notice of all scheduled meetings. If topics of discussion are known, they will also be posted. Although discussions at these meetings may not necessarily be limited to announced topics, once a meeting has been held, a summary of all topics discussed will be placed on public file.

After a thorough review of the proposed change to the regulations, the comments received, the hearing testimony and the issues involved, the final regulation has been revised from the proposed version to require that OSM provide each requestor with a single copy of the State statutes and regulations at no cost. In addition, OSM intends to forward requested copies to requestors utilizing the speediest delivery service available.

The final amended rule addresses the two major objections that have been advanced. Making one copy of the statutes and regulations available at no cost should eliminate the concern about cost. Forwarding copies to requestors utilizing the speediest delivery service available will minimize the delay to receive copies. At the same time, the final amendment does not conflict with the statements of the supporting commenters.

As a clarifying note, the requirement in § 732.12(a)(1) that copies of the entire State program be available for inspection during regular business hours at the office of the Regional Director and at the central and each field office of the State agency responsible for the submission remains unchanged. The amended regulation requires only OSM, not the State agency, to make single copies of the State statutes and regulations available to requestors at no cost.

The amended rule will allow OSM to accomplish wide dissemination of the full text of State statutes and regulations without expenses or confusion to the public. OSM believes that the amendment is consistent with the purpose of the Surface Mining Act and Executive Order 12044. OSM also believes that the proposed amendment provides sufficient availability of State statutes and regulations to allow for adequate public review and comment.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 13, 1978).

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

The amendment is effective December 19, 1979, pursuant to 5 U.S.C. 553(d)(3), so that this new procedure can be applied to State program submissions that are currently under review by OSM. It is expected that Federal Register notices for several States must be published in less than 30 days from today, thereby making it necessary that the amendment be effective immediately. This immediate effective date will not burden the public and will fulfill the purposes of the amendment.

Statement of Authorship.—The primary author of this document was James Fulton, State Programs Division, Office of Surface Mining.

Dated: December 12, 1979.

Joan M. Davenport,

Assistant Secretary for Energy and Minerals.

Amendment

§ 732.12 [Amended]

The last sentence of 30 CFR 732.12(a)(1) is revised to read as follows:

(a) * * *

(1) * * * In addition, The notice in the Federal Register shall indicate that each requestor may receive, free of charge, one single copy of the complete text of the State's statutes and regulations from the Regional Director.

* * * * *

[FR Doc. 79-38769 Filed 12-18-79; 8:45 am]
BILLING CODE 4310-05-M

Federal Register

Wednesday
December 19, 1979

Part III

Panama Canal Commission

Revised Rules for the Panama Canal Under 1977 Treaty With Panama

PANAMA CANAL COMMISSION

35 CFR Chapter I

Revised Rules for the Panama Canal Under 1977 Treaty With Panama

AGENCY: Panama Canal Commission.
ACTION: Final rule.

SUMMARY: Upon entry into force on October 1, 1979, of the Panama Canal Treaty of 1977, the United States relinquished and Panama assumed plenary jurisdiction over what was the Canal Zone. Under the Panama Canal Act of 1979, the statute implementing the new treaty, the Canal Zone Government was disestablished and the Panama Canal Company was replaced by the Panama Canal Commission, which will operate the waterway until the termination of the treaty on December 31, 1999. This document establishes final rules for the Panama Canal Commission.

EFFECTIVE DATE: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Hazel M. Murdock, Assistant to the Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004 (Telephone: 202–724–0104).

SUPPLEMENTARY INFORMATION: By letter dated April 30, 1979, the Canal Zone Government and Panama Canal Company requested the Office of Federal Register to postpone the regular cutoff date of July 1 for the inclusion of amendments to the 1979 edition of Title 35, CFR. The request was granted.

The Canal Zone Government, an independent agency of the United States, was charged by law with the performance of the various duties connected with the civil government, including health, sanitation and protection of the Canal Zone (2 C.Z.C. 31, 76A Stat. 7). The Panama Canal Company was a corporate agency and instrumentality of the United States responsible for maintaining and operating the Panama Canal and for conducting business operations incident thereto and incident to the civil government of the Canal Zone (2 C.Z.C. 61, 76A Stat. 8).

Upon entry into force on October 1, 1979 of the Panama Canal Treaty of 1977, the United States relinquished and Panama assumed plenary jurisdication over what was the Canal Zone. Pursuant to the Panama Canal Act of 1979, Pub. L. 96–70, 93 Stat. 452, the statute implementing the new treaty, the Canal Zone Government was disestablished and the Panama Canal Company was replaced by a new United States Government agency, the Panama Canal Commission, which will operate the waterway until the termination of the treaty on December 31, 1999. Many of the functions performed by the two former Canal agencies will not be undertaken by the Panama Canal Commission.

As a result of the Treaty and Public Law 96–70, the regulations published in Title 35, CFR have to be rewritten in accordance with the substantially different authority and responsibilities which the new agency has. At this time, however, the Panama Canal Commission has only limited authority to revise those regulations. Therefore, a number of regulations are being continued with minor amendments.

On November 29, 1979 the President signed Executive Order No. 12173 (44 FR 69271) which continues, on an interim basis, the applicability of Panama Canal regulations that address matters which the President is authorized to regulate pursuant to Public Law 96–70.

The Order provides in part as follows:

1–101. All regulations that were adopted by the President or his delegates pursuant to former Title 2 of the Canal Zone Code (76A Stat. 6–50), repealed by Section 3303(a)(1) of Public Law 96–70, or actions taken pursant thereto, that were in effect on September 30, 1979, and that address matters which the President is authorized to regulate pursuant to Public Law 96–70 shall remain in effect unless or until amended, superseded, or otherwise terminated by the President or the Panama Canal Commission. This extension shall not apply to the extent that any such regulation or action is inconsistent with the provisions of the Panama Canal Treaty of 1977, its implementing agreements, or Public Law 96–70.

Thus, for this revision of Title 35, parts 51, 101, 103, 105, 109, 111, 113, 115, 117, 119, 121, 123, 125, 133, 135, 201, 251, 253, and 255 which are covered by the Executive Order are continued essentially unchanged. The sections contained therein which prescribe criminal penalties are revoked because they are based on provisions of Title 2 of the Canal Zone Code which have been repealed. For a number of those parts being retained, the citation of authority is being amended to conform to the Panama Canal Treaty of 1977 and related agreements, Pub. L. 96–70, and Executive Order 12173.

It should be noted that those regulations which are being continued must be read in light of the new definitions provided by section 3 of Public Law 96–70, which states in part as follows:

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws with respect to transactions, occurrences, or status on or after the effective date of this Act—

(1) "Canal Zone" shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to refer to "Panama Canal waters" and "waters of the Panama Canal", respectively;

(3) "Government of the Canal Zone" or "Canal Zone Government" shall be deemed to refer to the United States of America;

(4) "Governor of the Canal Zone" or "Governor", wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission;

(5) "Panama Canal Company" or "Company" wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission;

(6) in chapter 57 of title 5 of the Canal Zone, "hospitals" and "Health Bureau" shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama, and to the organizational unit operating such hospitals; and

(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, "health director" shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama.

(c) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before the effective date of this Act.

Parts 1, 5, 53, 57, 59, 63, 65, 69, and 127 are being revoked because they are inconsistent with the provisions of the Panama Canal Treaty of 1977 and related agreements or with Public Law 96–70. Other parts for which there is promulgating authority in the agency are being amended, revised or recodified to comply with the new statutory basis and agency organization.

In order to provide immediate guidance with respect to the provisions contained in these regulations, and to conform the Panama Canal regulations to the changes required by the Treaty and the Act implementing the Treaty, it is found to be impractical and unnecessary to publish such regulations as proposed rules.

Further revisions of the regulations in 35 CFR will be undertaken in the next few months. While the changes indicated herein are being published as final rules, interested parties are encouraged to submit written comments concerning the regulations here promulgated. All such submissions received before February 29, 1980 will be considered prior to the promulgation

of further revisions of the regulations. Accordingly, portions of 35 CFR are revoked, deleted, repealed, recodified, revised or amended as follows:

(1) The following parts are revoked because they are inconsistent with the Panama Canal Treaty of 1977 and related agreements or with Public Law 96-70: Parts 1—General provisions; 5—Public lands; military reservations; 53—Alcoholic beverages; 57—Customs service; 59—Exclusion and deportation of persons; 63—Licenses and fees; 65—Narcotics; 69—Professions and occupations; and, 127—Seamen of United States vessels.

(2) Part 3 describing the organization of the Government of the Canal Zone is revoked since the Canal Zone Government ceased to exist effective October 1, 1979. A new Part 3 is added which provides the text of Executive Order 12173 which continues applicability of Panama Canal regulations and delegates certain powers and responsibilities to the Secretary of Defense in accordance with Public Law 96-70.

(3) Part 7, the regulations governing claims of employees of the Panama Canal Company and Canal Zone Government under Military Personnel and Civilian Employees' Claims Act of 1964, as amended, is revised to change the part heading and to make minor revisions in the text to conform with Public Law 96-70 and the new agency organization. Section 7.6, paragraphs (d) and (g) are amended to correct a typographical error in paragraph (d), and to clarify paragraphs (d) and (g) and conform the Commission's regulations to the regulations of other Federal agencies operating in the Republic of Panama.

(4) Part 9, which described the organization, functions and availability of information of the Panama Canal Company, is amended as follows: the heading has been revised and the part has been divided into two subparts. Subpart A implements the Freedom of Information Act for the Panama Canal Commission. It has been rewritten in simplified English and reorganized. For example, § 9.5, Uniform schedule of fees, is redesignated § 9.11. A new subpart B concerning vital statistics records is added; it incorporates, in revised form, subpart H of Part 61. Subpart B is rewritten to conform with the provisions of the Panama Canal Treaty of 1977 and its related agreements and with Public Law 96-70.

(5) Part 10 implements the Privacy Act for the Panama Canal Commission. The part is revised by changing the part heading, reorganizing the sections and rewriting the regulations in simplified English.

(6) Part 51 regulating air navigation, is amended to revise the citation of authority and to revoke subpart C, which provides penalties for violations based on Title 2 of the Canal Zone Code which has been repealed.

(7) Part 60 is rewritten to implement the provisions of Executive Order 12065 (43 FR 28949, June 28, 1978) and the Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978), relating to the classification, downgrading, declassification, and safeguarding of national security information. This change tightens restrictions on the generation of classified material while establishing procedures to accelerate the declassification of documents.

(8) Part 61, the regulations governing health, sanitation, and quarantine, is amended to revise the citation of authority and to delete subparts A (Compulsory vaccination), G (Venereal disease), and J (Hospitalization of the mentally ill) which concern matters that the Commission is not authorized to regulate. Subpart H (Vital statistics), §§ 61.351 through 61.364, is revised to describe the residual recordkeeping functions and is redesignated as subpart B of Part 9 of this title. Sections 61.39, 61.70, 61.96, 61.131, 61.319 and 61.365, which provide penalties for violations, are revoked since they are based on Title 2 of the Canal Zone Code which has been repealed.

(9) Part 67, the regulations governing the Canal Zone postal service, is revised by changing the part heading and revoking subparts A through K which are inconsistent with the Panama Canal Treaty of 1977 and related agreements and for which statutory authority was repealed by Public Law 96-70. Regulations regarding the residual functions relating to outstanding postal savings deposits and certificates, and postal money orders, and the accounting for funds (subparts L and M) continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds. A new subpart A is added setting forth the authority and scope of this part and subparts L and M have been revised and redesignated as subparts B and C, respectively.

(10) Part 70, establishing the procedure for rulemaking, is amended to revise the citation of authority.

(11) Part 101, regulating the arrival and departure of vessels, various quarantine, customs, immigration and admeasurement requirements, is amended to revise the citation of authority and to incorporate the definition of "boarding officer" in § 101.3 (previously included in Part 1). Section 101.14, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(12) Part 103, the general provisions governing vessels, is amended by revising the citation of authority. Section 103.42, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(13) Part 105 which regulates pilotage, is amended by revising the citation of authority. Section 105.7, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(14) Part 107 which regulates the manning of vessels, is amended by revising the citation of authority. Section 107.7, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(15) Part 109, regulating the entering and preparing to enter the locks, is amended by revising the citation of authority. Section 109.8, providing penalties for violations is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(16) Part 111, regulating the prevention of collisions, is amended by revising the citation of authority and by adding the definition of "public vessel(s)" to § 111.2(a) (previously included in Part 1). Subpart F, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(17) Part 113, regulating hazardous cargoes, is amended by revising the citation of authority. Subpart E, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(18) Part 115, the regulations governing the Board of Local Inspectors and the composition and functions of the board, is amended by revising the citation of authority. Section 115.2(a) is revised to change the titles of the members composing the Board to reflect the reorganization of the agency.

(19) Part 117, the regulations governing marine accidents, is amended by revising the citation of authority. Section 117.7, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(20) Part 119, regulating the licensing of officers, is amended by revising the citation of authority. Subpart G, providing penalties for violations, is revoked since it is based on Title 2 of

the Canal Zone Code which has been repealed.

(21) Part 121 regulates the inspection and registration of vessels; is amended by revising the citation of authority. Subpart D, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(22) Part 123 which regulates radio communication, is amended by revising the citation of authority. Section 123.12, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(23) Part 125, the rules governing sanitary requirements, vessel wastes, garbage and ballast, is amended by revising the citation of authority. Section 125.5, providing penalties for violations, is revoked since it is based on Title 2 of the Canal Zone Code which has been repealed.

(24) Part 133, the rules governing the tolls for use of the canal, is amended by revising the citation of authority. Section 133.1 which establishes the rates of tolls for the Panama Canal is amended to conform with the notice of increase in tolls that became effective October 1, 1979 (44 FR 56837, October 2, 1979).

(25) Part 135, the rules for measurement of vessels, is amended by revising the citation of authority.

(26) Part 201, regulating the judiciary, is amended by revising the citation of authority. Sections 201.1 and 201.2 are revoked and reserved to conform with § 3303(a)(2) of Public Law 96-70, 93 Stat. 499.

(26) Part 251, regulating employment and compensation, is amended by revising the citation of authority.

(27) Part 253, the regulation of the Secretary of the Army, is amended by revising the citation of authority.

REVISION OF 35 CFR:

PART 1—[REVOKED]

1. Part 1 is revoked.

2. Part 3 is amended by revising the part heading, the citation of authority, and subpart A, and revoking and reserving subpart B. As amended, Part 3 reads as follows:

PART 3—ORGANIZATION OF PANAMA CANAL COMMISSION

Subpart A—Continuing Applicability of Panama Canal Regulations

Sec.

1.1 Text of Executive Order 12173.

Subpart B—[Reserved]

Authority.—Issued under the authority vested in President by provisions of 3 U.S.C. 301; Pub. L. 96-70; 93 Stat. 452; EO 12173, dated November 29, 1979, 44 FR 69271, and as President of the United States.

Subpart A—Continuing Applicability of Panama Canal Regulations

§ 1.1 Text of Executive Order 12173.

By the authority vested in me as President of the United States of America by Section 301 of Title 3 of the United States Code, by the Panama Canal Code (76A Stat. 1), as amended, and by Pub. L. 96-70 (93 Stat. 452), and in accordance with the rights granted to the United States of America by the Panama Canal Treaty of 1977 "to manage, operate and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal" it is hereby ordered as follows:

1-101. All regulations that were adopted by the President or his delegates pursuant to former Title 2 of the Canal Zone Code (76A Stat. 6-50), repealed by Section 303(a)(1)[1] of Pub. L. 96-70 shall remain in effect unless or until amended, superseded, or otherwise terminated by the President or the Panama Canal Commission. This extension shall not apply to the extent that any such regulation or action is inconsistent with the provisions of the Panama Canal Treaty of 1977, its implementing agreements, or Pub. L. 96-70.

1-102. The Secretary of Defense shall exercise the powers and carry out the responsibilities vested in the President of the United States by the Panama Canal Code (76A Stat. 1), as amended, and Pub. L. 96-70 (93 Stat. 452), except for those powers and responsibilities vested in the President by Sections 1102(b), 1103, 1104, 1105(a), 1106(b), 1108, 1109(a), 1112(d), 1143(a)(1), 1321(c), 1344(b), 1504(b), 1601(a), 2206(b) and 3301 of Pub. L. 96-70. This delegation shall be effective for 120 days after the date of this order.

Subpart B—[Reserved]

PART 5—[REVOKED]

3. Part 5 is revoked.

PART 7—CLAIMS OF EMPLOYEES OF PANAMA CANAL COMMISSION UNDER MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIM ACT OF 1964, AS AMENDED

4. Part 7 is amended by revising the part heading (as set forth above) and revising §§ 7.1 (b), (c), (d), (e) and (f); 7.5(c)(2); 7.6 (d) and (g); and 7.9 to read as follows:

§ 7.1 Definitions.

* * * * *

(b) "Employee" means an employee of the Panama Canal Commission (also referred to as "the Commission") and includes a member of the uniformed services assigned to duty with the Commission;

(c) "Government" means the Panama Canal Commission unless the context indicates a broader meaning;

(d) "Chief Financial Officer" means the Chief Financial Officer of the Panama Canal Commission acting for and in behalf of the Commission;

(e) "Chief Accountant" means Chief Accountant of the Panama Canal Commission acting for and in behalf of the Commission;

(f) "Chief, Claims Branch," means the Chief of the Claims Branch, Accounting Division of the Panama Canal Commission acting for and in behalf of the Commission.

§ 7.5 Principal types of claims payable.

* * * * *

(c) * * *

(2) Occurs in areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements and results from vandalism that is determined to have been politically motivated.

* * * * *

(Sec. 3(b)(1); Pub. L. 96-70; 93 Stat. 455)

§ 7.6 Principal types of claims not payable.

* * * * *

(d) Articles being worn (unless allowable under § 7.5 (c), or (d)).

* * * * *

(g) Claims for loss or damage to motor vehicles or trailers or personal property contained therein (unless allowable under § 7.5 (c), (d) or (g)).

* * * * *

§ 7.9 Claims procedure.

The claimant must submit his claim in writing on a prescribed form covering employees claims for loss of or damage to personal property.

The form should be sent to the Panama Canal Commission, Chief, Claims Branch, Office of Financial Management, APO Miami 34011 (or Balboa, Republic of Panama).

5. Part 9 is amended by revising the part heading; by revising and renumbering the regulation and redesignating it as subpart A; a new subpart B is added. As revised, Part 9 reads as follows:

[1] Editorial Note.—The correct citation is section 3303(a)(1).

PART 9—ORGANIZATION, FUNCTIONS, AND AVAILABILITY OF RECORDS—PANAMA CANAL COMMISSION

Subpart A—Organization and Functions of the Commission; Availability of Information and Official Records.

Sec.
9.1 Purpose of this subpart.
9.2 Organization.
9.3 Functions.
9.4 How to request general information or publications.
9.5 The Freedom of Information Act.
9.6 How to make a Freedom of Information Act request.
9.7 How your Freedom of Information Act request will be handled.
9.8 How to make an appeal under the Freedom of Information Act.
9.9 How your Freedom of Information Act appeal will be handled.
9.10 How the Commission may extend the time to respond to your request or appeal.
9.11 Fees for Freedom of Information Act requests.
9.12 Current index.
9.13 Annual report.

Subpart B—Vital Statistics Records

Sec.
9.31 Definitions.
9.32 Administration.
9.33 Functions of the Vital Statistics Unit.
9.34 Supplementary certificate of adoption.
9.35 New birth certificate upon legitimation.
9.36 Delayed filing of birth certificate.
9.37 Altered certificates.
9.38 Certified copies of records.
9.39 Disclosure of records.

Authority.—5 U.S.C. 552, 81 Stat. 54, as amended by Pub. L. 93–502, 88 Stat. 1561; Sec. 1701, Pub. L. 96–70, 93 Stat. 492; EO 12173, 44 FR 69271; 8 P.C.C. §§ 4, 5, 6, and 8, 88 Stat. 1417.

Subpart A—Organization and Functions of the Commission; Availability of Information and Official Records

Authority.—5 U.S.C. 552, 81 Stat. 54, as amended by Pub. L. 93–502, 88 Stat. 1561.

§ 9.1 Purpose of this subpart.

This subpart describes the organization and functions of the Panama Canal Commission (referred to in this part as "the Commission" or "Agency") and explains how a member of the public may request records from this agency under the Freedom of Information Act.

§ 9.2 Organization.

The principal office of the Panama Canal Commission is located at Balboa Heights, Republic of Panama. The office of the Secretary of the Panama Canal Commission is located at Room 312, Pennsylvania Building, 425 13th Street N.W., Washington, D.C. 20004. The Commission also maintains a procurement office at 4400 Dauphine Street, New Orleans, La. 70140.

§ 9.3 Functions.

(a) The Panama Canal Commission, which replaced the Canal Zone Government and the Panama Canal Company effective October 1, 1979, is established in the executive branch of the United States by the Panama Canal Act of 1979 (Pub. L. 96–70, 93 Stat. 452) as an agency of the United States, for the purpose of maintaining and operating the Panama Canal and the facilities and appurtenances related thereto. As provided in section 1101 of that Act, the authority of the President with respect to the Commission is exercised through the Secretary of Defense.

(b) As provided in the Panama Canal Act of 1979, the supervision of the Commission is vested in a Board composed of nine members, one of whom is the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not fewer than five members of the Board are nationals of the United States; the remaining members are nationals of the Republic of Panama.

(c) The President appoints the members of the Board. The members of the Board who are United States nationals are appointed by and with the advice and consent of the Senate. Each member of the Board holds office at the pleasure of the President.

(d) The Administrator of the Commission, who is appointed by the President, by and with the advice and consent of the Senate, holds office at the pleasure of the President.

(e) The Commission maintains and operates the Panama Canal and facilities and appurtenances related thereto, including electric power, water, and telephone systems; procurement and storehouse facilities; motor transportation services; an agency press and duplicating center; marine and general repair shop; and an employees' housing system.

(The Panama Canal Act of 1979, Secs. 1101, 1102, 1103, Pub. L. 96–70, 93 Stat. 456, 457)

§ 9.4 How to request general information or publications.

The Commission has an Office of Public Information which is responsible for providing information about the agency to members of the public and the press. If you are interested in general information about the Commission's activities, or copies of its publications, you should write, visit, or call this office. Address letters to: Panama Canal Commission, Office of Public Information, APO Miami 34011 (or Balboa, Republic of Panama).

§ 9.5 The Freedom of Information Act.

(a) The Freedom of Information Act (5 U.S.C. 552) is a law which creates a procedure for any person to request official records from United States Government agencies. The rest of the rules in this supbart explain how you may request official records from the panama Canal Commission.

(b) The Freedom of Information Act requires every United States Government agency to make official records available to any person who requests them, unless the records that the person requests fall within one of more of the exceptions to availability listed in the law. For more details about these exceptions, see subsection (b) of section 552, Title 5, United States Code, available in libraries.

(c) The Freedom of Information Act does not require an agency to create records or compile information that you would like to have. The law deals only with making existing records available.

§ 9.6 How to make a Freedom of Information Act request.

(a) To make a request for a record using the Freedom of Information Act, you must:

(1) Write to the Panama Canal Commission, Agency Records Officer (Chief, Administrative Services Division), APO Miami 34011 (or Balboa, Republic of Panama); and

(2) State in your letter that you are making a request under the Freedom of Information Act, and clearly mark the envelope "Freedom of Information Act Request". A request under 5 U.S.C. 552 which is not properly addressed and is not marked in this way shall not be considered to be received by the agency until it has actually been received by the Agency Records Officer.

(3) In your letter, reasonably describe the records you are seeking. Be as specific in describing the records as you can. Although it is not required, it will be helpful if, whenever possible, you supply in your letter specific information regarding dates, titles, file designations, the office where you believe the records may be found, and other information which may help to identify the records.

(b) You do not have to explain why you want the records, but it may be helpful if you do so; it may result in a faster or less expensive search; it may sometimes result in a discretionary release of records not required to be released under the Act; or it may help to demonstrate a public interest in a release and thereby lead to a waiver or

reduction of search or copying fees chargeable under § 9.11 of this subpart.

§ 9.7 How your Freedom of Information Act request will be handled.

(a) The official responsible for deciding whether your request will be granted is the Agency Records Officer. That official must make the decision and send you notification of it within ten working days after the Commission receives your request. In unusual circumstances, the Commission may extend the time for responding to your request. For details, see § 9.10 of this subpart.

(b) If the Agency Records Officer denies your request, in whole or in part, the letters sent to you to notify you of this decision must:

(1) Tell you why the request is being denied;

(2) Tell you that you have the right, by appealing the decision, to require the agency to reconsider its decision; and

(3) Tell you how to make an appeal.

(c) If you request records or information which is in the files of the Commission but which originated in another Federal agency, the Agency Records Officer may refer your request to that agency. In that case, the Agency Records Officer will inform you that your request has been referred to the originating agency.

§ 9.8 How to make an appeal under the Freedom of Information Act.

(a) If you are not satisfied with the decision of the Agency Records Officer, you may require the Commission to reconsider that decision. This is called "making an appeal."

(b) To make an appeal, you must:

(1) Write to the Panama Canal Commission, Executive Secretary, APO Miami 34011 (or Balboa, Republic of Panama); and

(2) State in your letter that you are making an appeal under the Freedom of Information Act, and clearly mark the envelope "Freedom of Information Act Appeal"; and

(3) Mail or deliver the letter of appeal within ten working days after you receive the letter from the Agency Records Officer.

(c) Although it is not required, it may be helpful if you clearly indicate in your appeal the reasons why you disagree with the decision on your request and your reasons for wanting the records.

§ 9.9 How your Freedom of Information Act appeal will be handled.

(a) The official responsible for deciding whether to grant your appeal is the Executive Secretary of the Panama Canal Commission. That official must make that decision and send you notification of it within 20 working days after receiving your appeal. In unusual circumstances, the Commission may extend the time for responding to your appeal. For details, see § 9.10 of this subpart.

(b) If the Executive Secretary denies your appeal, in whole or in part, the letter sent to you to notify you of this decision must:

(1) Tell you why the appeal is being denied;

(2) Tell you that this denial is the Commission's final decision; and

(3) Tell you that you have the right to request a U.S. District Court to review the denial of your appeal, as provided by 5 U.S.C. 552(a)(4)(B), as amended.

§ 9.10 How the Commission may extend the time to respond to your request or appeal.

(a) In unusual circumstances, the Commission may extend the time for making a decision about your request or about your appeal. If the Commission does extend the time, it will do so by sending you a written notice signed by the Agency Records Officer. The notice will:

(1) Tell you why it is necessary to extend the time;

(2) Tell you how long the time has been extended; and

(3) Tell you the date when you can expect the decision about your request or your appeal to be sent to you.

(b) The Commission may extend the time for making a decision about your request or your appeal by a total of ten working days. The extension period may be split between the request and the appeal, but it may not exceed ten working days overall.

(c) The unusual circumstances which may reasonably require an extension of time for the proper handling of your request or appeal are:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; or

(2) The need to search for, collect, and appropriately examine a voluminous quantity of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Commission having substantial subject matter interest in the request.

§ 9.11 Fees for Freedom of Information Act requests.

(a) The following are the fees you will be charged by the Panama Canal Commission for searching for an reproducing the records you request.

(1) Search for records: $5.50 per hour for searches conducted by clerical personnel, and $17.50 per hour for searches conducted by supervisory or professional personnel.

(2) Searches requiring computers: $130.00 for the first two hours (or fraction of the first two hours); $65.00 for each additional hour.

(3) Copying: $0.09 per page for the first copy of a record. For additional copies, you will be charged the official Panama Canal Commission tariff rate for copying.

(4) Converting microfilm to paper copy: $0.09 per page for the first copy of a record. For additional copies, you will be charged the official Panama Canal Commission tariff rate for copying.

(5) Duplication of tape recordings, when tape is furnished by the agency: 60-minute tape, $1.95 per tape; 90-minute tape, $2.75 per tape; and 120-minute tape, $3.70 per tape. If you supply the tape, there will be no charge for the duplication.

(6) Duplication of photographs: Black and white, up to 8" x 10", $1.50 per print; color, up to 8" x 10", $2.50 per print.

(7) Other services: If there is no specific fee listed in this section for a service necessary for handling your request, you will be charged the official agency tariff for that service. If no tariff exists for that service, the Agency Records Officer is authorized to charge the direct cost to the Commission of that service.

(b) If you wish to request a waiver or reduction of fees, you must do so in writing. The official granting or denying your request or appeal may waive or reduce the fees if the official decides that providing the records you request would primarily benefit the general public.

(c) The Commission may require you to pay any fees charged before the agency will make available to you the records you requested. If you have not paid the fees charged for processing a request, the Commission will not process any subsequent requests you make.

(d) The Commission may charge you fees for searching for the records you request even if no records are found. You may also be charged if records are found but are determined to be exempt from disclosure to you because they fall within one of the exceptions to availability listed in the Freedom of Information Act.

(e) If the records you request are not stored on the Isthmus of Panama, the special costs of returning them to the Isthmus of Panama for review will be added to the search costs.

(f) If your request is expected to involve fees of more than $50, the Commission will not treat your request as having been received until:

(1) The Commission has sent you a written notification of the estimated fees; and

(2) You agree in writing to pay at least the estimated fees; and

(3) You pay part of the estimated fees in advance, if the agency requires such a deposit before it will begin to search for the records you have requested.

§ 9.12 Current index.

(a) The Commission maintains and will make available for public inspection and copying a current index of the agency's opinions, policy statements, administrative staff manuals, and instructions to staff that affect a member of the public.

(b) The Commission has decided that it is not necessary to publish this index.

(c) On request, the Commission will provide copies of this index to members of the public. The charges for the copies will be no greater than those set out in § 9.11.

§ 9.13 Annual report.

On or before March 1 of each calendar year, the Panama Canal Commission sends to both Houses of Congress a report of its activities in connection with the Freedom of Information Act during the preceding calendar year. The Freedom of Information Act requires each agency to make this report and to include in it such information as: how many requests were denied and why; how many denials were appealed and the result of those appeals; the name and title of each official who denied a request; and other information showing how the agency administered the Freedom of Information Act during the period covered by the report.

Subpart B—Vital Statistics Records.

Authority.—Issued under authority vested in President by Sec. 1701, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271; 8 P.C.C. §§ 4, 5, 6, and 8; 88 Stat. 1417.

§ 9.31 Definitions.

As used in this subpart:

"Live Birth" means the birth of a child who shows evidence of life after the child is entirely outside the mother.

"Stillbirth" means a birth after 20 weeks of gestation which is not a live birth.

"Physician" means a person legally authorized to practice medicine before October 1, 1979, in the area then known as the Canal Zone.

"Vital Statistics" includes the registration, preparation, transcription and preservation of data pertaining to marriages, births, adoptions, legitimations, deaths, stillbirths, and data incidental thereto.

"Vital Statistics Unit" means the organizational unit charged by the Administrator of the Panama Canal Commission with the function of vital statistics.

§ 9.32 Administration.

The Vital Statistics Unit shall administer this subpart, under the supervision of the Administrator or his designee.

§ 9.33 Functions of the Vital Statistics Unit.

The Vital Statistics Unit is the keeper of the vital statistics records of the Canal Zone Government. Some of the functions previously performed by that unit were discontinued on October 1, 1979, when the Canal Zone and its civil government ceased to exist. The Vital Statistics Unit now performs the residual functions of recordkeeping; i.e., it is limited to performing the following:

(a) Maintaining all vital statistics records of the Canal Zone Government.

(b) Performing the vital statistics functions as defined in § 9.31 of this subpart for those events which occurred in the Canal Zone before October 1, 1979, and which were not previously registered in that unit. This includes the delayed registration of a birth that occurred prior to October 1, 1979.

(c) The alteration of records which are filed in that unit.

(d) The issuance of copies of documents filed in that unit.

(Panama Canal Treaty of 1977 and related agreements and Public Law 96-70, 93 Stat. 452)

§ 9.34 Supplementary certificate upon adoption.

Upon receipt of a certified copy of an order or decree of adoption, the Vital Statistics Unit shall prepare a supplementary certificate in the new name of the adopted person and shall seal and file the original certificate of birth with such certified copy attached thereto. The sealed documents may be opened only upon the demand of the adopted person, if of legal age, or by an order of court. Upon receipt of a certified copy of a court order of annulment of the adoption, the original certificate shall be restored to its original place in the file.

§ 9.35 New birth certificate upon legitimation.

In cases of legitimation the Vital Statistics Unit, upon receipt of proof thereof, shall prepare a new certificate of birth in the new name of the legitimated child. The evidence upon which the new certificate is made and the original certificate shall be sealed and filed and may be opened only upon the demand of the person involved, if of legal age, or by an order of court.

Cross Reference.—Legitimation of child, see 8 P.C.C. 335, 387, 76A Stat. 689, 691. See also 7 P.C.C. 576, 76A Stat. 571.

§ 9.36 Delayed filing of birth certificate.

(a) When a live birth occurred in the Canal Zone (prior to October 1, 1979), a certificate of live birth should have been filed with the Vital Statistics Unit within five days after the birth by the physician, midwife, or other legally authorized person in attendance at the birth or, if the birth was not so attended, by one of the parents. If a certificate of live birth in the Canal Zone was not filed during that time, it may still be possible to file a delayed certificate of birth by following the procedure set forth in paragraph (b) of this section.

(b) A delayed certificate of live birth may be filed upon the submission to, and receipt by, the Vital Statistics Unit of such evidence, in the form of affidavits or otherwise, as the Vital Statistics Unit deems sufficient to establish satisfactorily the truth of the facts alleged in support of the request for delayed filing. Certificates accepted more than six months after the time prescribed for filing in paragraph (a) of this section shall contain the date of the delayed filing and shall be marked "delayed." A summary statement of the evidence submitted in support of the acceptance for delayed filing shall be endorsed on the certificate. Such evidence shall be kept in a special permanent file.

§ 9.37 Altered certificates.

Certificates of marriage, birth, stillbirth, or death filed in the Vital Statistics Unit may be altered upon the submission to, and receipt by, the Vital Statistics Unit of such evidence, in the form of affidavits or otherwise, as that unit deems sufficient to establish satisfactorily the truth of the facts alleged in support of the request for alteration. Certificates which are altered after being filed shall contain the date of the alteration and shall be marked "altered." A summary statement of the evidence submitted in support of the acceptance for alteration shall be endorsed on the certificate. Such

evidence shall be kept in a special permanent file.

§ 9.38 Certified copies of records.

Subject to the restrictions contained in § 9.39, a certified copy of a certificate on file or any part thereof shall be furnished to any applicant upon request. The person designated by the Administrator or by the Administrator's designee to act as Vital Statistics Clerk shall be the person to certify copies of such certificates or parts thereof. Charges shall be made for certified copies of vital statistics records at the rate prescribed in the official Panama Canal Commission tariff.

§ 9.39 Disclosure of records.

Inspection of a vital statistics record is not permitted, and a certified copy of a certificate or part thereof may not be issued, unless the Vital Statistics Unit is satisfied that the applicant has a direct and legitimate interest in the matter recorded or that the information therein contained is necessary for the determination of personal or property rights.

6. Part 10 is amended by revising and renumbering the regulations to read as follows:

PART 10—ACCESS TO INFORMATION ABOUT INDIVIDUALS

Sec.

10.1 Purpose of this part.
10.2 The Privacy Act of 1974.
10.3 Definitions.
10.4 When this part applies.
10.5 How to make a Privacy Act request.
10.6 How to identify yourself.
10.7 How your Privacy Act request will be handled.
10.8 When, where, and under what conditions you may review the records.
10.9 Special procedures for medical records.
10.10 How to request review of a system manager's denial of access.
10.11 Fees for Privacy Act requests.
10.12 How to request amendment of your record under the Privacy Act.
10.13 How your Privacy Act request for amendment will be handled.
10.14 How to appeal a refusal to amend a record under the Privacy Act.
10.15 How your Privacy Act appeal will be handled.
10.16 Rights of parents and legal guardians.
10.17 Conditions under which the Commission may disclose an individual's record to other persons.
10.18 Accounting of certain disclosures.
10.19 Records about deceased persons.
10.20 Penalties for noncompliance with the Act.
10.21 General exemptions.
10.22 Specific exemptions.
Appendix A—General Routine Uses.

Authority:—5 U.S.C. 552a.

§ 10.1 Purpose of this part.

The purpose of this part is to establish Panama Canal Commission policies and procedures for implementing the Privacy Act of 1974 (Pub. L. 93–579), and particularly the provisions of 5 U.S.C. 552a.

§ 10.2 The Privacy Act of 1974.

The Privacy Act of 1974 (referred to in this part as "the Privacy Act") is a law which provides safeguards against the invasion of an individual's personal privacy. The Privacy Act creates a procedure for an individual to request access to or amendment of a record about himself or herself that is maintained by an agency of the United States Government. It also places certain restrictions on the disclosure of records containing information about an individual to other persons. The rest of the rules in this part:

(a) Explain how you may request access to or amendment of records about yourself that are maintained by the Panama Canal Commission (referred to in this part as "the Commission" or "the agency");

(b) Explain the conditions under which the Commission may disclose information about an individual to others without the individual's consent; and

(c) List the systems of records maintained by the Commission which are exempt from certain provisions of the Privacy Act, including the provisions for access and amendment.

§ 10.3 Definitions.

(a) All terms used in this part which are defined in the Privacy Act (5 U.S.C. 552a(a)) shall have the same meanings as they do in that Act.

(b) "Agency Records Officer" means the Chief, Administrative Services Division, Panama Canal Commission.

(c) "Executive Secretary" means the Executive Secretary of the Panama Canal Commission.

(d) "System Manager" means the official designated in the most recent Notice of Systems of Records published in the Federal Register, as having responsibility for a given system of records.

§ 10.4 When this part applies.

(a) This part applies only to information about individuals that is maintained by the Panama Canal Commission in a system of records which has been described in a notice published in the Federal Register. This means that these regulations apply only to information about an individual that can be retrieved from a group of records by the individual's name or other personal identifier (such as an employee identification number).

(b) Where another agency (such as the Office of Personnel Management) has published a notice describing a system of records that is partially under the control of the Panama Canal Commission, the Privacy Act regulations of that agency take precedence over the regulations in this part.

§ 10.5 How to make a Privacy Act request.

(a) You may find it helpful to review the descriptions of Commission systems of records, as published in the Federal Register, before you make a request. You may review these in the annual compilation of "Privacy Act Issuances," available at libraries, or, upon request, at the Records Management Branch, Administration Building, Balboa Heights, Republic of Panama.

(b) To find out whether a particular system of records contains information about you, or to request access to records about yourself, you must:

(1) Write or visit the system manager or the Agency Records Officer. The title and address of the system manager are given in the Notice of System of Records published in the Federal Register. The office of the Agency Records Officer is located in the Administration Building, Balboa Heights, Republic of Panama, and that official's mailing address is: Panama Canal Commission, Agency Records Officer, APO Miami 34011 (or Balboa, Republic of Panama).

(2) Reasonably identify the system of records or the type of information, or records, you are interested in. Be as specific as you can. If you do not know which system of records is involved, it will be helpful if you identify the office where you believe the records may be located.

(3) Adequately identify yourself in accordance with the requirements contained in § 10.6 of this part.

(c) If you make your request in writing, state in your letter that you are making a request under the Privacy Act and clearly mark the envelope with the words "Privacy Act Request." A request under 5 U.S.C. 552a which is not properly addressed and is not marked in this way shall not be considered to have been received by the agency until it has actually been received by the system manager or the Agency Records Officer.

§ 10.6 How to identify yourself.

(a) If you make your request in person, or if you wish to review your records in person, you must identify yourself to the system manager or the Agency Records Officer (or to a person designated by one of those officials) by showing at least one identification document

containing your picture (for example, employee identification card, driver's license, passport), or at least two identification documents containing your signature, or other identification acceptable to the official concerned.

(b) If you make your request in writing, you must supply information that will help to verify your identity (for example, signature, employee identification number, date and place of birth), and you may also be required to provide the certificate of a notary public or other official authorized to administer oaths.

(c) Whether making your request in person or in writing, if you cannot identify yourself to the satisfaction of the system manager or the Agency Records Officer (or the person designated by one of those officials), you may be asked to make and sign a written statement asserting your identity and indicating that you understand that knowingly and willfully requesting or obtaining access to any record about another individual under false pretenses is a misdemeanor punishable by a fine of up to $5,000 (5 U.S.C. 552a(i)(3)).

§ 10.7 How your Privacy Act request will be handled.

(a) The system manager or the Agency Records Officer will acknowledge receipt of your request within ten working days. At the same time, or as soon as possible after acknowledging receipt, that official will:

(1) Tell you that a record about you is maintained in the system of records you identified and tell how you may review it, or get a copy; or

(2) Tell you that no record about you is maintained in the system of records you identified; or

(3) Tell you that your inquiry cannot be answered or your request cannot or will not be granted because you have not adequately identified yourself or the system of records; because the system of records in question is exempt from the access provisions of the Privacy Act; or because the record or system of records in question is not under the control of the Commission.

(b) When the system manager or the Agency Records Officer makes a decision to grant you access to the records you requested, you normally may see the records or get copies of them right away. If, for any reason, the records cannot be provided immediately, that official will arrange with you a mutually acceptable time and place for you to review and copy the records. If that official cannot make the records available to you within 30 working days of receipt of your request, that official will advise you in writing of the reason for the delay.

§ 10.8 When, where, and under what conditions you may review the records.

(a) If you want to review your records in person, you will normally be required to go during regular working hours to the location specified in the Notice of the System of Records or to the office of the Agency Records Officer, in the administration Building, Balboa Heights, Republic of Panama. If you cannot go in person during regular working hours, you should telephone or write the system manager or the Agency Records Officer so that appropriate arrangements can be made for you to review the records.

(b) You must identify yourself to the system manager or the Agency Records Officer (or to a person designated by one of those officials) in accordance with the requirements contained in § 10.6 of this part.

(c) If you have been told that you may review your records in person, you may, upon your request, be accompanied by a person of your choosing. You will however, have to provide the system manager with a written signed statement authorizing disclosure of the records about you to that person, and authorizing discussion of your records in the presence of that person.

(d) You may be shown a copy of a record rather than the original record itself when the record is not maintained at, or cannot be transferred to, a location which is accessible to you. In that event, you will be charged for the copies only if you choose to retain them. If copies are made at your request, the agency will charge you the cost of making the copies, as stated in § 10.11 of this part.

(e) No one shall be allowed to inspect original agency records except under the immediate supervision of the system manager, or the Agency Records Officer, or a person designated by one of those officials.

§ 10.9 Special procedures for medical records.

(a) If you request medical records about yourself, including psychiatric and psychological records, the records will be made available to you only after the Director of Health and Safety, or that official's designee, determines that release of the records would not be likely to have an adverse effect on you. If they are not made available to you, upon your written request the medical records which are not otherwise exempt from disclosure may be reviewed by a licensed medical practitioner designated by you.

(b) School records of a psychological nature may be shown to the student who is the subject of the records or to the parent or guardian of the student only if the Director of Health and Safety, or that official's designee, determines that the release would not be likely to have an adverse effect on the individual who is the subject of the records.

§ 10.10 How to request review of a system manager's denial of access.

(a) If the system manager denies your request for records, in whole or in part, you may ask the Agency Records Officer to review that decision. The denial is not considered a final agency decision unless it has been reviewed and confirmed in writing by the Agency Records Officer.

(b) To request review of a system manager's denial, you must:

(1) Write to the Panama Canal Commission, Agency Records Officer, APO Miami 34011 (or Balboa, Republic of Panama); and

(2) State in your letter that you are requesting review of the system manager's denial and clearly mark the envelope "Privacy Act Request for Review"; and

(3) Mail or deliver the request for review within ten working days after you receive the system manager's denial.

(c) Although it is not required, it may be helpful if you state in your request for review the reasons why you disagree with the decision on your request for access and your reasons for wanting the records.

§ 10.11 Fees for Privacy Act requests.

(a) The fees for copies of records made at your request under this section will be the same as the fees provided in § 9.11(a) (3), (4), (5), (6), (7); (c); and (e) of this title for copies of materials provided under the Freedom of Information Act.

(b) If your request for copies of records or portions of records is expected to involve fees of more than $50, the Commission will not treat your request as having been received until:

(1) The Commission has sent you a written notification of the estimated fees; and

(2) You agree in writing to pay at least the estimated fees; and

(3) You pay part of the estimated fees in advance, if the agency requires such a deposit before it will begin to copy the records you have requested.

§ 10.12 How to request amendment of your record under the Privacy Act.

After you have reviewed your record, you may ask the Commission to correct

or amend any portion of the record that you believe is not accurate, timely, relevant, or complete. To make a request for amendment, you must:

(a) Write to the Panama Canal Commission, Agency Records Officer, APO Miami 34011 (or Balboa, Republic of Panama).

(b) State in your letter that you are requesting amendment of a record under the Privacy Act, and clearly mark the envelope "Privacy Act Request for Amendment." A request for amendment of a record under 5 U.S.C. 552a which is not properly addressed and is not marked in this way shall not be considered to be received by the Commission until it has actually been received by the Agency Records Officer.

(c) In your letter, identify the system of records involved, if you can, and identify the particular record or portion of the record you wish to have corrected or amended. If possible, attach a copy of the record in question.

(d) Explain in your letter why you believe the record or portion of the record is not accurate, timely, relevant, or complete, and provide any evidence available to support your request.

(e) Include in your letter any other information that may be necessary for proper processing of your request.

§ 10.13 How your Privacy Act request for amendment will be handled.

(a) The Agency Records Officer (or that official's designee) will decide whether your request for amendment of a record should be granted. That official (or the designee) will acknowledge receipt of your request within ten working days and will either notify you of the decision or tell you when you can expect to have the decision. If a decision cannot be made within 30 working days of the receipt of your request, the Agency Records Officer (or the designee) will advise you in writing of the circumstances causing the delay.

(b) If your request for amendment is granted, in whole or in part:

(1) The Agency Records Officer (or that official's designee) will notify you of this decision;

(2) The system manager will promptly correct the record; and

(3) Where an accounting of disclosures has been maintained, the system manager will advise all previous recipients of the record that the correction has been made.

(c) If your request for amendment is denied, in whole or in part, the Agency Records Officer (or that official's designee) will notify you of this decision and will:

(1) Tell you why the request is being denied;

(2) Tell you that you have the right to request further review by appealing the decision; and

(3) Tell you how to make an appeal.

§ 10.14 How to appeal a refusal to amend a record under the Privacy Act.

(a) If the Agency Records Officer (or that official's designee) has denied your request to amend a record, you may request the Executive Secretary to review that decision. This is called "making an appeal."

(b) To make an appeal, you must:

(1) Write to the Panama Canal Commission, Executive Secretary, APO Miami 34011 (or Balboa, Republic of Panama); and

(2) State in your letter that you are appealing a denial of a request for amendment under the Privacy Act, and clearly mark the envelope "Privacy Act Appeal"; and

(3) Mail or deliver the letter of appeal within ten working days after you receive the initial agency denial.

§ 10.15 How your Privacy Act appeal will be handled.

(a) The official responsible for deciding whether to grant your appeal is the Executive Secretary of the Panama Canal Commission. The Executive Secretary will review the refusal to amend your record and will advise you of his decision within 30 working days of receipt of your appeal.

(b) If the Executive Secretary grants your appeal, in whole or in part:

(1) That official will notify you of the decision;

(2) The system manager will promptly correct the record; and

(3) Where an accounting of disclosures has been maintained, the system manager will advise all previous recipients of the record that the correction has been made.

(c) If the Executive Secretary denies your appeal, in whole or in part, the letter sent to notify you of this decision must:

(1) Tell you why the appeal is being denied;

(2) Tell you that this denial of your appeal is a final agency decision;

(3) Tell you that you have the right to file a concise statement of your reasons for disagreeing with the decision of the agency; and

(4) Tell you that you have the right to request a U.S. District Court to review this denial of your appeal, as provided by 5 U.S.C. 552a(g).

(d) The Administrator of the Panama Canal Commission may extend the 30-working-day period specified in paragraph (a) of this section for good cause shown. In that case, the Agency Records Officer will notify you in writing of the reason for the delay and will tell you when you can expect a decision on your appeal.

(e) If you choose to file a concise statement of your reasons for disagreeing with the agency's refusal to amend your record:

(1) The system manager shall cause a notation to be made on the disputed portion of the record;

(2) Copies of your statement of disagreement will be provided to anyone to whom the disputed record is subsequently disclosed and (to the extent that an accounting of disclosures has been maintained) to any previous recipients of the disputed record; and

(3) The Commission may, at its discretion, make a brief summary of its reasons for not amending the record and may provide this summary, along with your statement of disagreement, to previous or subsequent recipients of the disputed record.

§ 10.16 Rights of parents and legal guardians.

The parent of legal guardian of a minor or the legal guardian of an individual who has been declared incompetent may request access to, or amendment of, a record on behalf of that individual. To do so, a parent will be required to show a certified or authenticated copy of the minor's birth certificate, and a legal guardian will be required to show a certified or authenticated copy of the court order establishing guardianship. In some cases, the parent or legal guardian of a minor may be asked to provide evidence that the minor is in the parent's or guardian's custody, that the minor has consented to disclosure of the information to the parent or guardian, or that the parent or guardian has authority to act on the minor's behalf.

§ 10.17 Conditions under which the Commission may disclose an individual's record to other persons.

(a) The Commission shall not disclose information about an individual that is contained in one of its systems of records to any person or to another agency, except by written request of, or with the prior written consent of, the individual who is the subject of the record, unless the disclosure is authorized by paragraph (b) of this section or is required by other applicable law.

(b) Under 5 U.S.C. 552a, the Commission may disclose information contained in its systems of records, without the consent of the individual who is the subject of the record, if the

disclosure of the information, or record, would be:

(1) To the parent or legal guardian of any minor, or to the legal guardian of any individual who has been declared to be incompetent by a court of competent jurisdiction, where such person is acting on the individual's behalf (5 U.S.C. 552a(h));

(2) To those officers and employees of the Commission who have a need for the information in the performance of their duties (5 U.S.C. 552a(b)(1));

(3) Required under 5 U.S.C. 552, the Freedom of Information Act (5 U.S.C. 552a(b)(2));

(4) For a routine use as defined in 5 U.S.C. 552a(a)(7) and as described for all systems of records in Appendix A of this part and for specific systems of records in the Notice of Systems of Records published in the Federal Register (5 U.S.C. 552a(b)(3));

(5) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13, U.S. Code (5 U.S.C. 552a(b)(4));

(6) To a recipient who has provided the Commission with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable (5 U.S.C. 552a(b)(5));

(7) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or that official's designee to determine whether the record has such value (5 U.S.C. 552a(b)(6));

(8) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Commission specifying the particular portion desired and the law enforcement activity for which the record is sought (5 U.S.C. 552a(b)(7));

(9) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual (5 U.S.C. 552a(b)(8));

(10) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee (5 U.S.C. 552a(b)(9));

(11) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office (5 U.S.C. 552a(b)(10)); or

(12) Pursuant to the order of a court of competent jurisdiction (5 U.S.C. 552a(b)(11)).

§ 10.18 Accounting of certain disclosures.

(a) The system manager or his designee shall keep an accurate accounting of each disclosure of personal information about an individual from a system of records under his control which is made in accordance with § 10.17(b) of this part, except if that disclosure is to officers and employees of the Commission (§ 10.17(b)(2)) or is required under the Freedom of Information Act (§ 10.17(b)(3)).

(b) This accounting of disclosure shall include:

(1) The date, nature, and purpose of each such disclosure; and

(2) The name and address of the person or agency to whom the disclosure is made.

(c) The system manager shall retain this accounting of disclosure for at least five years after the disclosure or for the life of the record, whichever is longer.

(d) The Commission shall make the accounting of disclosure available to the individual named in the record, at that individual's request, except when the disclosure was made under § 10.17(b)(8) of this part or when the record in question is exempt from the access provisions of the Privacy Act under §§ 10.21 and 10.22 of this part. An individual may request access to the accounting of disclosure by the procedure for requesting access to records that is explained in §§ 10.5 through 10.10 of this part.

§ 10.19 Records about deceased persons.

A record about a deceased person is not covered by the rules in this part, except to the extent that the deceased person's record contains information about a living individual. In disclosing information about a deceased person, the Commission will make every effort to avoid any infringement of the privacy rights of a living individual.

§ 10.20 Penalties for noncompliance with the Act.

Subsections (g) and (i) of 5 U.S.C. 552a provide civil remedies and criminal penalties for noncompliance with the provisions of the Privacy Act of 1974 (Pub. L. 93-579) or regulations implementing that Act. In addition, adverse or disciplinary action may be taken against any officer or employee who willfully or negligently fails to comply with the requirements of the Privacy Act or the regulations in this part.

§ 10.21 General exemptions.

(a) The systems of records listed in this section were, before October 1, 1979, maintained by units of the Canal Zone Government (Office of Internal Security, Canal Protection Division, Customs Division, Police Division, and Probation and Parole Unit) whose principal function was the performance of activities pertaining to the enforcement of criminal laws. These systems are now maintained by the successors of these units in the Panama Canal Commission. Identification of individuals who are (or are not) the subjects of investigative files, disclosure to such individuals of the contents of such files and of the persons or agencies to whom such contents may have been transmitted, and the imposition of certain restrictions on the manner in which investigatory data is collected, verified, or retained could be expected to preclude the apprehension or the successful prosecution of persons engaged in criminal activity. Accordingly, the following systems of records maintained by the Panama Canal Commission shall be exempt, pursuant to 5 U.S.C. 552a(j), from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G), (H), and (I); (e)(5); (e)(8); (f); (g); (h); and (o) of 5 U.S.C. 552a and from the procedures for access and amendment set forth in §§ 10.5 through 10.10 and 10.12 through 10.16 of this part:

(1) Vital Installation Access File, PCC-CZG/CACP-1;

(2) State Department Visa Lookout Book, PCC-CZG/CACU-1;

(3) Immigration and Naturalization Service Lookout Book, PCC-CZG/CACU-2;

(4) Customs Fugitive Records, PCC-CZG/CACU-3;

(5) Cardex File—Smuggling; Narcotics; Violators or Suspects and Fugitives, PCC-CZG/CACU-4;

(6) Cardex File—Vehicle Exporters, PCC-CZG/CACU-5;

(7) Cardex File—Contraband Violations, PCC-CZG/CACU-6;

(8) Seamen's Locator List, PCC-CZG/CACU-7;

(9) Law Enforcement Case Report Files, PCC-CZG/CAPL-1;

(10) Police Headquarters Confidential File, PCC-CZG/CAPL-2;

(11) Detective Confidential Files, PCC-CZG/CAPL-3;

(12) Convict Files, PCC-CZG/CAPL-4;

(13) Prisoner Record Cards, PCC–CZG/CAPL–5;
(14) Police Photo Files, PCC–CZG/CAPL–6;
(15) Fingerprint File, PCC–CZG/CAPL–7;
(16) Pending Detective Investigation Records, PCC–CZG/CAPL–8;
(17) Informant Name File, PCC–CZG/CAPL–9;
(18) Master Name File, PCC–CZG/CAPL–10;
(19) Youth Unit Drug Abuse File, PCC–CZG/CAPL–11;
(20) Youth Unit Name Index File, PCC–CZG/CAPL–12;
(21) Probation and Parole Unit Child Custody Reports, PCC–CZG/CAPR–1;
(22) Presentence and Pre-Parole Investigation Reports, PCC–CZG/CAPR–2;
(23) Probation and Parole Unit Statistical File, PCC–CZG/CAPR–3;
(24) Personnel Security Files, PCC–CZG/ISO–1;
(25) Confidential Sources and Contacts, PCC–CZG/ISO–2;
(26) Card Index System, PCC–CZG/ISO–3;
(27) Index of Contractor Employees, PCC–CZG/ISO–4;
(28) Biographical Data Cards, PCC–CZG/ISO–5;
(29) Biographical Data Files, PCC–CZG/ISO–6;
(30) Canal Protection Division Activity Report Files, PCC–CZG/CACP–2.

(b) An individual may not obtain access under this part to information contained in any system of records when such information is identified as having been obtained from a system of records that has been exempted by any agency from the provisions of 5 U.S.C. 552a(d) by authority of 5 U.S.C. 552a(j).

§ 10.22 Specific exemptions.

(a) The following systems of records (which, before October 1, 1979 were maintained by the Canal Zone Government and the Panama Canal Company, and which are now maintained by the Panama Canal Commission) shall be exempt, pursuant to 5 U.S.C. 552a(k), from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of 5 U.S.C. 552a and from the procedures for access and amendment set forth in §§ 10.5 through 10.10 and 10.12 through 10.15 of this part:

(1) Systems containing material which has been properly classified in accordance with Part 60 of this title, because its disclosure could reasonably be expected to cause damage to the national security:

(i) Personnel Security Files, PCC–CZG/ISO–1;
(ii) Confidential Sources and Contacts, PCC–CZG/ISO–2;
(iii) Card Index System, PCC–CZG/ISO–3;
(iv) Biographical Data Files, PCC–CZG/ISO–6.

(2) Systems containing investigatory material compiled for law enforcement purposes (other than criminal law enforcement investigatory material within the scope of § 10.21 of this part), because disclosure could be expected to impede the investigatory process, reveal the identities of confidential sources, or prevent the detection of unlawful actions:

(i) Canal Zone Board of Registration for Architects and Professional Engineers Reference Files, PCC–CZG/BRAE–1;
(ii) Vital Installation Access File, PCC–CZG/CACP–1;
(iii) State Department Visa Lookout Book, PCC–CZG/CACU–1;
(iv) Immigration and Naturalization Service Lookout Book, PCC–CZG/CACU–2;
(v) Customs Fugitive Records, PCC–CZG/CACU–3;
(vi) Cardex File—Smuggling; Narcotics; Violators or Suspects and Fugitives, PCC–CZG/CACU–4;
(vii) Cardex File—Vehicle Exporters, PCC–CZG/CACU–5;
(viii) Cardex File—Contraband Violations, PCC–CZG/CACU–6;
(ix) Seamen's Locator List, PCC–CZG/CACU–7;
(x) Driver's License Investigatory File, PCC–CZG/CALS–7;
(xi) Law Enforcement Case Report Files, PCC–CZG/CAPL–1;
(xii) Police Headquarters Confidential File, PCC–CZG/CAPL–2;
(xiii) Detective Confidential Files, PCC–CZG/CAPL–3;
(xiv) Convict Files, PCC–CZG/CAPL–4;
(xv) Prisoner Record Cards, PCC–CZG/CAPL–5;
(xvi) Police Photo Files, PCC–CZG/CAPL–6;
(xvii) Fingerprint File, PCC–CZG/CAPL–7;
(xviii) Pending Detective Investigation Records, PCC–CZG/CAPL–8;
(xix) Informant Name File, PCC–CZG/CAPL–9;
(xx) Master Name File, PCC–CZG/CAPL–10;
(xxi) Youth Unit Drug Abuse File, PCC–CZG/CAPL–11;
(xxii) Youth Unit Namd Index File, PCC–CZG/CAPL–12;
(xxiii) Probation and Parole Unit Child Custody Reports, PCC–CZG/CAPR–1;
(xxiv) Presentence and Pre-Parole Investigation Reports, PCC–CZG/CAPR–2;
(xxv) Probation and Parole Unit Statistical File, PCC–CZG/CAPR–3;
(xxvi) Mail Covers, PCC–CZG/CAPS–1;
(xxvii) Case Investigations, PCC–CZG/CAPS–2;
(xxviii) Personnel Investigation Records, PCC–CZG/CZPB–3;
(xxix) Embezzlements, Burglaries, and Cash Shortages, PCC–CZG/FVAC–1;
(xxx) Claims Files, PCC–CZG/FVAK–1;
(xxxi) Cash Audit Files, PCC–CZG/FVGA–1;
(xxxii) Equal Employment Opportunity Counseling and Investigation Files, PCC–CZG/GVEO–1;
(xxxiii) Medical Administration System—Exempt, PCC–CZG/HL–2;
(xxxiv) Personnel Security Files, PCC–CZG/ISO–1;
(xxxv) Confidential Sources and Contacts, PCC–CZG/ISO–2;
(xxxvi) Card Index System, PCC–CZG/ISO–3;
(xxxvii) Index of Contractor Employees, PCC–CZG/ISO–4;
(xxxviii) Biographical Data Cards, PCC–CZG/ISO–5;
(xxxix) Biographical Data Files, PCC–CZG/ISO–6;
(xl) Housing Complaints File, PCC–CZG/SC–2.
(xli) Canal Protection Division Activity Report Files, PCC–CZG/CACP–2.

(3) [Reserved]

(4) Systems used only for statistical research or reporting purposes and not used in making any determinations about identifiable individuals:

(i) Minority Group Designator Records, PCC–CZG/PR–11.

(5) Systems consisting of investigatory material compiled to determine suitability, eligibility, or qualifications for employment, security clearance, or participation in Federal contracts, to the extent that disclosure would reveal the identity of confidential sources:

(i) Merit System Recruiting, Examining, and Placement Records, PCC–CZG/CZPB–1;
(ii) Appeals, Grievances, Complaints, and Assistance Records, PCC–CZG/CZPB–2;
(iii) Personnel Investigation Records, PCC–CZG/CZPB–3;
(iv) Embezzlements, Burglaries, and Cash Shortages, PCC–CZG/FVAC–1;
(v) Personnel Security Files, PCC–CZG/ISO–1;
(vi) Confidential Sources and Contacts, PCC–CZG/ISO–2;
(vii) Card Index System, PCC–CZG/ISO–3;
(viii) Index of Contractor Employees, PCC–CZG/ISO–4;

(ix) Biographical Data Files, PCC–CZG/ISO–6;

(x) Recruiting and Placement Records, PCC–CZG/PR–5;

(6) Systems containing testing or examination material used to determine individual qualifications for appointment or promotion, the disclosure of which would compromise the objectivity or fairness of the testing or examination process:

(i) Canal Zone Board of Registration for Architects and Professional Engineers Reference Files, PCC–CZG/BRAE–1;

(ii) Merit System Recruiting, Examining, and Placement Records, PCC–CZG/CZPB–1;

(iii) Marine License Files, PCC–CZG/MRBLI–1;

(iv) Admeasurer Examination File, PCC–CZG/MRPA–1;

(b) Information in any other system of records which meets one or more of the criteria for exemption specified in paragraph (a) of this section, or in subsection (k) of 5 U.S.C. 552a, shall be deemed to be part of a system of records which is exempt from disclosure pursuant thereto.

(c) Information (other than criminal law enforcement investigatory material within the scope of § 10.21 of this part) contained in a system of records listed under paragraph (a)(2) of this section which is used to deny an individual any right, privilege, or benefit to which he would otherwise be entitled by law, or for which he would otherwise be eligible, shall be made available to such individual pursuant to §§ 10.5 through 10.10 and 10.12 through 10.15 of this part, except to the extent that such disclosure would reveal the identity of a source who furnished information under an express promise that the identity of the source would be held in confidence (or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence).

Appendix A—General Routine Uses

Information about an individual which is maintained in any system of records under the control of the Panama Canal Commission is subject to disclosure, as a routine use of such information, to any of the following persons or agencies under the circumstances described:

1. Information indicating a violation or potential violation of law (whether civil, criminal, or regulatory in nature, and whether involving a statute or regulation or a rule or order issued pursuant thereto) may be referred to the federal, state, local, foreign, or international agency charged with investigating or prosecuting such violations or charged with implementing or enforcing the particular statute, or regulations, rule, or order, which is pertinent thereto.

2. Information which has a bearing on matters which may be in dispute may be disclosed in the course of presenting evidence or argument to a court or administrative tribunal, a judicial official, or counsel for a party in connection with litigation or administrative proceedings in which the agency, or its officers or employees, are or may become involved.

3. Information may be provided to persons or agencies from whom information is solicited, to the extent necessary to elicit facts which may be relevant to a financial audit or an agency decision to hire or retain an employee, issue a security clearance, award a contract, grant a license, or otherwise provide a benefit or incur an obligation.

4. Information may be disclosed to a federal agency, in response to its request in a particular case or in a category of cases, in connection with that agency's (a) decision in a personnel matter; (b) financial audits and accounting; (c) issuance of a security clearance; (d) investigation of an individual employed or formerly employed by the Panama Canal Commission (or its predecessors); or (e) decision to award a contract, grant a license, or otherwise provide a benefit or incur an obligation.

5. Information may be supplied in response to an inquiry from a Member of Congress on behalf of an individual or, at any stage of the legislative coordination and clearance process, to the Office of Management and Budget in connection with the review of private relief legislation.

6. Information which has a bearing on the qualifications of professional personnel (such as architects, attorneys, engineers, medical practitioners, pilots, and teachers) who have been employed by the agency or have had professional dealings with the agency may be provided to the appropriate authorities such as professional licensing and certifying boards and grievance committees.

7. To the extent necessary for implementation of the Panama Canal Treaty of 1977 and related agreements, information may, upon approval by the Agency Records Officer (Chief, Administrative Services Division) or that official's designee, be disclosed to officials of the Government of the Republic of Panama and to U.S. Government agencies which, under the Treaty, assumed functions formerly performed by the Panama Canal Company or the Canal Zone Government.

PART 51—AIR NAVIGATION

7. Part 51 is amended by revising the citation of authority and revoking subpart C. As revised, the citation of authority reads as follows:

* * * * *

Authority.—Sec. 1701, Pub. L. 96–70, 93 Stat. 492 and EO 12173, 44 FR 69271.

* * * * *

Subpart C—[Revoked]

PART 53—[REVOKED]

8. Part 53 is revoked.

PART 57—[REVOKED]

9. Part 57 is revoked.

PART 59—[REVOKED]

10. Part 59 is revoked.

11. Part 60 is amended by revising the citation of authority and revising the regulations to read as follows:

PART 60—CLASSIFIED INFORMATION

Sec.

60.1 Authority and scope.
60.2 Classification designation, requirements, and prohibitions.
60.3 Limitations on original classification authority.
60.4 Use of derivative classification.
60.5 Requirements for classification guides.
60.6 Duration of classification.
60.7 Identification and markings.
60.8 Declassification and downgrading.
60.9 Access to classified information.
60.10 Top Secret, Secret, and Confidential control officer.
60.11 Compliance with Executive Order 12065; Panama Canal Commission Classification Review Committee.
60.12 Mandatory review for declassification.
60.13 Custody and storage.
60.14 Security investigations; training and orientation of employees.
60.15 Debriefing upon termination of employment.
60.16 Responsibility of individual employees.
60.17 Loss or compromise; destruction of nonrecord classified information.
60.18 Classified Documents Library.
60.19 Procedure for receiving and transmitting classified documents.
60.20 Reproduction of classified documents.

Authority:EO 12065, 43 FR 28949; Directive No. 1, Information Security Oversight Office, approved by National Security Council, 43 FR 46280.

§ 60.1 Authority and scope.

Executive Order 12065, dated June 28, 1978 (43 FR 28949, July 3, 1978) and Directive No. 1 of the Information Security Oversight Office, approved by the National Security Council on September 29, 1978 (43 FR 46280, October 5, 1978), set forth the uniform standards for the identification, classification, downgrading, declassification, and the safeguarding of security information affecting the national defense and foreign relations of the United States (collectively termed "national security" in this part). The regulations contained in this part are adopted pursuant to that Executive Order (which became effective December 1, 1978) and implement its provisions within the Panama Canal Commission (referred to in this part as "the Commission").

§ 60.2 Classification designation, requirements, and prohibitions.

(a) *Classified designation.* Official information which requires protection against unauthorized disclosure in the interest of the national security shall be classified "Top Secret," "Secret" or "Confidential" depending upon the degree of its significance to national security. No other categories of classification shall be used to identify such information except as otherwise expressly provided by statute. If there is reasonable doubt which designation is appropriate or whether the information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

(b) *"Top Secret".* Information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security, should be classified as "Top Secret." The Commission does not have authority to originally classify information as "Top Secret."

(c) *"Secret".* Information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security, should be classified as "Secret."

(d) *"Confidential".* Information, the unauthorized disclosure of which reasonably could be expected to cause identifiable damage to the national security, should be classified as "Confidential."

(e) *Classification requirements.* Information may not be considered for classification unless it concerns:

(1) Military plans, weapons, or operations;

(2) Foreign government information;

(i) "Foreign government information" as referred to in this part means:

(A) Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence; or

(B) Information produced by the United States pursuant to a written, joint arrangement with a foreign government or international organization of governments requiring that either the information or the arrangement, or both, be kept in confidence. Such a written, joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record.

(ii) Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

(3) Intelligence activities, sources or methods;

(4) Foreign relations or foreign activities of the United States;

(5) Scientific, technological, or economic matters relating to the national security;

(6) United States Government programs for safeguarding nuclear materials or facilities; or

(7) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to Section 1-201 of Executive Order 12065, or by an agency head. Determinations made under this criterion shall be reported promptly to the Director of the Information Security Oversight Office.

(f) Even though information is determined to concern one or more of the criteria listed in § 60.2(e), it shall not be classified unless an original classification authority also determines that its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security.

(g) *Prohibitions.* Classification shall not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, an organization, or the Commission, to restrain competition, or to prevent for any other reason the release of information which does not require protection in the interest of national security.

(h) No document originated on or after December 1, 1978, shall be classified after the Commission has received a request for the document under the Freedom of Information Act (5 U.S.C. 552) or § 60.12 of this title, unless such classification is consistent with Executive Order 12065 and is authorized by the Chief of Industrial Security Office of the Commission. Classification authority under this provision shall be excercised personally, on a document-by-document basis.

(i) References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

(j) Classification may not be restored to documents already classified and released to the public under Executive Order 12065, or prior Executive Orders.

§ 60.3 Limitations on original classification authority.

(a) The authority to originally classify information under this part shall be limited to the categories of Secret and Confidential. Only the following officials of the Panama Canal Commission are authorized to originally classify information or material:

(1) Administrator

(2) Chief of Industrial Security Office

(b) Other officials and employees of the Panama Canal Commission originating documents which, in their opinion should be classified as Secret or Confidential prior to dispatch, shall forward these documents to the Classified Documents Library of the Industrial Security Office with recommendation for appropriate classification. Such documents shall be protected by a cover sheet (such as Panama Canal Commission Forms 185-Conf of 185-B Secret) of the classification recommended by the originator, and shall be handled and safeguarded as if classified.

(c) All information originated within the Commission which is believed to require classification as Top Secret (within the meaning of this part and Executive Order 12065) shall be hand carried by the originator to the Classified Documents Library and handled in accordance with the procedures established by § 60.19(c) of this part. The Classified Documents Library in turn, shall transmit the information promptly under appropriate safeguards to the agency which has appropriate subject matter interest and classification authority. If it is not clear which agency should get the information, it shall be sent to the Director of the Information Security Oversight Office for a determination.

(d) Intra-office documents, such as longhand notes or draft papers, that contain information affecting the national security shall be distinctly marked with the proper classification at top and bottom, by hand, by the originator, and shall be protected and destroyed in the same manner as an inter-office or agency classified document. Such intra-office documents shall be forwarded to the Classified Documents Library for destruction as soon as the content has been included in a formal classified paper or as soon as note or draft is not required.

(e) A holder of classified information or material shall observe and respect the classification assigned by the originator. Holders of classified information are encouraged to challenge the classifications assigned to documents. When the holder of a classified document feels that there is a reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time the holder shall so inform the originator who shall then re-examine the classification. Alternatively, the holder may invoke the mandatory

review procedure set out in § 60.12 of this title. When requested, anonymity of the challenger shall be preserved.

§ 60.4 Use of derivative classification.

(a) Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide. Persons who apply such derivative classification markings shall:

(1) Respect original classification decisions;

(2) Verify the information's current level classification so far as practicable before applying the markings; and

(3) Carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings. A single marking may be used for documents based on multiple sources.

(b) Paper copies of derivatively classified documents shall be marked at the time of origination as follows:

(1) The classification authority shall be shown on a "classified by" line; e.g. "Classified by (Insert identity of classification guide)" or "Classified by (Insert source of original classification)." If the classification is derived from more than one source, the single phrase "multiple sources" may be shown, provided that identification of each source is maintained with the file or record copy of the document.

(2) The identity of the office originating the derivatively classified document shall be shown on the face of the document.

(3) Dates or events for declassification or review shall be carried forward from the source material or classification guide and shown on a "declassify on" or "review for declassification on" line. If the classification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied to the new information.

(4) The classification marking provisions of paragraphs (b) through (g) of § 60.7 are also applicable to derivatively classified documents.

(5) Any additional marking under paragraph (h) of § 60.7 of this part appearing on the source material shall be carried forward to the new material when appropriate.

(6) Any abbreviation or code permitted under paragraph (i) of § 60.7 may be applied to derivatively classified documents.

§ 60.5 Requirements for classification guides.

(a) Classification guides used to direct derivative classification and issued pursuant to Section 2-2 of Executive Order 12065 and § 60.4 of this part shall:

(1) Identify the information to be protected, using categorization to the extent necessary to ensure that the information involved can be identified readily and uniformly;

(2) State which of the classification designations (i.e., Top Secret, Secret, or Confidential) applies to the information.

(3) State the duration of classification in terms of a period of time or future event. When such duration is to exceed six years, the reason for such extension shall be provided in the guide. However, if the inclusion of classified reasons would result in a level of classification for a guide that would inhibit its desirable and required dissemination, those reasons need to be recorded only on or with the record copy of the guide; and

(4) Indicate how the designations, time limits, markings, and other requirements of the Order and this part are to be applied.

(b) Each classification guide shall be kept current and shall be reviewed at least once every two years. The Commission shall maintain a list of classification guides in current use.

(c) Each such guide shall be approved personally in writing by an agency head listed in Section 2-1 of Executive Order 12065 or by an official with Top Secret classification. No official of the Commission has authority to approve a classification guide.

§ 60.6 Duration of classification.

(a) Except as provided by paragraph (b) of this section and § 60.8(g), at the time of original classification each original classification authority shall set a date or event for automatic declassification no more than six years later.

(b) Only officials with Top Secret classification authority and agency heads specifically identified by position title in Section 1-2 of Executive Order 12065 may classify information for more than six years from the date of the original classification. This authority is not vested in any Commission official.

§ 60.7 Identification and markings.

(a) At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

(1) The identity of the original classification authority (the identity of the classifier, unless also the signer or approver of the document, shall be shown on a "classified by" line; e.g. "Classified by John Doe" or "Classified by Administrator, Panama Canal Commission.");

(2) The date of classification and the office of origin;

(3) The date or event for declassification or review;

(4) Downgrading markings when it is determined that a classified document should be downgraded automatically at a certain date or upon a certain event; and

(5) One of the three classification designations defined in § 60.2.

(b) The overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page, and on the outside of the back cover (if any). Each interior page of a classified document shall be marked or stamped at the top and bottom either according to the highest classification of the content of the page, including the designation "Unclassified" when appropriate, or according to the highest classification of the document. In any case, the classification marking of the page shall not supersede the classification marking of portions of the page marked with lower levels of classification.

(c) Whenever practicable, subjects and titles shall be selected so as not to require classification. When the subject or title is classified, an unclassified identifier may be assigned to facilitate receipting and reference.

(d) Classifiers shall identify the level of classification of each classified portion of a document (including subjects and titles), and those portions that are not classified. Portion marking shall be accomplished by placing a parenthetical designator immediately preceding or following the text that it governs. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified, shall be used for this purpose. If individual portion marking is impracticable, the document shall contain a description sufficient to identify the information that is classified and the level of such classification. A waiver of the portion marking requirement may be granted by the Director of the Information Security Oversight Office. Requests for such waivers shall be made by the Administrator or his designee to the Director and shall include:

(1) Identification of the information or classes of documents for which such waiver is sought,

(2) A detailed explanation of why the waiver should be granted,

(3) The Commission's best judgment as to the anticipated dissemination of the information or class of documents for which waiver is sought, and

(4) The extent to which the information subject to the waiver may form a basis for classification of other documents.

(e) The classification and associated markings presented by this part for documents shall, where practicable, be affixed to material other than documents by stamping, tagging, or other means. If this is not practicable, recipients shall be made aware of the classification and associated markings by notification or other means.

(f) A transmittal document shall indicate on its face the highest classification of the information transmitted by it and the classification, if any, of the transmittal document. For example, an unclassified transmittal document should bear a notation substantially as follows: "UNCLASSIFIED WHEN CLASSIFIED ENCLOSURE IS DETACHED."

(g) Except in those cases where such markings would reveal intelligence information, foreign government information incorporated in United States documents shall, whenever practicable, be identified in such manner as to ensure that the foreign government information is not declassified prematurely or made accessible to nationals of a third country without consent of the originator. Documents classified by a foreign government or an international organization of governments shall, if the foreign classification is not in English, be marked with the equivalent United States classification. Foreign government information not classified by a foreign government or an international organization of governments but provided to the United States in confidence by a foreign government or by an international organization of governments, shall be classified at an appropriate level and shall be marked with the United States classification accordingly.

(h) In addition to the marking requirements in paragraphs (a) through (g) of this section, the additional markings provided in paragraphs (h) (1)–(3) of this section below shall, as appropriate, be displayed prominently on classified information. When display of these additional markings is not practicable, their applicability to the information shall be included in the written notification of the assigned classification.

(1) For classified information containing Restricted Data or Formerly Restricted Data as defined in the Atomic Energy Act of 1954, as amended, such markings as may be prescribed by the Department of Energy in regulations issued under the Act shall be applied.

(2) For classified information involving intelligence sources or methods: "WARNING NOTICE—INTELLIGENCE SOURCES AND METHODS INVOLVED."

(3) For classified information that the originator has determined, pursuant to Section 1–506 of Executive Order 12065, should be subject to special dissemination or reproduction limitations, or both, a statement placing the user on notice of the restrictions shall be included in the text of the document or on its cover sheet; e.g., "Reproduction requires approval of originator," or "Further dissemination only as directed by the Chief of Industrial Security."

(i) Classified documents that are transmitted electrically may be marked with abbreviations or codes in a single line in a manner consistent with economic and efficient use of electrical transmission systems, provided that the full text presented by each abbreviation or code and its relation to paragraphs (a) through (h) is readily available to each expected user of the classified documents affected.

§ 60.8 Declassification and downgrading.

(a) Classified information may be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, by a successor or by a supervisory official of either.

(b) For classified information transferred in conjunction with a transfer of functions (not merely for storage purposes) the receiving agency shall be deemed to be the originating agency for all purposes under Executive Order 12065.

(c) For classified information not transferred in accordance with paragraph (b) of this section, but originated in an agency which has ceased to exist, each agency in possession shall be deemed to be the originating agency for all purposes under Executive Order 12065. Such information may be declassified or downgraded by the agency in possession after consulting with any other agency having an interest in the subject matter.

(d) Declassification of classified information shall be given emphasis comparable to that accorded classification. Information classified pursuant to Executive Order 12065 and prior Orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event.

(e) When information is reviewed for declassification pursuant to Executive Order 12065 or the Freedom of Information Act, it shall be declassified unless the declassification authority determines that the information continues to meet the classification requirements prescribed in § 60.2 despite the passage of time.

(f) It is presumed that information which continues to meet the classification requirements described in § 60.2 requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the Panama Canal Commission Committee on Classified Information which will determine whether public interest in disclosure outweighs the damage to national security that might reasonably be expected to arise from the disclosure.

(g) Foreign government information shall be exempt from automatic declassification and 20 year systematic review, unless the foreign government specifies or agrees to such declassification or review. Foreign government information classified after the effective date of the order shall be assigned a date for review for declassification up to 30 years from the time the information was classified or acquired.

(h) Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders. Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by other authorized officials when such downgrading is appropriate. Notice of downgrading shall be provided to holders of the information to the extent practicable.

(i) Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. Earlier classification markings shall be cancelled when practicable.

§ 60.9 Access to classified information.

(a) No person may be given access to classified information unless that person has been determined to be trustworthy. The determination of eligibility, referred to in this part as a security clearance, shall be based on such investigations as the Panama Canal Commission may require in accordance with the standards and criteria of Executive Orders 10450 and 10865, as appropriate.

(b) In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of that person's official duties or contractual obligations, except in those instances provided for in paragraph (d) of this section. The determination of that need shall be made by officials having responsibility for the classified information or material.

(c) When a person no longer requires access to classified information or material in connection with the performance of that person's official duties or contractual obligations, the security clearance shall be withdrawn. Likewise, when a person no longer needs access to a particular security classification category, that person's security clearance shall be adjusted to the classification category still required for the performance of that person's duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

(d) Persons engaged in historical research projects and former Presidential appointees who occupied policy-making positions may be authorized access to classified information or material originating within the Panama Canal Commission. In such cases, the Chief of Internal Security Office shall obtain:

(1) Written agreements from the requestors to safeguard the information to which they are given access as permitted by Executive Order 12065 and this part; and

(2) Written consent to the Chief's review of their notes and manuscripts for the purpose of determining that no classified information is contained in them. A determination of trustworthiness is a pre-condition to a requestor's access. If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requestor shall be so notified and the fees may be imposed. Access may be permitted under this section only if the Commission has jurisdiction over the information and it:

(i) Makes a written determination that access is consistent with the interests of national security;

(ii) Takes appropriate steps to ensure that access is limited to specific categories of information over which it has classification jurisdiction;

(iii) Limits the access granted to former Presidential appointees to items that the person originated, reviewed, signed or received while serving as a Presidential appointee.

(e) Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 & Supp. V. 1975), classified information originating in one agency may not be disseminated outside any other agency, to which it has been made available, without the consent of the originating agency.

§ 60.10 Top Secret, Secret, and Confidential Control Officer.

(a) The Chief of Industrial Security, Panama Canal Commission, is the Top Secret Control Officer and is responsible for the receipt, current accountability, and transmission of all Top Secret information. The Deputy Chief, Industrial Security Office, is the Alternate Top Secret Control Officer. A physical inventory of all Top Secret material shall be made at least annually.

(b) The Chief of Industrial Security is the Control Officer for all classified information up to and including Secret.

§ 60.11 Compliance with Executive Order 12065; Panama Canal Commission Classification Review Committee.

(a) The Chief of Industrial Security is responsible for insuring both effective compliance with, and implementation of Executive Order 12065, by the Commission.

(b) There is established a Panama Canal Commission Committee on Classified Information which shall act on all suggestions and complaints received by it with respect to the administration of Executive Order 12065 and this part by the Commission. The Chief of Industrial Security shall act as chairman of this committee and shall designate appropriate officials from the Panama Canal Commission to serve on it.

(c) The Panama Canal Commission Committee on Classified Information shall be responsible for recommending to the Administrator appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065 or directives under it, including notification by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal. Upon receipt of such a recommendation the Administrator shall act promptly and advise the Committee of the action taken. The Information Security Oversight Office shall be informed when such violations occur.

(d) The Administrator shall report to the Attorney General evidence reflected in classified information of possible violations of Federal criminal law by an agency employee and of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General.

§ 60.12 Mandatory review for declassification.

(a) Any member of the public, government employee or agency may request that classified information be reviewed for declassification and release. Such requests must be submitted in writing to the Executive Secretary of the Panama Canal Commission, APO Miami 34011 (or Balboa, Republic of Panama).

(b) On receipt of such a request, the information shall be reviewed for possible declassification according to the procedure set out in this section, provided the request reasonably identifies the information sought. Whenever a request is deficient in its description of the information sought, the Executive Secretary shall notify the requester that unless additional identifying information is provided or the scope of the request is narrowed, the Commission will take no further action on the request.

(c) Requests for classification review made under paragraph (a) of this section shall be promptly acknowledged and then forwarded by the Executive Secretary to the official who originally classified the document or that official's successor, who shall decide whether, under the declassification provisions of § 60.6 of this title, the requested information may be declassified. If so, the information shall be declassified and promptly made available to the requester, unless withholding is otherwise warranted under applicable law. The official shall make and dispatch to the requester a decision on a proper request within 60 days after its receipt by the Executive Secretary. If the official decides that the information may not be released, in whole or in part, that offical shall send to the requester with the decision a brief statement of the reasons for the denial, a notice of the right to appeal the decision by letter

addressed to the Classification Review Committee, Agency Records Officer (Chief, Administrative Services Division), Panama Canal Commission, APO Miami 34011 (or Balboa, Republic of Panama), and a notice that, to be considered, such an appeal must be received by the Commission within 60 days of receipt of the decision letter.

(d) Within 30 days after its receipt of a proper appeal against an initial decision not to declassify information, the Classification Review Committee shall make and dispatch its decision whether the information should be declassified. The Committee shall, after its decision, promptly make available to the requester any information that it declassifies and which is otherwise releasable. If the Committee decides that continued classification of the requested information is necessary, it shall notify the requester of its decision and the reasons therefor. If requested, the Commission shall also communicate the appeal determination to any referring agency.

(e) The classification reviews made in response to requests and appeals under this section are in addition to the systematic review of classified information prescribed by Executive Order 12065.

(f) When the Commission receives a request for information in its custody which another agency classified, the Chief of Industrial Security shall send the request to the classifying agency for its review. With the request, the Chief shall also send a copy where practicable, of the document containing the information requested and the Chief's recommendation whether any of the information should be withheld. The Chief shall notify the requester that the request has been referred to the classifying agency, unless the classifying agency objects on grounds that its association with the information requires protection.

(g) When another agency refers a request to the Commission for review because the Commission originally classified the information requested, the Commission shall treat the request as though it were submitted directly to it under paragraph (a) of this section. The Commission shall send its decision directly to the requester and shall, if so requested, notify the referring agency of its decision on the request and on the appeal, if any.

(h) Requests for declassification which are submitted under the Freedom of Information Act or the Privacy Act of 1974 (5 U.S.C. 552 and 552a) shall be processed in accordance with the provisions of such Acts.

(i) The Commission, if in possession of classified information, may not, in response to a proper request under this section for the information, refuse to confirm the existence or non-existence of the information, unless the fact of its existence or non-existence would itself be classifiable under Executive Order 12065.

§ 60.13 Custody and storage.

(a) Classified information shall be protected in accordance with applicable National Security Council directives or directives promulgated by the Information Security Oversight Office and approved by the National Security Council.

(b) Each bureau director and chief of independent unit is responsible for assuring that all classified information within that official's organization is used, processed, stored, reproduced, and transmitted only under conditions which will provide adequate protection and prevent access by, or dissemination to, unauthorized persons. Containers, vaults, alarm systems and associated security devices procured after the effective date of this part for the storage and protection of classified information shall be in conformance with the standards and specifications published by the General Services Administration and to the maximum extent practicable, be of the type designated on its Federal Supply Schedule.

(c)(1) Top secret information shall be stored in a GSA-approved, safe-type, steel file cabinet having a built-in, three-position, dial-type combination lock or within an approved vault, or vault-type room, or in other storage facility that meets the standards for top secret established under the provisions of subsection (b) above.

(2) Secret and confidential information shall be stored in a manner and under the conditions prescribed for top secret information, or in a container or vault that meets the standards for secret, or confidential, established pursuant to the provisions of paragraph (b) above, and/or (c)(3) below.

(3)(i) Secret and confidential information may also be stored in a steel filing cabinet having a built-in, three-position, dial-type, changeable combination lock, or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a three-position, changeable, combination padlock approved by GSA for the purpose. The storage of secret information in the steel filing cabinets described above requires the use of such supplementary controls as the Administrator deems necessary to achieve the degree of protection warranted by the sensitivity of the information involved.

(ii) For protection of bulky secret and confidential material (for example, weaponry containing classified components) in magazines, strong rooms, or closed areas, access openings may be secured by changeable combination or key-operated, high-security padlocks approved by GSA. When key-operated padlocks are used, keys shall be controlled in accordance with paragraph (e)(2) below.

(d) Bureau directors and chiefs of independent units or branches are also responsible for assuring that all personnel having access to classified information in their respective organizations have a security clearance issued by the Chief of Industrial Security.

(e)(1) Combinations of all repositories containing classified information shall be changed at least annually and forwarded in double-sealed envelopes to the Industrial Security Office. More frequent changes of combinations are required when custodians change or when there is reason to suspect possible compromise of the current combination. The double-sealed envelopes shall be classified no lower than the highest category of information contained in the repositories. Combinations to dial-type locks shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination no longer requires access to the combination, whenever the equipment is taken out of service, and at least once every year. Knowledge of combinations protecting classified information shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned.

(2) When security equipment having a built-in combination lock is taken out of service, the lock shall be reset to the standard combination 50–25–50. Combination padlocks shall be reset to the standard combination 10–20–30.

(3) The Commission shall establish administrative procedures for the control and accountability of keys and locks, whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afforded the classified information being protected. Under no circumstances may keys be removed from the premises. They shall be stored in a secure container.

(f) Custodians of classified matter are responsible for registering with the Industrial Security Office the names of all persons having knowledge of combinations to repositories containing classified information.

(1) Persons entrusted with classified information shall be responsible for providing protection and accountability for such information at all times and for locking classified information in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures that insure unauthorized persons do not gain access to classified information.

(2) Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to insure adherence to procedural safeguards prescribed to protect classified information. Commission security officers shall insure that periodic inspections are made to determine whether procedural safeguards prescribed by agency regulations are in effect at all times.

§ 60.14 Security investigations; training and orientation of employees.

(a) The Chief of Industrial Security is responsible for initiating appropriate investigation and clearance of personnel who are to have access to classified information in the Commission.

(b) The Chief of Industrial Security is also responsible for establishing and maintaining a training and orientation program for employees concerned with classified information or material, to include the briefing of new employees and periodic reorientation during employment to emphasize an individual's responsibility for compliance with Executive Order 12065 and with this part.

§ 60.15 Debriefing upon termination of employment.

Bureau directors and heads of independent units shall be responsible for the debriefing of their employees upon termination of employment or contemplated temporary separation for a 60-day period or more to remind them of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

§ 60.16 Reponsibility of individual employees.

(a) The responsibility for the safeguarding of classified information shall rest on each individual employee having possession or knowledge of it, regardless of how such information or knowledge was obtained. In addition, each individual employee is directly responsible for acquiring familiarity with and complying with these and subsequently published security regulations.

(b) Any officer or employee, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by Executive Order 12065 or under this part, is subject to prompt and stringent administrative action, and, where a violation of criminal statute may be involved, is subject to prosecution under applicable law.

§ 60.17 Loss or compromise; destruction of nonrecord classified information.

(a) Loss or compromise of any classified information shall be immediately reported to the Industrial Security Office by the person having knowledge of its loss or compromise. The Industrial Security Office shall immediately initiate an investigation for any breach in security regulations after having advised the originating agency or activity of the loss or compromise of such information.

(b) Nonrecord classified information that has served its intended purpose shall be destroyed in accordance with procedures and methods approved by the Administrator. The method of destruction selected must preclude recognition or reconstruction of the classified information or material.

§ 60.18 Classified Documents Library.

(a) The Panama Canal Commission Classified Documents Library is contained in the Industrial Security Office.

(b) The purpose of the Classified Documents Library is to insure that maximum controls are afforded the processing and transmission of, and the accountability for, classified documents.

§ 60.19 Procedure for receiving and transmitting classified documents.

(a) The procedure for handling classified documents received by any person or unit of the Panama Canal Commission shall be as follows:

(1) All classified documents addressed to any person or unit of the Commission shall be immediately delivered by the addressee to the Classified Documents Library. Personnel of the Classified Documents Library shall receipt for and record all classified documents received from outside agencies (except that those officials, listed in § 60.3(a) of this part, may receipt for classified documents from outside agencies, and then forward them to the Classified Documents Library in person or by an authorized representative).

(2) The receipted documents shall be permanently recorded in the Classified Documents Library at which time accountability for these documents shall be assumed by the library.

(3) When classified documents addressed to an individual in the Panama Canal Commission are received by the Classified Documents Library, the addressee shall be notified by telephone that such classified matter is awaiting him at the Classified Documents Library; or the classified documents may be transmitted as provided in paragraph (c) of this section. When the addressee picks up the classified documents at the library, all items shall be recorded on an individual classified documents register furnished by the Classified Documents Library; one copy is to be permanently retained in the library, and one copy is to be retained by the addressee, or his authorized representative, who shall sign for the documents opposite each item on the register. This method of transfer may be utilized in lieu of a receipt.

(b) When any unit of the Panama Canal Commission prepares a document which is to be classified Secret or Confidential, for transmission to other offices of the Commission, the procedure shall be as follows:

(1) Prepare sufficient copies of the document for whatever distribution is required, and one additional copy for file in the Classified Documents Library.

(2) Forward draft copies, handwritten copies, and carbons to the Industrial Security Office for destruction under established procedures. In addition, all portions of electric typewriter ribbons used in the preparation of classified material must be destroyed in the same manner. Reusable cloth typewriter ribbons must be protected if used for preparation of classified material on first pass through typewriter.

(3) Bring all copies of the document to the Classified Documents Library. Copies shall be securely fastened underneath a cover sheet of the classification recommended by the originator.

(4) At the direction of the Chief of Industrial Security, the Classified Documents Library shall then assign the proper classification, short title, and serial number to each document and an accountability stamp shall be placed on each copy.

(5) All classified documents shall be appropriately and conspicuously marked to put all persons on clear notice of their classified content. In addition, all classified documents shall be marked to indicate the downgrading-

declassification schedule to be followed in accordance with § 60.7.

(6) The Classified Documents Library shall record the documents in the permanent documents log. The accountability of the documents passes from the originator to the library at this point.

(7) Distribution of the remaining copies shall be made by the Classified Documents Library according to the procedures covered in paragraphs (a)(3) or (c) of this section. The number of copies of documents containing classified information shall be kept to a minimum to decrease the risk of compromise and reduce storage costs.

(c) When any unit of the Panama Canal Commission transmits documents or information classified Top Secret to other offices of the Commission, or any classified documents or information to any agencies or units other than the Commission, the procedure for handling such information shall be as follows:

(1) The documents or information shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents.

(2) A receipt shall be attached to or enclosed in the inner cover. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender.

(d) When the Commission transmits classified documents or information to an agency other than the Commission, or documents or information classified Top Secret to other offices of the Commission, one or more of the following methods shall be used:

(1) By specifically designated personnel having the appropriate security clearance;

(2) By State Department diplomatic pouch;

(3) By messenger-courier system specifically created for that purpose;

(4) Over authorized secure communication circuits;

(5) Secret and confidential documents or information may also be transmitted by the following methods;

(i) As provided in paragraph (a)(3) of this section, if transmittal is to be within the Commission;

(ii) By U.S. registered mail through Army, Navy, or Air Force Postal Service facilities provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system.

(iii) Transmittal may also be accomplished under escort of appropriately cleared personnel aboard U.S. Government and U.S. Government contract vehicles or aircraft, ships of the United States Navy, civil service manned U.S. Naval ships, and ships of U.S. Registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are U.S. citizens and who are appropriately cleared may be designated as escorts.

Cross Reference.—Classification designation and requirements, see § 60.3 (b)–(e) of this part.

§ 60.20 Reproduction of classified documents.

(a) Top Secret documents may not be reproduced without the consent of the originating agency unless otherwise marked by the originating office. The reproduction of Secret and Confidential documents may be restricted by the originating agency. Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

(b) The Industrial Security Office is the only office within the Panama Canal Commission authorized to reproduce classified documents. Other offices within the Panama Canal Commission which require the reproduction of classified documents should bring them to the Classified Documents Library, Industrial Security Office, where the documents will be reproduced, properly marked, controlled and then returned to the user.

PART 61—HEALTH, SANITATION, AND QUARANTINE

12. Part 61 is amended by revising the citation of authority and revoking and reserving subparts A and G; by revoking §§ 61.39, 61.70, 61.96, 61.319, and 61.365; by revising subpart H and redesignating it as subpart B of Part 9; and by revoking subpart J. As amended, Part 61 reads as follows:

* * * * *

Authority.—Issued under authority vested in the President by § 1701, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

Subpart A—[Reserved]

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§ 61.39 [Revoked]

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§ 61.70 [Revoked]

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§ 61.96 [Revoked]

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§ 61.131 [Revoked]

* * * * *

§ 61.319 [Revoked]

Subpart G—[Reserved]

Subpart H—[Reserved]

§ 61.365 [Revoked]

* * * * *

Subpart J [Revoked]

PART 63—[REVOKED]

13. Part 63 is revoked.

PART 65—[REVOKED]

14. Part 65 is revoked.

15. Part 67 is amended by revoking subparts A through K, and revising subparts L and M; by adding a new subpart A and redesignating subparts L and M as subparts B and C. As revised, Part 67 reads as follows:

PART 67—CANAL ZONE POSTAL MONEY ORDERS AND SAVINGS CERTIFICATES

Subpart A—General Provisions

Sec.

67.1 Authority.
67.2 Scope.

Subpart B—Canal Zone Money Order System

67.11 Scope of the subpart.
67.12 Applicability of Federal postal laws and regulations.
67.13 U.S. Postal Service restrictions.
67.14 Payment.
67.15 General procedures for payment of outstanding Canal Zone money orders.
67.16 Period of validity.
67.17 Who may receive information.
67.18 Inquiries regarding payment.
67.19 Duplicate money orders; application for payment of mutilated or lost money orders.
67.20 Acceptance of application for refund payment.
67.21 Money orders recovered after duplicate issued.

Subpart C—Canal Zone Postal Savings System

67.31 Purpose and designation of depository.
67.32 Scope of this subpart.
67.33 Retroactive application.
67.34 Applicability of Federal postal laws and regulations.
67.35 Care and protection of records.
67.36 Interest.
67.37 Payment of postal savings certificates.
67.38 General procedures for payment of postal savings certificates.
67.39 Privacy of accounts.
67.40 Claims.
67.41 Disposal of paid postal savings certificates.
67.42 Replacement of certificates.

67.43 Payment of duplicate certificate.
67.44 Disposition of recovered certificate.

Authority: Sec. 1331, Pub. L. 96-70, 93 Stat. 481; EO 12173, 44 FR 69271.

Subpart A—General Provisions

§ 67.1 Authority.

The provisions of Chapter 73 of the Panama Canal Code relating to postal savings deposits, postal savings certificates, postal money orders and the accounting for funds shall continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds.

§ 67.2 Scope.

The regulations in this part govern the procedures to be followed in redeeming outstanding Canal Zone postal savings deposits, postal savings certificates and postal money orders.

Subpart B—Canal Zone Money Order System

§ 67.11 Scope of the subpart.

This subpart covers procedures to be followed in the conduct of payment of outstanding Canal Zone money orders, and accounting for such transactions.

§ 67.12 Applicability of Federal postal laws and regulations.

The provisions of the postal laws of the United States, and of 39 CFR, relating to the payment of outstanding Canal Zone money orders, are applicable to the Panama Canal Commission, insofar as they are not in conflict with the provisions of this subpart.

§ 67.13 U.S. Postal Service restrictions.

Any restrictions imposed by the United States Postal Service on payment of United States postal money orders shall apply to outstanding Canal Zone money orders.

§ 67.14 Payment.

(a) *Place of payment.* Money orders may be paid at the Office of the Treasurer, Panama Canal Commission, which is authorized to pay outstanding Canal Zone money orders.

(b) *Canal Zone Money Orders.* A money order may be paid at full face value when presented by the payee, endorsee, or purchaser, within the period of validity.

Cross Reference.—Procedure for payment, see § 67.15. Period of validity, see § 67.16.

§ 67.15 General procedures for payment of outstanding Canal Zone money orders.

(a) *Terms of payment.* A money order shall be paid at its face value if presented by the payee, remitter or endorsee.

(b) *Examination of order.* When a Canal Zone money order is presented for payment, the Cashier, Office of the Treasurer, shall examine it to see that:

(1) It is not a form reported stolen.

(2) It is not a counterfeit.

(3) It is properly stamped and drawn by the issuing office.

(4) It does not bear any alterations or erasures.

(c) *Machine-issued orders.* The money orders issued by the print-punch machine are payable in the amount printed on and punched in the order by the machine. The money orders issued by machine are payable in the amount imprinted by machine, but for no more than the amount stamped between the words "Not Valid For More Than" and the word "Pay".

(d) *Verification.* Verification of an order presented for payment should be made by Chief, Agents Accounts Branch of the Panama Canal Commission, prior to payment by the cashier.

(e) *Identification.* (1) *General requirement.* If the payee presenting the money order is not personally known to the cashier, he must prove his identity.

(2) *Identification of payee.* Social security cards are not acceptable. Drivers permits, military identification cards, or other credential showing signature of bearer and having serial numbers or other indicia which can be traced to the holder are helpful in identification. The owner must sign the money order in the presence of the cashier. The cashier shall compare signature with identification, if possible, shall enter on the back of the order the license or serial number and full description of the identification; and shall also initial the back of the order and an impression of the agent's stamp will be affixed on the back of the order immediately on payment. This will aid in apprehending persons attempting forgery or other wrong payment.

(3) *Cashing endorsed money orders.* This procedure must be followed carefully in the case of endorsed money orders, as they might bear a forged endorsement and be in the hands of the wrong person.

(4) *Payment to wrong person.* If the cashier has taken proper care under the circumstances, the Treasurer of the Panama Canal Commission will recommend that he be relieved of financial responsibility for wrong payment.

(5) *Duties of employees.* If a cashier is unable to satisfy himself that an applicant for payment is the owner of the order, he should bring the case to the attention of his supervisor or the Treasurer.

(6) *Attempts to defraud.* Any attempt to defraud should be referred to the Treasurer by the cashier.

(7) *Requirements for signatures; etc.*

(i) *Signature by mark.* If signature of payee or endorsee is by mark, it shall be witnessed by a person who can write, and the witness shall be someone other than the Treasurer or paying cashier.

(ii) *Signature different from name on order.* Any signature of the payee consistent with the name given on the order may be accepted by the paying cashier as sufficient, if he is satisfied that it is the genuine signature of the payee intended.

(iii) *Signature of officer.* An order drawn in favor of a public official or officer of a corporation, company, or association, as such, may be paid to his successor, if presented by the latter, who, in receipting for it, shall be required to indicate in writing the capacity in which he acts, thus: "William Jones, Treasurer, successor to George Thompson".

(iv) *When payee is society or corporation.* When the payee is a society or corporation, the person who has authority to receive payment of money due such payee shall receipt the order in his official capacity, and if occasion arises, the Treasurer may require satisfactory proof of such authority.

(v) *Stamped signature in receipt.* All of the requisite signatures to a money order—those of payee, endorsee, or witness to payment—shall be written, preferably in ink; but a stamped signature may be used in place of the written signature of payee or agent of payee in receipts on money order drawn in favor of or made payable to a firm, corporation, association, society, or individual, if beneath it is written the signature of the person receiving payment or executing the endorsement. Under no circumstances may an endorsement be made by means of a perforating device.

(vi) *Signature of agent.* The paying cashier shall affix or cause to be affixed to the signature of the person receiving payment of a money order any such word or words as may be necessary to explain the right of such person to collect the amount. For instance, where an order drawn in favor of a company is paid to its local manager, the word "Manager" should appear beneath or opposite his signature to the endorsement.

(vii) *Use of titles.* The paying cashier shall not insist on the inclusion or the omission of a title or prefix such as "Dr.," "Rev.," "Prof.," "Madam," or

"Mrs." in the signature to an order, whether or not the payee is designated by such title or prefix in the body of the order.

(viii) *Order presented by payee after being endorsed by others.* When an order is presented by the payee for payment, it is immaterial what endorsements there may be on the order. Payment may be made if the order is otherwise regular and there is space for the payee to sign his name on the back of the order on or near the line above the word "Payee" and inconsistent or unnecessary signatures or endorsements may be canceled.

(ix) *Substitution by payee or remitter of name written in error.* The payee or the remitter of an order, but no one else, may substitute any other name for one which he has already written by mistake in the body of the first endorsement thereon, and payment may be made to the person whose name has thus been substituted, if the order is regular in other respects.

(x) *More than one payee.* Money orders completed by the purchaser to show more than one firm or person as payee may be paid to any one of them.

(f) *Stolen forms.* Money orders issued on stolen forms will not be accepted as valid vouchers for disbursements.

(g) *Procedure where duplicate issued.* If upon verification, it is established that a duplicate has been issued, the cashier to whom the order is presented shall write across it with ink the words, "Canceled-Duplicate Issued," and forward the order to the Chief, Agents Accounts Branch for disposition.

(h) *Payment to other than payee.* (1) *Transfer of money orders.* (i) *By purchaser or payee.* The payee or the purchaser of a money order may endorse the order to any other person or firm. A money order may not be paid to a second person without written transfer or endorsement to him by the payee or purchaser in the prescribed form on the reverse side of the order, except as provided by subdivisions (ii) and (iii) of this subparagraph.

(ii) *On power of attorney.* A person with power or attorney may cash money orders in behalf of the payee who gave him that authority. The power of attorney must be filed at the office of payment.

(iii) *On separate written order of payee.* When the payee has filed with the Treasurer a separate written order authorizing payment to another person, and designating that person by name as the one to receive payment of and to receipt for any specified order, or for all orders payable by the Treasurer to the payee, that person may cash money orders on behalf of the payee.

(2) *Upon assignment.* When a person or firm makes an assignment, and the assignor intends that money orders payable to him will be paid to assignee, he should execute a power of attorney to give such written order separate from the instrument of assignment, to be filed in the Office of the Treasurer. The person designated to receive payment should receipt the money order as such, indicating beneath his signature the capacity in which he acts.

(3) *On death of payee.* A money order belonging to a deceased remitter or payee may be paid to the executor or administrator of the estate appointed by the court. A certified copy of the appointment shall be filed with the Treasurer. If the estate is small and administration is not desired, payment shall be made in accordance with the Panama Canal Code. Whenever a money order belonging to a deceased remitter or payee is presented for payment, the Treasurer should be informed and payment therefor withheld until instructions for payment are received.

Cross Reference: Laws on succession, see 7 P.C.C. § 501, et seq.

(4) *To concern which has ceased to exist.* A money order payable to a firm, bank, or company which has ceased to exist shall be paid to the legal representative thereof.

(5) *To committee or guardian.* When a committee, guardian, or other person is appointed by a court to act for a person declared incompetent, money orders shall not be paid to the ward. All money orders showing the ward as payee or endorsed shall be paid only to the committee, guardian, or other duly designated person, who shall exhibit to the postmaster the authority thus to act for the ward. Such money orders shall be receipted in the name of the ward, followed by the signature and legal designation of the committee, guardian, or other authorized agent.

(6) *To minor.* A money order payable to a minor may be paid to the father or mother thereof as natural guardian, unless legal proceedings have been instituted which make questionable the claim of the father or mother, in which case the facts should be reported to the Treasurer.

(i) *Discrepancies or alterations.* If there is any doubt as to the particulars on a Canal Zone money order, verification of the order should be made with Chief, Agents Accounts Branch.

(j) *Payment of remitter.* A money order presented by the remitter may be refunded at the Office of the Treasurer upon proper identification.

(k) *Payment of order withheld.*

(1) *Invalid orders.* Provisions relating to the payment of invalid Canal Zone money orders are contained in § 67.16.

(2) *Nonpayment because of fraud.*

(i) *Proof.* If the purchaser has proof that the order was purchased because of false representations or other fraudulent action of the payee, or that the payee is engaged in conducting a scheme or device for obtaining money fraudulently through the mails, the purchaser may request the Treasurer to withhold payment.

(ii) *Orders forbidding payment.* Payment of a money order should not be made under any circumstances to a specific person or firm when an order has been issued by the Treasurer forbidding payment of money orders to such persons or firms.

§ 67.16 Period of validity.

As provided by 2 P.C.C. 1142, 76A Stat. 40, money orders issued by the Canal Zone Postal Service may not be paid after 20 years from the last day of original issue. Claims for unpaid money orders shall be forever barred unless received by the Panama Canal Commission Treasurer within such 20-year period. Special authority shall be obtained from the Chief, Agents Accounts Branch, to pay or refund a Canal Zone money order presented after one year from the last day of the month in which it was issued and prior to the expiration of the 20-year period.

§ 67.17 Who may receive information.

Information concerning money order transactions may be given only to the purchaser, payee, or endorsee, or his agent, or to a representative of the Agents Accounts Branch, the Office of the Treasurer, and the Postal Assistance Unit of the Panama Canal Commission.

§ 67.18 Inquiries regarding payment.

Inquiries concerning the payment of a money order shall be made to the Chief, Agents Accounts Branch on PS Form 6401 or by direct correspondence.

§ 67.19 Duplicate money orders; application for payment of mutilated or lost money orders.

(a) Duplicate money orders shall not be issued after September 28, 1979.

(b) A duplicate money order issued prior to September 29, 1979, may be paid at the Office of the Treasurer.

(c) A duplicate money order is payable only to the payee named thereon or his endorsee.

(d) An application for payment of a mutilated or lost money order may be accepted and certified by Chief, Agents Accounts Branch and honored by the Treasurer if the mutilated order accompanies the application or the

original money order has been inadvertently destroyed and the person in whose favor the application is made submits evidence, in the form of affidavits or otherwise as Chief, Agents Accounts Branch deems sufficient to establish a valid claim to the original order.

§ 67.20 Acceptance of application for refund payment.

(a) An application for refund payment on a money order may be accepted by the Chief, Agents Accounts Branch.

(b) An application for refund payment of a money order alleged to have been lost, stolen or destroyed may be accepted only from the purchaser; or the holder of the purchaser's receipt; and payment shall be issued if the person in whose favor the application is made submits evidence in the form of affidavits or otherwise, as the Chief, Agents Accounts Branch deems sufficient to establish a valid claim to the original order and the original order has not be been paid.

(c) The complete name and address of the person or firm to whom the money order was sent, as well as the complete name and last known address (house number, street, and post office) of the person to whom the refund payment is to be paid, shall be determined from the applicant by inquiry.

§ 67.21 Money orders recovered after duplicate issued.

When a money order alleged to have been lost comes into the possession of the remitter, payee, or endorsee thereof after application for a refund payment has been made, the paying cashier to whom the order is presented shall notify Chief, Agents Accounts Branch by memorandum. If a duplicate or refund payment has not been issued in lieu thereof, the Chief, Agents Accounts Branch, may authorize the payment or refund of such original order. If upon verification, it is evident that a duplicate or refund payment has been issued, the cashier to whom the order is presented shall write across it the words "Canceled—Duplicate/Refund Payment Issued," and the order shall be sent to Chief, Agents Accounts Branch for disposition.

Subpart C—Canal Zone Postal Savings System

§ 67.31 Purpose and designation of depository.

The postal savings system was established to provide facilities for the deposit of savings at interest with the security of the United States Government for repayment. As a result of the discontinuance of the Canal Zone Postal Service, effective October 1, 1979, the Treasurer of the Panama Canal Commission has been designated as the sole postal savings depository.

§ 67.32 Scope of this subpart.

This subpart covers the procedures to be followed in the payment of outstanding postal savings certificates and the accounting for such transactions.

§ 67.33 Retroactive application.

This subpart applies equally to money orders or deposit orders issued in lieu of postal savings certificates prior to September 29, 1979. Such orders may have been endorsed or were known at various times as follows:

"Money Order"—"Deposit Money Order";
"Non-Transferable Deposit Money Order";
"Non-Transferable—Payable to Depositor Only";
"Pay Depositor Only at Office of Issue."

§ 67.34 Applicability of Federal postal laws and regulations.

The provisions of the postal laws of the United States, and of 39 CFR, relating to the payment of postal savings certificates, are applicable to the Panama Canal Commission, insofar as they are not in conflict with the provisions of this subpart.

Cross Reference.—Postal savings system, see 39 U.S.C. 5201 et seq.; postal savings, see 39 CFR Part 173.

§ 67.35 Care and protection of records.

All unpaid stubs and any current postal savings statements, records, or files relating to unpaid accounts shall be placed and maintained in a vault or safe when not actually required for an official transaction. All such records shall be placed in the vault or safe during alerts or disaster periods. The Chief, Agents Accounts Branch, shall give this matter his personal attention and shall be held accountable for the proper protection of the records.

§ 67.36 Interest.

(a) *Rate.* Postal savings certificates shall bear interest at the rate of one-half of one percentum for each period of three full months from the date of issue.

(b) *Interest period.* (1) *"Three full months".* In computing interest, the term "three full months" shall be considered as follows:

(i) If a certificate was issued on the last day of the month, interest is due and payable on the last day of the month, regardless of the number of days in such month, except that:

(A) If the last day of the month falls on a Sunday or holiday, interest is not payable until the first day of the following month.

(B) If the certificate was issued February 28, interest is due and payable May 28, August 28, etc.

Interest on certificates issued August 31, therefore, would be due and payable November 30, February 28, and May 31.

(ii) If a certificate was issued other than on the last day of the month, interest is due and payable three months from the actual date of issue.

(A) If issued January 15, interest is due April 15.

(B) If issued February 1, interest is due May 1, etc.

(iii) When the computation of interest results in fraction of a cent, the fraction shall be dropped.

(c) *When paid.* Interest shall be paid only when the certificate is paid.

(d) This section applies to all outstanding deposit money orders and postal savings certificates issued prior to September 29, 1979.

(2 P.C.C. § 1134, 76A Stat. 39).

§ 67.37 Payment of postal savings certificates.

(a) *On demand at Office of the Treasurer.* Upon certification by a designated Agents Accounts Branch representative, postal savings certificates shall be authorized for payment only to the depositor by either cash through the Office of the Treasurer of the Panama Canal Commission or by a Panama Canal Commission check. In the case of a joint account, the certificates shall be payable to the signature of either of the depositors or the survivor. To terminate a joint account, all orders payable to the two persons jointly must be presented and cashed.

(b) *In person.* The certifcate shall be paid to the depositor on proper identification and certification by the designated Agents Accounts Branch representative. Payment may be made by cash only at the Office of the Treasurer or by a Panama Canal Commission check.

(c) *By mail.* (1) *Requisites.* Withdrawals may be made by mail, if the certificates are properly signed by the depositor and forwarded to the Chief, Agents Accounts Branch, and he is satisfied as to the identity of the depositor.

(2) *Manner of payment.* Payment shall be made by check, which shall be sent by registered mail. Before mailing the payment, the registry fee and postage, shall be deducted.

(d) *Payment of certificates of deceased depositors.* (1) *Payment to representative.* After the death of a depositor, certificates in his or her favor shall be paid to the duly authorized

executor or administrator of the estate or other person only upon the authority of the Chief, Agents Accounts Branch. When it is known that a depositor has died, the stubs should be "flagged" and held to the credit of the deceased depositor.

(2) *Survivor of joint depositors.* After the death of either of two joint depositors, when a "Joint Depositor's Agreement" has been completed, the certificates remaining unpaid become the sole property of the survivor and may be paid to the survivor without the authority of the Chief, Agents Accounts Branch.

(e) *Payment of certificates to incompetent depositors.* In cases of mental disability or other legal incompetence of a depositor, the Chief, Agents Accounts Branch should contact the General Counsel of the Panama Canal Commission for instructions.

(f) *Identification.* The person presenting a postal savings certificate must identify himself before payment is made. Section 67.15(e) covering payment of money orders, shall govern in the payment of postal savings certificates.

§ 67.38 General procedures for payment of postal savings certificates.

(a) *Examination of the certificate.* Postal savings certificates presented for payment must be validated by the designated Agents Accounts Branch representative prior to effecting payment. The representative shall examine the certificate and compare it with all particulars on the post office stub and the list of outstanding certificates to ascertain if the certificate is valid for payment and if the certificate is in order. A payment authorization will be prepared and forwarded to the Office of the Treasurer.

(b) *Signatures.* The certificate shall be signed by the depositor on the back in the presence of the Panama Canal Commission cashier who shall verify all particulars entered thereon. When in doubt, a signature should be verified with that which appears on the corresponding application, joint account card or the representative of depositor's card (Form 2105). The person presenting the certificte must identify himself before payment is made. If a certificate is paid to the wrong person through lack of precaution, the paying cashier will be held accountable for the amount of the certificate.

(c) *Interest Due.* (1) *Notation of interest.* When a certificate is paid, the total amount of interest due shall be shown in red ink in the "Interest" block of the certificate and stub of the postal savings certificate. When no interest is paid, a straight line in red ink shall be drawn across the "Interest" blocks. Once the amount of interest is written on the certificate, no change or alteration shall be permitted.

(2) *Errors.* (i) *Underpayment of interest.* If an underpayment of interest has been made after figures have been entered in the interest block on a certificate, paying cashier shall receive a payment voucher Panama Canal Commission Form 5128 for cash payment from the depositor when the additional amount is paid to him. The payment voucher shall be returned to Agents Accounts Branch for their office records. Requests for payment by check shall be accomplished on Panama Canal Commission Form 3162. The amount of unpaid interest shall not be set aside for the depositor pending his response to a notice to call, and credit shall not be taken until the short payment has actually been made to the depositor.

(ii) *Overpayment of Interest.* The Chief, Agents Accounts Branch will establish procedures for the recovery of overpayments.

(d) *Date of payment.* A clear impression of the Agent's stamp shall be placed in proper space on back of the certificate and on the back of the corresponding office stub. The date affixed by the cashier shall be the actual day of payment.

(e) *Initiating paid certificates.* The Chief, Agents Accounts Branch shall establish procedures for identifying paid savings certificates, specifically as it relates to the original certificates and corresponding stub.

(f) *Issuance of duplicate as precluding payment.* The original postal savings certificate shall NOT be paid under any circumstances if a duplicate postal savings certificate was issued prior to September 29, 1979.

(g) *Filing paid stubs.* The stubs of paid certificates shall be filed in numerical sequence in a file covering the calendar year in which paid.

(h) *Final determination regarding payment.* Final determination as to whether payment has been properly made on postal savings certificates or other evidences of deposit in the postal savings of the former Canal Zone Postal Service including duplicates, shall be based upon the official records of Agents Accounts Branch.

Cross Reference.—Rate of interest, see § 67.36.

§ 67.39 Privacy of accounts.

Agents Accounts Branch employees shall not disclose the name of any postal savings depositor nor give information concerning a particular account to any person other than the depositor himself, without specific authority from the Chief, Agents Accounts Branch.

§ 67.40 Claims.

(a) *Dispute as to ownership or claim by another person.* When there is any dispute as to the ownership, or when a claim by a person other than the depositor is made for payment, the designated Agents Accounts Branch representative shall withhold payment authorization of withdrawals from the account involved pending instructions from the Chief, Agents Accounts Branch.

(b) *Limitations on claims.* All claims for payment of any postal savings certificate or other evidence of deposit in the postal savings system of the former Canal Zone Postal Service issued prior to October 1, 1979, including duplicates, which are shown by the records in the possession of the Agents Accounts Branch to have been duly paid, shall be barred if not presented to the Panama Canal Commission within six years from the date on which such records show that they were paid.

§ 67.41 Disposal of paid postal savings certificates.

Postal savings certificates or other evidences of deposit in the postal savings system of the former Canal Zone Postal Service, including duplicates, may be disposed of after the expiration of six years from date payment thereon has been made as shown by the records of the Panama Canal Commission.

§ 67.42 Replacement of certificates.

Duplicate postal savings certificates shall not be issued after September 28, 1979. A postal savings certificate that is lost, stolen, destroyed or improperly withheld, shall be paid by cash or check to the depositor, in accordance with the procedures established by this subpart.

§ 67.43 Payment of duplicate certificate.

A duplicate postal savings certificate issued prior to September 29, 1979 may be paid at the Office of the Treasurer, under the same conditions governing the payment of the original postal savings certificate.

§ 67.44 Disposition of recovered certificate.

If, after a duplicate postal savings certificate was issued, the depositor reports that he has found the original certificate, he shall be instructed to surrender the original certificate. The certificate surrendered shall be endorsed with the word "Canceled" across its face and retained at Agents Accounts Branch as office records.

PART 69—[REVOKED]

16. Part 69 is revoked.

PART 70—RULEMAKING

17. Part 70 is amended by revising the citation of authority to read as follows:

* * * * *

Authority.—Secs. 1102 and 1604, Pub. L. 96-70, 93 Stat. 456-490.

PART 101—ARRIVING AND DEPARTING VESSELS: VARIOUS QUARANTINE, CUSTOMS, IMMIGRATIONS AND ADMEASUREMENT REQUIREMENTS

18. Part 101 is amended by revising the citation of authority; by revising the heading of § 101.3; redesignating §101.3 as paragraph 101.3(b) and adding a new paragraph 101.3(a); and by revoking § 101.14. As revised, Part 101 reads as follows:

* * * * *

Authority.—Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

§ 101.3 Definition and functions of boarding officer.

(a) "Boarding officer" means any official or employee of the Panama Canal Commission who is duly assigned the function(s) of a boarding officer, including admeasurement and quarantine.

(b) The boarding officer shall perform the functions of admeasurer for the purpose of determining Panama Canal tolls; and shall make inspections for the purpose of insuring compliance with quarantine regulations.

* * * * *

§ 101.14 [Revoked]

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

19. Part 103 is amended by revising the citation of authority and by revoking § 103.42. As amended, the citation of authority reads as follows:

* * * * *

Authority.—Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

§ 103.42 [Revoked]

PART 105—PILOTAGE

20. Part 105 is amended by revising the citation of authority and by revoking § 105.7. As amended, the citation of authority reads as follows:

* * * * *

Authority.—Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

§ 105.7 [evoked]

PART 107—MANNING OF VESSELS: REQUIREMENTS CONCERNING OFFICERS AND CREW

21. Part 107 is amended by revising the citation of authority and by revoking § 107.7. As amended, the citation of authority reads as follows:

* * * * *

Authority.—Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

§ 107.7 [Revoked]

PART 109—ENTERING AND PREPARING TO ENTER THE LOCKS

22. Part 109 is amended by revising the citation of authority and by revoking § 109.8. As amended, the citation of authority reads as follows:

* * * * *

Authority.—Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

§ 109.8 [Revoked]

PART 111—RULES FOR THE PREVENTION OF COLLISIONS

23. Part 111 is amended by revising the citation of authority, adding a second sentence to § 111.2(a) and revoking subpart F. As amended, Part 111 reads as follows:

* * * * *

Authority.—Issued under authority vested in President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

§ 111.2 Definitions.

* * * * *

(a) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation. "Public vessel(s)" includes men-of-war and other vessels operated by or for the Government of any nation in the performance of governmental, as distinguished from proprietary functions.

* * * * *

Subpart F—[Revoked]

PART 113—HAZARDOUS CARGOES

24. Part 113 is amended by revising the citation of authority and revoking subpart E. As amended, Part 113 reads as follows:

* * * * *

Authority.—Issued under authority vested in President by § 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

Subpart E—[Revoked]

PART 115—BOARD OF LOCAL INSPECTORS: COMPOSITION AND FUNCTIONS

25. Part 115 is amended by revising the citation of authority and § 115.2[a] (1), (2), and (3) to read as follows:

* * * * *

Authority.—Issued under authority vested in President by § 1418, Pub. L. 96-70, 93 Stat. 487; EO 12173, 44 FR 69271.

* * * * *

§ 115.2 Composition of Board.

(a) * * *

(1) Chairman, Board of Local Inspectors.

(2) Assistant Chairman, Board of Local Inspectors, as member.

(3) Chief, Canal Support Division, as member.

* * * * *

PART 117—MARINE ACCIDENTS: INVESTIGATIONS; CONTROL; RESPONSIBILITY

26. Part 117 is amended by revising the citation of authority and revoking § 117.7. As amended, Part 117 reads as follows:

* * * * *

Authority: Issued under authority vested in President by §§ 1417, 1418, Pub. L. 96-70, 93 Stat. 487; EO 12173, 44 FR 69271.

* * * * *

§ 117.7 [Revoked]

PART 119—LICENSING OF OFFICERS

27. Part 119 is amended by revising the citation of authority and revoking subpart G. As amended, the citation of authority reads as follows:

* * * * *

Authority: Issued under authority vested in President by §§ 1801, Pub. L. 96-70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

Subpart G—[Revoked]

PART 121—INSPECTION AND REGISTRATION OF VESSELS

28. Part 121 is amended by revising the citation of authority and revoking subpart D. As amended, Part 121 reads as follows:

* * * * *

Authority: Issued under authority vested in President by §§ 1801, 1811, 1812, and Pub. L. 96–70, 93 Stat. 492, 493; EO 12173, 44 FR 69271.

Subpart D—[Revoked]

PART 123—RADIO COMMUNICATION

29. Part 123 is amended by revising the citation of authority and by revoking § 123.12. As amended, Part 123 reads as follows:

* * * * *

Authority: Issued under authority vested in President by § 1801, Pub. L. 96–70, 93 Stat. 492; EO 12173, 44 FR 69271.

* * * * *

§ 123.12 [Revoked]

PART 125—SANITARY REQUIREMENTS; VESSEL WASTES; GARBAGE; BALLAST

30. Part 125 is amended by revising the citation of authority and revoking § 125.5. As amended, Part 125 reads as follows:

* * * * *

Authority: Issued under authority vested in President by §§ 1701 and 1801, Pub. L. 96–70, 93 Stat. 492; EO 12173, 44 FR 69271.

§ 125.5 [Revoked]

PART 127—[REVOKED]

31. Part 127 is revoked.

PART 133—TOLLS FOR USE OF CANAL

32. Part 133 is amended by revising the citation authority and amending § 133.1 to read as follows:

* * * * *

Authority: Issued under authority vested in President by § 1601, Pub. L. 96–70, 93 Stat. 489; EO 12173, 44 FR 69271.

* * * * *

Subpart A—Rates of Toll

§ 133.1 Rates of toll.

The following rates of toll shall be paid by vessels using the Panama Canal:

(a) On merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, $1.67 per net-vessel ton of 100 cubic feet each of actual earning capacity—that is, the net tonnage determined in accordance with Part 135 of this chapter.

(b) On vessels in ballast without passengers or cargo, $1.33 per net-vessel ton.

(c) On other floating craft including warships, other than transports, colliers, hospital ships, and supply ships, $0.93 per ton of displacement.

PART 135—RULES FOR MEASUREMENT OF VESSELS

33. Part 135 is amended by revising the citation of authority to read as follows:

* * * * *

Authority:—Issued under authority vested in President by § 1601, Pub. L. 96–70, 93 Stat. 489; EO 12173, 44 FR 69271.

* * * * *

PART 201—JUDICIARY

34. Part 201 is amended by revising the citation of authority and revoking and reserving §§ 201.1 and 201.2. As amended, Part 201 reads as follows:

Authority:—Section 201.3 issued by the President under 3 P.C.C. 5, 41, and 45, 76A Stat. 52 and 53; §§ 201.4, 201.5 and 201.6 issued under authority vested in the President by 3 P.C.C. 86, 76A Stat. 55; §§ 2202 and 2203, Pub. L. 96–70, 93 Stat. 494.

* * * * *

§ 201.1 [Reserved]

§ 201.2 [Reserved]

PART 251—REGULATIONS OF THE PRESIDENT OF THE UNITED STATES

35. Part 251 is amended by revising the citation of authority to read as follows:

* * * * *

Authority:—Issued under authority vested in President by Chapter 2, Pub. L. 96–70, 93 Stat. 461 et seq.; EO 12173, 44 FR 69271.

* * * * *

PART 253—REGULATIONS OF THE SECRETARY OF THE ARMY

36. Part 253 is amended by revising the citation of authority to read as follows:

* * * * *

Authority:—Issued under authority vested in President by Chapter 2, Pub. L. 96–70, 93 Stat. 461 et seq.; EO 12173, 44 FR 69271.

* * * * *

Dated: December 7, 1979.

D. P. McAuliffe,

Administrator, Panama Canal Commission.

[FR Doc. 79–38798 Filed 12–18–79; 8:45 am]

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Federal Register

Wednesday
December 19, 1979

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Community Development Block Grants for Indian Tribes and Alaska Natives, Housing Assistance Plan (HAP)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-79-745]

Community Development Block Grants for Indian Tribes and Alaska Natives, Housing Assistance Plan (HAP)

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This amendment applies the Housing Assistance Plan (HAP) of the Community Development Block Grant Program to eligible Indian Tribes, including Alaska Natives. It is necessary because the 1977 statutory amendments to the Block Grant Program contain special provisions for Indian Tribes. These HAP regulations are intended to make the program flexible and responsive to the special needs, cultural traditions and legal circumstances of Indian Tribes.

DATE: Comment due date: February 19, 1980.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington. D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Donald G. Dodge, Director, Office of Policy Planning, Office of Community Planning and Development, (202) 755-6090. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

General

Section 107(a)(7) of the Housing and Community Development Act of 1977 (42 U.S.C. 5301 *et seq.)* established a separate Community Development Block Grant Program for Indian Tribes, including Alaska Natives. Interim regulations, covering the entire CDBG program for Indian Tribes, were published on March 28, 1978 (43 FR 12222) and a final rule was published on December 15, 1978 (43 FR 58734). The final rule, however, specifically reserved §§ 571.305(d) and 571.405(e)—The Housing Assistance Plan. Because there are substantive changes in §§ 571.305(d) and 571.405(e) from the interim rule, the Department has determined to publish the amendments as a proposed rule to permit public comment. A discussion of the major changes are set forth according to subject matter.

Housing Standards

The interim regulations required that rehabilitation or repair of units comply with HUD standards and applicable Indian Housing Authority standards. The new provision requires compliance with HUD's housing quality standards rather than with the minimum property standards (MPS). HUD's housing quality standards set out broad housing quality objectives rather than specific measurements as contained in the MPSs. In addition to the housing quality standards, the applicant may establish its own measurement criteria to meet quality objectives.

Housing Conditions Data

Applicants may undertake surveys to determine the condition of reservation housing or use available data from the BIA, Census or other reliable sources. In using available data, the standards used by the source in its data collection will prevail.

Applicants are encouraged to go beyond the minimal requirements of §§ 571.305(d) and 571.405(e) and address the problems of special Tribal groups in their data collection and goal-setting processes.

HAP Waiver

Upon a request from the applicant, HUD may waive the HAP requirements if the required data is unavailable to applicants. It is intended that this authority will be delegated to appropriate Regional and Area Office officials by publication of notice in the **Federal Register** on or about the effective date of these regulations.

Basic vs. Comprehensive Grants

The same requirements are imposed for Comprehensive Grants § 571.405(e)] as for Basic Grants [§ 571.305(d)] with the exception of a three year rather than a one year goal.

Special Information

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with "Procedures for Protection and Enhancement of Environmental Quality". The finding is available for inspection and copying in the Office of the Rules Docket Clerk, HUD, Washington, D.C.

This is a significant rule which was listed on this Department's August 1, 1979 Agenda of Significant Regulations as Community Planning and Development item No. 4.

For the reasons described above, 24 CFR 571.305(d) and 571.405(e) are revised to read as follows:

§ 571.305 Application requirements.

* * * * *

(d) *Housing Assistance Plan.* Applicants for assistance under this Part are required to submit a Housing Assistance Plan. The information provided in a Housing Assistance Plan should be quantified as much as possible and all data provided shall meet the standards set forth in § 571.300(b). Housing Assistance Plans shall include the following:

(1) A description of existing housing conditions indicating the number of standard and substandard permanent nonseasonal dwelling units by tenure (i.e. owner-occupied and renter-occupied). For purposes of establishing reservation housing conditions, the applicant may choose one of the housing condition standards in existence or devise a standard of its own. However, the standards selected shall meet or exceed HUD's housing quality standards. The description of reservation housing stock may be derived from a data source selected by the applicant. The applicant shall indicate the date and source of the data used including any surveys it may undertake;

(2) A determination of housing needs by tenure which identifies:

(i) Units needing rehabilitation,

(ii) Units needing replacement, and

(iii) Additional units needed.

Applicants are encouraged to identify and plan for any special housing needs which may exist on their reservations. Minimally, applicants shall address the following special needs:

(A) Overcrowded Reservation housing;

(B) Requests by off-reservation Indians to move into reservation housing; and

(C) Elderly and handicapped.

(3) A listing of firm financial commitments obtained by the applicant to finance the new construction or rehabilitation of units, by tenure type. Commitments shall be indicated by resource agency (e.g., HUD, BIA, FmHA, etc.);

(4) A statement of housing goals which the applicant intends to achieve with its Basic Grant (one year goals) or its Comprehensive Grant (three year

goals). The goals shall include the number of standard units to be achieved through new construction and rehabilitation, by tenure type. The applicant may choose to go beyond the minimal requirements in its HAP and identify the housing needs of female-headed households, households expected to be displaced, families living in traditional Indian houses, and other special groups;

(5) A strategy, in narrative form, for implementing its HAP. The strategy shall list housing priorities in rank order, identify known obstacles to implementing the HAP and their means of resolution, describe locations of existing and proposed housing and their coordination with other existing and proposed development, indicate any Tribal assistance to be provided, and identify State and local governmental bodies with whom the applicant has coordinated in preparing its HAP.

(6) Applicants proposing to rehabilitate any housing shall provide for frequent interim and final inspections by qualified, objective inspectors.

(7) The requirements of § 571.305(d) and § 571.405(e) may be waived by the Secretary of designee in the event all or a significant portion of the required data is unavailable and the Tribe cannot undertake its own survey prior to the submission deadline or cannot affort to do so. Applicant is responsible for initiating waiver request.

(8) If only an insignificant portion of the required data is unavailable, the applicant should use estimates rather than request a waiver of the entire Housing Assistance Plan. When data is incomplete, the applicant shall decide whether estimating or a waiver request is most appropriate.

(9) Applicants shall report the information for the Housing Assistance Plan on a form prescribed by the Secretary.

§ 571.405 Full application requirements.

* * * * *

(e) *Housing Assistance Plan.* Applicants for assistance under this Subpart are required to submit a Housing Assistance Plan as described in § 571.305(d), but with three year, rather than one year, goals.

Issued at Washington, D.C., November 27, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

Draft

U.S. Department of Housing and Urban Development, Community Development Block Grant Program

Housing Assistance Plan for Indians and Alaska Natives

In recognition of the special conditions and needs which exist on Indian Reservations and in Native Alaskan Villages, HUD has designed a special Housing Assistance Plan (HAP) form and accompanying instructions for implementing §§ 571.305(d) and 571.405(e) of the Indian block grant regulations. Indian Tribes and Alaska Natives (hereafter called applicants) applying for Basic Grants and Comprehensive single or multi-year Grants under the Indian Community Development Block Grant Program shall complete this newly-designed HAP.

Data Sources: Applicants are encouraged to search out and use the most current available data and, if possible, to conduct their own housing surveys. Data sources and their usefulness will vary from one applicant to another, but generally available sources include special tabulations from the U.S. Census Bureau, HUD (the Economic and Market Analysis Division of the Area Office or where applicable the Regional Office of Indian Programs), Indian Housing Authorities (IHAs), Farmers Home Administration (FmHA), State agencies and the Bureau of Indian Affairs (BIA). BIA's annual housing inventory is conducted for most Indian entities and, together with HUD field office data, can be used to answer all the Housing Conditions and Housing Needs questions for each Federal program resource (see Appendix A). Data can be obtained from local BIA Agency Office; if not, the BIA Division of Housing Assistance in Washington, D.C. is ready to assist all applicants (phone no.: (202) 343-4876).

Incomplete Data: Applicant's missing all or part of the data required by the HAP have two choices. If all or a significant portion of the required data is unavailable, the applicant should request a HAP waiver from HUD. Such requests shall be made to the HUD regional administrator and shall explain why the data are not available and list the data sources explored. For a list of the criteria that will be used to judge waiver requests, see the Indian and Alaska Natives CDBG regulations, 24 CFR 571.305(d)(7).

If only an insignificant portion of the required data is unavailable, the applicant should use estimates for the missing data items. When estimates are used on the HAP form, they should be marked with an asterisk (*).

For the applicant with incomplete data, the decision to estimate or request a HAP waiver will necessitate a judgment on the degree of significance of the missing data. This judgment and decision is left to the applicant.

Beyond HAP Data Requirements: The HAP has been designed to fit available data sources (principally the BIA annual housing inventory) so that applications can be made without undertaking extensive data collections. However, the HAP data requirements represent the minimum information necessary to create good housing and community development plans. Applicants are encourged to go beyond the minimum and conduct detailed studies of special housing needs. These studies might include, for example, the needs of large families, the elderly, the handicapped, female-headed households, migrant workers, and families expected to be displaced by public or by private action.

Instructions for Preparing the Housing Assistance Plan

Upper Portion of the HAP Form

The upper portion of the HAP form, composed of Boxes 1 through 5, should be filled out as follows:

Box 1: Enter the name of the applicant (i.e. name of the Indian Tribe as defined in Section 571.3(o), including Alaskan Indians, Aleuts, Eskimos or Alaskan Native Villages considered eligible under this definition).

Box 2: Enter the application/grant number assigned by the HUD Area Office.

Box 3: Enter the period of applicability (i.e. month and year). If the applications is for a Basic Grant the period will be one year; for a Comprehensive Grant—three years.

Box 4: Check "Original" if this is the first HAP to be submitted for this fiscal year and enter the date. Check and circle "Revision/Amendment" if this form indicates a change in the original HAP, either prior to or after approval, and enter the submission date.

Box 5: Enter the source and date of the data used (e.g., BIA, Census, Tribal Survey, etc.).

Table Portion of the HAP Form

The table is composed of 13 rows (numbered 6 to 18 for reference) and 11 columns (labeled a through k). Each box in the table can thus be identified according to its row number and column

letter (e.g., the Box in the upper-left corner of the table is Box 6a).

The columns indicate Federal agency housing resources programs grouped according to tenure. Column "a" represents the total number of housing units for those programs focused on owner-occupancy; column "h" represents the total units for those programs focused on rental occupancy.

Column "b", "Mutual Help" also includes any Turnkey III units which should be so identified. Column "c", CDBG, includes both barrier removal activities for assisting the handicapped and rehabilitation activities. Column "d", Other HUD, includes 203(b), 235 and Disaster programs. Column "e", BIA, includes the HIP (Housing Improvement Program), Direct Loans, and Tribal Relending Programs. Column "f", FmHA, includes the Section 502, 504 and 515 programs. Column "g", Other, includes other Federal, State, Local, private or Tribal housing resources. Column "i", IHA, indicates HUD's Indian Housing Authority program. Column "j", Other HUD, includes Sections 8, 23, 202 and 236.

Housing Conditions: Appendix B contains a series of HUD policy statements on housing quality standards. The applicant may choose one of these housing condition standards or devise a standard of its own. However, the standard selected shall meet or exceed HUD's housing quality standards.

Applicants using BIA's annual housing inventory form as their data source are bound to the BIA's criteria for standard housing conditions. The BIA conditions criteria are set forth in 25 CFR, Chapter I, Sub-Chapter X, Part 261 (see Appendix C).

Applicants not choosing to use BIA data may adopt other existing criteria (e.g., U.S. Census criteria—Appendices D and E) or, with prior HUD approval, establish their own criteria to fit their unique needs and environment. Overcrowding, however, shall not be used to judge housing as physically substandard. Overcrowding is addressed in Row 12.

Although an applicant may select its own standards for evaluating the condition of its existing housing, the standards for rehabilitation and new construction will be determined by the Federal or private agency program from which the applicant receives financial assistance. Since the standards of each program differ, adjacent reservation units funded by more than one agency, for example, could be rehabilitated to different standards. This is a continuing problem that HUD is trying to address.

Row 6: Enter the total number of existing housing units within the applicant's jurisdiction. For owner-occupied units the total can be obtained by adding together the numbers in Boxes 7a and 8a and entering the sum in Box 6a. For renter-occupied units the total can be obtained by adding the numbers in Boxes 7h and 8h and entering the sum in Box 6h.

Applicants using a data source other than BIA must insure that their housing count includes only permanent non-seasonal dwelling units. HUD defines permanent housing as units occupied at least nine months of the year. Families that seasonally occupy two residences should not be double-counted.

Row 7: Enter the total number of housing units in standard condition within the applicant's jurisdiction. For applicants using the BIA data this information can be obtained from column 2 of the BIA's annual housing inventory form. The total should be broken down by owner-occupied units (Box 7a) and renter-occupied units (Box 7h).

Row 8: Enter the total number of substandard housing units within the applicant's jurisdiction. This data can be obtained from column 3 of the BIA's annual housing inventory form. The total should be broken down by owner-occupied units (Box 8a) and renter-occupied units (Box 8h).

Housing Needs:

Row 9: Enter the total number of housing units to be rehabilitated, repaired and constructed within the applicant's jurisdiction. For owner-occupied units the total can be obtained by adding together the numbers in Boxes 10a, 11a, and 12a and entering the sum in Box 9a. For renter-occupied units, add Boxes 10h, 11h, and 12h and enter the sum in Box 9h.

Row 10: Enter the total number of additional housing units required to alleviate overcrowded conditions on the Reservation. For purposes of completing this HAP, overcrowded reservation units should be defined as those units occupied by two or more families which would normally be occupied by a single family; or those units occupied by a family where because of inadequate space the tribe determines that additional rooms are needed.

Where the overcrowded housing needs will be met by additional units, enter the number of units by owner-occupied (Box 10a) and renter-occupied (Box 10h). Where the needs will be met by rehabilitaion of existing units see Row 11 instructions.

For applicants using the BIA data, the number of additional units needed can be obtined from Column 8 of the BIA annual housing inventory. The Total should be recorded in the HAP form by owner-occupied units (Box 10a) and renter-occupied units (Box 10h).

Row 11: Enter the total number of housing units in substandard condtion which are physically and economically appropriate for rehabilitation to standard condtion. Units which will be rehabilitated to relieve overcrowding, as defined in Row 10, should also be included in Row 11.

For applicants using the BIA data, the total number of these salvageable units suitable for rehabilitation can be obtained from Column 5 of the BIA annual housing inventory. This total should be recorded in the HAP form by owner-occupied units (11a) and renter-occupied units (11h).

Row 12: Enter the total number of housing units in substandard condition where replacement, rather than rehabilitation, is physically and economically the best-solution. These units may be demolished or repaired temporarily.

Interim repairs are temporary repairs designed to briefly extend the life of a substandard house for less than five years. Interim repairs should only be made on units needing replacement if demolition will result in displacement and hardship to the occupants because additional housing is not available.

For applicants using the BIA data, the number of units needing replacement can be obtained from Column 7 of the BIA annual housing inventory. This total should be reported as two subtotals in the table according to the number of owner-occupied units (Box 12a) and renter-occupied units (Box 12h).

Housing Commitments:

Row 13: Enter the total number of units for which a firm financial commitment has been made from the various public and private agencies in the columns. For owner-occupied units the total can be obtained by adding together the number of rehabilitation commitments (Box 14a) and the number of new construction commitments (Box 15a) and entering the sum in Box 13a.

For renter-occupied units the procedure is the same. The total can be obtined by adding together the number of commitments for rehabilitated units (Box 14h) and the number of new construction committments (Box 15h) and entering the sum in Box 13h.

The nature of a firm financial commitment varies from program to program but, as a minimum should be an official document obligating financial support for specific units. Examples of firm financial commitments are as follows:

HUD's Indian Public Housing program—an Annual Contribution Contract;

HUD's Section 8 program—selection of a preliminary proposal or application approval; or

BIA's Housing Improvement Program—application approval.

Applicants for the Basic and Comprehensive Grants should include at least one year commitments in their HAPs. Applicants for the Comprehensive Grant should include three year commitment estimates where program appropriations are limited to an annual cycle. Applicants will not be held responsible for meeting their second and third year goals when Congress does not appropriate the anticipated funds

Row 14: Enter, in Boxes 14a and h, respectively, the total number of rehabilitation units for which firm financial commitments have been made by each public or private agency in Boxes 14b through g for owner-occupied units and Boxes 14i through k for renter-occupied units.

Row 15: Enter, in Boxes 15a and h, respectively, the total number of units of new construction for which firm financial commitments have been made by each public or private agency in Boxes 15b through g for owner-occupied units and Boxes 15i through k for renter-occupied units.

Housing Goals: Applicants should determine realistic housing assistance goals for the program year based on their housing conditions, needs and ability to secure firm financial commitments.Their methodology for formulting their goals shoud be indicated.

Applicants for Basic Grants should establish one year goals; applicants for Comprehensive Grants should establish three year goals which will be revised annually to reflect changes in Congressional appropriations. Housing Assistance goals should only reflect projected new firm financial commitments for assistance, not commitments obtained prior to application submission.

Goals will usually parallel the applicant's firm financial commitments, and in the case of Comprehensive Grants, established commitments. Goals may differ from commitments, however, if the applicant lacks capacity to fully utilize all of the commitments it has obtained.

Row 16: Enter the total number of units proposed for new construction or rehabilitation to meet the Housing Assistance Plan goals. For owner-occupied units, the total can be obtained by adding together the number of rehabilitated units to be achieved (Box 17a) and the number of units of new construction to be achieved (Box 18a). Enter the sum in Box 16a.

For renter-occupied units the total can be obtained by adding together the number of rehabilitated units to be achieved (Box 17h) and the number of units of new construction to be achieved (Box 18h). Enter the sum in Box 16h.

Row 17: Enter, in Boxes 17a and h respectively, the total numbers of rehabilitated units to be achieved for the one or three goal from boxes 17b through g for owner-occupied units and Boxes 17i through k for renter-occupied units.

Row 18: Enter, in Boxes 18a and h, respectively, the number of units of new construction to be achieved for the one or three year goal from Boxes 18b through g for owner-occupied units and Boxes 18i through k for renter-occupied units.

Housing Strategy: In a narrative form, the applicant should describe its strategy for implementing its Housing Assistance Plan. The following should be addressed:

A. List and quantify the types of housing needs to be met according to the applicant's priorities. The HAP, for example, might include the following activities rearranged by the applicant in rank order: the rehabilitation of hazardous housing, barrier removal for the elderly and handicapped, rehabilitation and new construction for large families, replacement of temporary housing such as mobile homes, new construction for off-reservation members, relocation of housing in flood plain areas, demolition, housing financing for female-headed households, and group housing for elderly or handicapped. The source of funding should accompany each priority;

B. Identify any known obstacles to implementing the HAP (e.g., lack of utilities, roads, pure water; displacement problems) and strategies to overcome them;

C. Indicate the locations of existing and proposed housing as specifically as possible. A map should be provided if available and appropriate;

D. Describe how the locations of proposed housing will be coordinated with other existing and proposed facilities (roads, water and sanitation, recreation, health, education, shopping, employment centers, etc.) and how the proposed facilities will be funded;

E. Identify those forms of cooperation and assistance which the Tribal government or any of its agencies will provide (e.g. land, land title clearance, construction, labor, etc.);

F. Indicate those public and private agencies with whom the applicant has coordinated in preparing its Housing Assistance Plan. Coordination includes a review of current State, regional, local and Tribal plans, discussions with these agencies, the HUD Field Office, BIA, IHS, etc. Any comments provided by these sources should be attached;

G. Indicate whether the tribe will provide referrals and assistance to persons desiring to leave the reservation by referring them to a non-Indian Public Housing Agency so that they might qualify for a public housing unit or for a certificate or participation in the Section 8 existing housing program.

BILLING CODE 4210-01-M

INDIAN AND ALASKA NATIVE
HOUSING ASSISTANCE PLAN

Summary Sheet

U.S. Department of Housing and Urban Development
Community Development Block Grant Program

1. Name of Applicant: _____

2. Applicant/Grant Number: B - _ _ - _ _ - _ _ _ _

3. Period of Applicability: FY _____
From _____ To _____

4. Submission: ____ Original
Date _____ Revision/Amendment

5. Data Source: _____
Survey Date:

NUMBER OF HOUSING UNITS

	Owner-Occupied Units							Renter-Occupied Units			
		HUD			BIA	FmHA	Other		HUD		Other
	Total a	Mutual Help b	CDBG c	Other HUD d	e	f	Va. State Local Pvt. Tribal g	Total h	IHA i	Other HUD j	Va. State Local Pvt. Tribal k
HOUSING CONDITIONS											
6. Total Existing Units											
7. Standard Units											
8. Substandard Units											
9. HOUSING NEEDS Total Units Needed											
10. Additional Units Needed											
11. Units Needing Rehabilitation											
12. Units Needing Replacement											
HOUSING COMMITMENTS Total Units with Firm 13. Financial Commitment											
14. Rehabilitation											
15. New Construction											
HOUSING GOALS Total Housing Goals 16. for 1 or 3 years											
17. Rehabilitation											
18. New Construction											

19. HOUSING STRATEGY (Present narrative on attached sheet of paper)

BILLING CODE 4210-01-C

Appendix A.—*Anadarko Area Housing Inventory, Fiscal Year 1978; Sept. 30, 1978*

Agency/tribe	(1) Total number existing housing units	(2) Housing units in standard condition	(3) (Subtotal) substandard condition	(4) Housing units needing replacement	(5) Housing units needing renovation	(6) Total new housing units required	(7) Housing units needing replacement	(8) Families needing housing	M-H program applications		
									On hand	Reviewed and approved	Not reviewed
Anadarko Agency:											
Apache											
Caddo											
Comanche											
Delaware											
Fort Sill Apache											
Kiowa											
Wichita											
Other											
Total											
Concho Agency:											
Cheyenne-Arapaho											
Other											
Total											
Horton Agency:											
Iowa	83	49	34	16	18	81	16	65			
Kickapoo	104	69	35	25	10	110	25	85			
Potawatomi	139	39	100	40	60	165	40	125			
Sac & Fox	16	12	4	2	2	4	2	2			
Other	0	0	0	0	0	0	0	0			
Total	342	169	173	83	90	360	83	277			
Pawnee Agency:											
Otoe-Missouria											
Pawnee											
Ponca											
Tonkawa											
Other											
Total											
Shawnee Agency:											
Absentee-Shawnee											
Potawatomi											
Kickapoo											
Iowa											
Sac & Fox											
Other											
Total											
Anadarko area total											

Appendix B—HUD Housing Quality Standards—(7420.3 REV, App. 12)

§ 882.109 Housing quality standards.

Housing used in this program shall meet the Performance Requirements set forth in this section. In addition, the housing shall meet the Acceptability Criteria set forth in this section except for such variations as are proposed by the PHA and approved by HUD. Local climatic or geological conditions or local codes are examples which may justify such variations.

(a) *Sanitary Facilities.*—(1) *Performance Requirement.* The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(2) *Acceptability Criteria.* A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

(b) *Food Preparation and Refuse Disposal.*—(1) *Performance Requirement.* The dwelling unit shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(2) *Acceptability Criteria.* The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the Owner or the Family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(c) *Space and Security.*—(1) *Performance Requirement.* The dwelling unit shall afford the Family adequate space and security.

(2) *Acceptability Criteria.* A living room, kitchen area, and bathroom shall be present;

and the dwelling unit shall contain at least one sleeping or living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.

(d) *Thermal Environment.*—(1) *Performance Requirement.* The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(2) *Acceptability Criteria.* The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil or kerosene are unacceptable.

(e) *Illumination and Electricity.*—(1) *Performance Requirement.* Each room shall have adequate natural or artifical illumination to permit normal indoor activities and to support the heatlh and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(2) *Acceptability Criteria.* Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets one of which may be an overhead light, shall be present and operable in the living area, kitchen area, and each bedroom area.

(f) *Structure and Materials.*—(1) *Performance Requirement.* The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(2) *Acceptability Criteria.* Ceilings, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition. In the case of a mobile home, the home shall be securely anchored by a tiedown device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.

(g) *Interior Air Quality.*—(1) *Performance Requirement.* The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.

(2) *Acceptability Criteria.* The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

(h) *Water Supply.*—(1) *Performance Requirement.* The water supply shall be free from contamination.

(2) *Acceptability Criteria.* The unit shall be served by an approved public or private sanitary water supply.

(i) *Lead Based Paint.*—(1) *Performance Requirement.* (i) The dwelling unit shall be in compliance with HUD Lead Based Paint regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4301, and the Owner shall provide a certification that the dwelling is in accordance with such HUD Regulations.

(ii) If the property was constructed prior to 1950, the Family upon occupancy shall have been furnished the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

(2) *Acceptability Criteria.* Same as Performance requirement.

(j) *Access.*—(1) *Performance Requirement.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

(2) *Acceptability Criteria.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire (such as fire stairs or egress through windows).

(k) *Site and Neighborhood.*—(1) *Performance Requirement.* The site and neighborhood shall be reasonably free from disturbing noises and reverberations and other hazards to the health, safety and general welfare of the occupants.

(2) *Acceptability Criteria.* The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazards or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehiclar traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(l) *Sanitary Condition.*—(1) *Performance Requirement.* The unit and its equipment shall be in sanitary condition.

(2) *Acceptability Criteria.* The units and its equipment shall be free of vermin and rodent infestation.

(m) *Congregate Housing.* The foregoing standards shall apply except for paragraph (b) of this section, Food Preparation and Refuse Disposal. In addition the following standards shall apply:

(1) The unit shall contain a refrigerator of appropriate size.

(2) The central dining facility (and kitchen facility, if any) shall contain suitable space and equipment to store, prepare and serve food in a sanitary manner, and there shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

Appendix C—BIA Definition of Standard Housing—(25 CFR, Ch. 1, Subch. X, Pt. 261)

(i) "Standard housing" means a dwelling in a condition which is decent, safe and sanitary so that it meets the following minimums:

(1) General construction conforms to applicable building standards for the region. Structures to be improved are to be in sound condition. Deterioration, if any, will not be at a level creating a health or safety hazard, or a comfort problem.

(2) The heating system has the capacity to maintain a minimum temperature of 70 degrees in the dwelling during the coldest weather in the area. It must be safe to operate and maintain and deliver a uniform distribution of heat. Applicable local heating codes are to be followed. If there are no applicable local codes, county or state codes are to be used as a guide

(3) The plumbing system includes a properly installed system of piping. Fixtures consist of a kitchen sink and a partitioned bathroom with lavatory, toilet and bath and/or shower. The water supply, plumbing and sewage disposal systems meet minimum standards of the Indian Health Service, tribe, county or state whichever is applicable.

(4) The electrical system includes wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for the operation of appliances. The tribal, county, or state electrical code, whichever is applicable, must be used as an alternative standard. If no codes exist, a minimum of two circuits per dwelling must be installed with provision for at least one additional circuit for future use.

Appendix D—Excerpts From the 1970 Census of Housing

Federal and local housing agencies have customarily used statistics on structural condition in combination with the availability of plumbing facilities to provide one of the key criteria for measuring the adequacy of the Nation's housing. "Substandard" housing has been defined by these agencies to include housing units that lacked some or all plumbing facilities for exclusive use and those that had all plumbing facilities for exclusive use but which were rated as "dilapidated."

A unit has all plumbing facilities when it has hot and cold piped water, as well as a flush toilet and a bathtub or shower inside the structure for the exclusive use of the occupants of the unit.

"Lacking some or all plumbing facilities" means that the unit does not have all three specified facilities, or that the toilet and bathing facilities are also for the use of the occupants of other housing units.

The category "dilapidated with all plumbing facilities" consists of dilapidated units which had all three specified plumbing facilities: Hot and cold piped water, as well as a flush toilet and a bathtub or shower inside the structure for the exclusive use of the occupants of the unit.

All facilities must be located in the structure. They need not be in the same room. Facilities are for the exclusive use of the occupants when they are used only by the occupants of one housing unit, including

lodgers or other unrelated persons living in the unit. When a structure consists of only one housing unit, all equipment located inside the structure is classified, by definition, for exclusive use.

Information on structural condition of housing was collected in the 1940, 1950, and 1960 decennial censuses. In the 1950 census, enumerators classified housing units as "dilapidated" or "not dilapidated." In 1960, units were categorized as "sound," "deteriorating," or "dilapidated." This information was obtained by having census enumerators rate the physical condition of each housing unit in the United States.

In the 1970 Census of Population and Housing, information was collected about the availability of plumbing facilities, but not about the structural condition of the housing unit. Evaluation of the 1950 and 1960 censuses showed the data on condition to be unreliable and inaccurate. Furthermore, experiments with methods of self-enumeration of condition showed them to be unsatisfactory.

Research has indicated, however, that a sample survey which uses groups of selected and highly trained enumerators and better controlled procedures would provide data on "substandardness" for the United States and regions as reliable as the results of a decennial census and at much lower cost.

As stated in the introductory text, the 1960 question on condition of housing unit was eliminated from the basic 1970 Census of Population and Housing questionnaires. In the 1960 census and in the 1970 sample survey of Components of Inventory Change, the enumerator classified each housing unit into own of three categories: Sound, deteriorating, or dilapidated.

Sound housing is defined as that which has not defects, or only slight defects which would normally be corrected during the course of regular maintenance. Deteriorating housing has one or more defects of an intermediate nature that must be corrected if the unit is to continue to provide safe and adequate shelter.

Dilapidated housing does not provide safe and adequate shelter and in its present condition endangers the health, safety, or well-being of the occupants. Such housing has (a) one or more critical defects; or (b) has a combination of minor defects in sufficient number or extent to require considerable repair or rebuilding; or (c) is of inadequate original construction. The defects are either so critical or so widespread that the housing unit is below the generally accepted minimum standard for housing and should be torn down, extensively repaired, or rebuilt.

A critical defect is serious enough in itself to warrant classifying a unit as dilapidated. Examples of critical defects are: holes, open cracks, or rotted, loose, or missing material (clapboard siding, shingles, bricks, concrete, tile, plaster, or floorboards) *over a considerable area* of the foundation, outside walls, roof, chimney, or inside walls, floors, or ceilings; substantial sagging of floors, walls, or roof; and extensive damage by storm, fire, or flood.

To be classified as dilapidated on the basis of minor defects, a housing unit must have such defects in sufficient number or extent that it no longer provides safe and adequate shelter. No set number of minor defects is required.

Examples of minor defects are: holes, open cracks, or rotted, loose, or missing materials in the foundation, walls, roof, floors, or ceilings but *not over a considerable area;* shaky or unsafe porch, steps, or railings; several broken or missing windowpanes; some rotted or loose window frames or sashes that are no longer rainproof or windproof; broken or loose stair treads, or broken, loose or missing risers, balusters, or railings of inside or outside stairs; deep wear on doorsills, doorframes, outside or inside steps or floors; and damaged, unsafe, or makeshift chimney such as a stovepipe or other uninsulated pipe leading directly from the stove to the outside through a hole in the roof, wall, or window. Such defects are signs of neglect which lead to serious structural deterioration or damage if not corrected.

Inadequate original construction includes: shacks, huts, or tents; structures with makeshift walls or roofs, or built of packing boxes, scrap lumber, or tin; structures lacking foundations (walls rest directly on the ground); structures with dirt floors; and cellers, sheds, barns, garages, or other places not originally intended for living quarters and inadequately converted to such use. Such units are classified as dilapidated.

The enumerator was instructed to judge each unit on the basis of its own characteristics, regardless of the neighborhood, the age of the structure, or the race or color of the occupants. He was cautioned, for example, that although lack of paint is only a slight defect, this and other signs of neglect are warnings to look closely for more serious defects. Also, exterior covering may improve the appearance of a structure but not its condition, and the sturdiness of brick or other masonry walls can be misleading if there are defects in other parts of the structure.

The enumerator was provided with detailed oral and written instructions and with visual aids. A filmstrip of photographs depicted various types of defects and a recorded narrative explained how to determine the classification of condition on the basis of these defects. Nevertheless, it was not possible to achieve uniform results in applying the criteria for determining the condition of a unit. Data on conditon for large areas, which are based on the work of a number of enumerators, tend to have a smaller margin of relative error than data for small areas, which depend on the work of only a few enumerators.

Source: HC(4)-16 Components of Inventory Change. HC(6) Plumbing Facilities and Estimates of Dilapidated Housing.

Appendix E—U.S. Census Annual Housing Survey—Indicators of Housing Quality[1]

Structural Characteristics

Complete kitchen facilities. (Parts A, B, C, E, F)—A unit has complete kitchen facilities when it has all three of the following for the exclusive use of the occupants of the unit: (1) An installed sink with piped water, (2) a range or cookstove, and (3) a mechanical refrigerator. All kitchen facilities must be located in the structure. They need not be in the same room. Quarters with only portable cooking equipment are not considered as having a range or cookstove. An icebox is not included as a mechanical refrigerator.

The kitchen facilities are for the exclusive use of the occupants when they are used only by the occupants of one housing unit, including lodgers or other unrelated persons living in the unit. When a structure consists of only one housing unit, all equipment located inside the structure is classified, by definition, for exclusive use.

For vacant units from which one or all of the kitchen facilities had been removed, the kitchen facilities used by the last occupant were to be reported.

Condition of kitchen facilities. (Parts B, E, F)—Units with complete kitchen facilities were classified as to whether all the kitchen facilities were in usable condition. If one or more of the kitchen facilities (sink, range or cookstove, and refrigerator) could not be used for its intended prupose, the unit was classified as having "1 or more not in usable condition." Kitchen facilities that normally function properly, but which were temporarily out of use (two weeks or less) because of a breakdown, were classified as usable.

Basement. (Parts A, B, C, D, E, F)—Statistics on basements are based on the number of housing units located in structures built with a basement. A structure has a basement if there is enclosed space in which persons can walk upright under all or part of the building.

In parts B, E, and F of this series, basements in structures with occupied units are further classified by signs of water leakage. The category, "with water leakage," consists of units in which the basement shows signs of water having leaked in from the outside, even if the signs only appear when it rains or during other similar situations. "No water leakage" means that the basement shows no signs of water leakage, or that the signs of water leakage are caused by a problem inside the structure such as faulty plumbing. If the basement shows signs of water having leaked in from the outside but the problem causing the leakage has been corrected, the unit was classified as having no water leakage.

The 1975 data on basements are for "all year-round housing units"; the 1970 data on basements are restricted to "all occupied housing units."

Year structure built. (Parts A, B, C, D, E)—"Year structure built" refers to when the building was first constructed, not when it was remodeled, added to, or converted. The figures relate to the number of units in structures built during the specified periods and in existence at the time of enumeration. For mobile homes and trailers, the model year was assumed to be the year built.

Units in structure. (Parts A, B, C, D, E, F)—In determining the number of units in a structure, all housing units, both occupied and vacant, were counted. The statistics are presented for the number of housing units in structures of specified type and size, not by the number of residential structures.

A structure is a separate building that either has open space on all sides or is

[1] Series H-150-76B.

separated from other sturctures by dividing walls that extend from ground to roof. Structures containing only one housing unit are further classified as detached or attached (see parts A and E).

A one-family house is detached if it has open space on all four sides even through it has an adjoining shed or garage. A one-family house is attached if it has one or more walls extending from ground to roof which divide if from other adjoining structures, such as in row houses, townhouses, etc.

Mobile homes and trailers are shown as a separate category (see parts A, C, D, and E). When one or more rooms have been added to a mobile home or trailer it is classifed as a one-family house. If, however, only a porch or shed has been added, it is still counted as a mobile home or trailer.

Elevator in structure. (Parts A, B, C, E)—Statistics on elevator in structure are for the number of housing units in structures with four floors or more which have a passenger elevator. Units are in a "walk-up" structure of four floors or more if the structure has no passenger elevator or if the only elevator service is for freight.

Stories between main and apartment entrances. (Parts B, F)—This item is restricted to two or more unit structures and is concerned with the number of floors from the main entrance of the apartment building to the main entrance of the apartment. The number of stories is determined from ground level if an apartment has its own private entrance, or it is entered from an area *not located inside* the building and there is no main building entrance, or if there is a main building entrance but the entrance to the apartment cannot be reached by using the main building entrance.

Storm windows, storm doors, and attic or roof insulation. (Parts A, E)—The purpose of these three items is to determine if a housing unit has some form of insulation which helps to reduce heat loss during the winter and heat gain during the summer. The statistics are shown only for occupied, one-family homes and mobile homes and trailers.

Storm windows or other protective window covering.—This category refers to protective window covering, such as storm windows, double-glazed glass, closeable shutters, or plastic. Housing units with "Some windows covered" have protective coverings over some, but not all windows.

Storm doors.—This category refers to additional doors hung in exterior doorways. Doors on attached garages are not included. Housing units with "Some doors covered" have storm doors on some, but not all, exterior door openings.

Attic or roof insulation.—This category includes roll or blanket insulation encased in a paper covering, fiberglass batting, and loose insulation which is poured or blown between the attic floor joists.

Mobile homes anchored with tie downs or other means.(Parts A, E)—An anchored mobile home or trailer is one that is secured to the ground through the use of tie downs, bolts, etc. The main purpose in anchoring a mobile home or trailer is to protect the unit from wind movement or destruction.

In group of 6 or more mobile homes. (Parts A, E)—Mobile homes and trailers that are gathered close together are considered to be in a "group." This may be a large mobile home park containing many units or it may be a small number grouped together on a single site or adjacent sites.

Roof. (Parts B, E, F)—Units "with water leakage" are those in which the roof shows signs of water having leaked in from the outside or where the roof leaks when it rains. "No water leakage" means that the roof shows no signs of water having leaked in from the outside, or that the roof shows signs of water leakage but the problem causing the leakage has been corrected. If the signs of water leakage are caused by a problem inside the structure such as faulty plumbing, the unit was classified as having no water leakage.

Interior ceilings and walls. (Parts B, E, F)—Statistics are presented on whether or not there are open cracks or holes and broken plaster or peeling paint on the interior ceilings or walls of a housing unit. Included are cracks or holes that do not go all the way through to the next room or to the outdoors. "Hairline cracks" or cracks that appear in the walls or ceilings but are not large enough for a fingernail file to be inserted in, and very small holes caused by nails or other similar objects are not considered to be open cracks or holes.

Broken plaster or peeling paint must be on the inside walls or ceilings, and at least one area of the broken plaster or peeling paint must be approximately one square foot or larger.

Interior floors. (Parts B, E, F)—Data are shown on whether there are holes in the interior floors of a housing unit. The holes do not have to go through the floor. Excluded are very small holes caused by nails or other similar objects.

Selected structural deficiencies and wish to move. (Parts B, E, F)—The category "household would like to move" consists of housing units in which the respondent considers one or more of the following structural deficiencies so objectionable that he would like to move from his unit: (1) A basement with signs of water leakage, (2) roof leaks, (3) open cracks or holes in the interior walls or ceiling, (4) holes in the floor, and (5) broken plaster or peeling paint on the ceiling or inside walls.

Overall opinion of structure. (Parts B, E, F)—The data presented are based on the respondent's overall opinion of his house or building as a place to live. The respondent was asked to rate the structure as excellent, good, fair, or poor.

Common stairways. (Parts B, E, F)—The statistics on common stairways are presented for housing units in structures of two or more units with common stairways. The figures reflect the physical condition of the stairway; i.e., whether there are loose, broken, or missing steps or stair railings. Common stairways are stairways which are usually used by the occupants of more than one unit or by the general public. They may be either inside the structure or attached to the outside of the building.

Light fixtures in public halls. (Parts B, E, F)—The statistics on light fixtures in public halls are presented for housing units in structures of two or more units with public halls which have light fixtures and whether the light fixtures are in working order. Light fixtures include wall lights, ceiling lights, or table lamps in the public halls of the building. Public halls are used by the occupants of more than one unit or by the general public.

Electric wiring. (Parts B, E, F)—A housing unit is classified as having exposed electric wiring if the unit has any wiring that is not enclosed, either in the walls or in metal coverings, or if the wiring is outside the walls but enclosed in some material other than metal. Extension cords and other types of wiring that extend from a wall outlet to an appliance or lamp are not considered as exposed wiring.

Electric wall outlets. (Parts B, E, F)—A housing unit is classified as having electric wall outlets in each room if there is at least one working electric wall outlet or wall plug in each room of the unit. A working electric wall outlet or wall plug is one that is in operating condition; i.e., can be used when needed. If a room does not have an electric wall outlet, an extension cord used in place of a wall outlet is not considered to be an electric wall outlet.

Electric fuse blowouts. (Parts B, E, F)—These statistics are for occupied housing units which had had an electric circuit fuse blown or breaker switch tripped during the three months prior to enumeration. The data are restricted to households that had been at their present address for at least three months prior to the date of enumeration. A blown fuse of tripped breaker switch results in the temporary loss of electricity until the fuse is replaced or the breaker switch reset. Blown fuses inside certain appliances or equipment (such as some large air conditioners) are counted as "fuse or switch blowouts."

Parking facilities. (Parts D, E)—The statistics on parking facilities presented in this report are restricted to renter-occupied units for which cash rent is paid and exclude one-family homes on 10 acres or more. The data refer to off-street parking facilities which are available in connection with the building. The facilities are provided by the landlord or management and must be available without an additional cost to the renter. The parking facility may be a garage, carport, driveway, or open lot where the occupant may park his car off the street.

Plumbing Characteristics

Plumbing facilities. (Parts A, B, C, D, E, F)—The category "with all plumbing facilities" consists of units which have hot and cold piped water inside the structure as well as a flush toilet and a bathtub or shower inside the structure for the exclusive use of the occupants of the unit. All plumbing facilities must be located in the structure but they need not be in the same room." Lacking some or all plumbing facilities" means that the unit does not have all three specified plumbing facilities (hot and cold piped water, as well as flush toilet and bathtub or shower inside the structure), or that the toilet or bathing facilities are also for the use of the occupants of other housing units.

Complete bathrooms. (Parts A, B, C, D, E, F)—A housing unit is classified as having a complete bathroom if it has a room with a

flush toilet and bathtub or shower and a wash basin, as well as piped hot water in the structure for the exclusive use of the occupants of the unit. A half bathroom has either a flush toilet or a bathtub or shower for exclusive use, but does not have all the facilities for a complete bathroom.

The category "also use by another household" consists of units with bathroom facilities which are also for the use of the occupants of other housing units.

The category "none" consists of units with no bathroom facilities, units with only a half bathroom, and units with all bathroom facilities but not in one room.

Source of water or water supply. (Parts A, C, E)—"A public system or private company" refers to a common source supplying running water to six or more housing units. The water may be supplied by a city, county, water district, or private water company, or it may be obtained from a well which supplies six or more housing units. If a well provides water for five or fewer housing units, it is classified as an "individual well." Individual wells are further classified by whether they were originally "drilled" or "dug." Water sources such as springs, creeks, rivers, cisterns, ponds, or lakes are included in the "other" category.

Breakdowns or failures in the water supply were asked when the unit had piped water inside the structure. The water may be available from sources such as a sink, wash basin, bathtub, or shower. A unit is classified as having no piped water inside structure if the unit has no piped water or if the only piped water available is outside the structure—for example, on an open porch or in another building. Data on breakdowns or failures of water supply are shown if the housing unit was occupied by the head of the household at least 3 months prior to enumeration and if the breakdown or failure lasted 6 consecutive hours or longer during the 3 months prior to enumeration. Breakdowns or failures in the water supply mean that the unit was completely without running water from its regular source. A unit was considered to be completely without running water if (1) the water system servicing the unit supplied no water at all, or (2) no water was available in the unit due to a breakdown or failure in the water supply inside the structure, or (3) the equipment and facilities (i.e., faucets in the kitchen and the bathroom sinks, faucet and shower in the bathtub, flush toilet, etc.) were all inoperable. If the faucet in the kitchen was broken, but the one in the bathtub was working, the unit was not classified as being completely without water.

Units with a breakdown or failure in the water supply are also classified according to the number of breakdowns or failures and to the most common source of the problem. "Problems inside the building" refer to such problems as broken pipes in the unit (or building) or turning the water off in the unit (or building) for maintenance and repairs. "Problems outside the building" refer to such problems as power failures, breaks in the main water line, or shutdowns by the water company for maintenance and repairs.

Availability of piped water. (Part E)—Units with no piped water in the building are classified by whether piped water is available within a quarter of a mile.

Sewage disposal. (Parts A, B, C, D, E, F)—A "public sewer" is connected to a city, county, sanitary district, neighborhood, or subdivision sewer system. It may be operated by a governmental body or private organization. A "septic tank or cesspool" is an underground tank or pit used for disposal of sewage. Small sewage treatment plants which in some localities are called neighborhood septic tanks are classified as public sewers. A chemical toilet uses chemicals to breakdown or dissolve sewage, a privy refers to an "out-house" or other small shelter outside the unit which contains a toilet. Units for which sewage is disposed of in some other way are included in the "other" category.

The data on breakdowns or failures in the means of sewage disposal are limited to units in which the means of sewage disposal was a public sewer, septic tank, or cesspool. The breakdown or failure may have been the result of an overloaded sewage disposal system, lack of running water, a broken or cracked tank, etc. Data on breakdowns are shown if the housing unit was occupied by the head of the household at least 3 months prior to enumeration and if the breakdown or failure lasted 6 consecutive hours or longer during the 3 months prior to enumeration.

Flush toilet. (Parts B, C, E, F)—The statistics on breakdowns or failures of flush toilet are limited to units that had all plumbing facilities with only one flush toilet; that is, one complete bathroom or one complete bathroom plus a half bath without flush toilet. The flush toilet may be completely unusable because of broken pipes, stopped up soil pipe, lack of water supplied to the flush toilet, or some other reason.

Units with breakdown or failure in flush toilet are classified by the number of breakdowns or failures and to the most common source of the problem. "Problems inside the building" refer to such breakdowns or failures as broken pipes in the unit (or building), a cracked or broken bowl, or faulty flushing mechanism. "Problems outside the building" refer to such breakdowns or failures as breaks in the main water or sewer line or shutdowns by the water company for maintenance or repairs.

Data on breakdowns or failures of flush toilet are shown if the housing unit was occupied by the head of household at least 3 months prior to enumeration, and if the breakdown or failure lasted 6 consecutive hours or more during the 3 months prior to enumeration.

Equipment and Fuels

Telephone available. (Parts A, E)—A unit is classified as having a telephone if there is a telephone available for receiving calls to the occupants of the unit. The telephone may be located outside or inside the housing unit, and one telephone may serve the occupants of several units. The number of housing units with a telephone available, therefore, does not indicate the number of telephones installed in homes.

Heating equipment. (Parts A, B, C, E, F)—"Warm-air furnace" refers to a central system which provides warm air through ducts leading to various rooms; central heat pumps are included in this category. "Steam or hot water" refers to a central heating system in which heat from steam or hot water is delivered through radiators or other outlets. "Built-in electric units" are permanently installed in floors, walls, ceilings, or baseboards. A "floor, wall, or pipeless furnace" delivers warm air to the room right above the furnace or to the room(s) on one or both sides of the wall in which the furnace is installed. "Room heaters with flue" include circulating heaters, convectors, radiant gas heaters, and other nonportable heaters that burn gas, oil, kerosene, or other liquid fuels, and which are connected to a flue, vent, or chimney to remove smoke and fumes. "Room heaters without flue" include any room heater (not portable) that burns gas, oil, or kerosene which is not connected to a flue, vent, or chimney. "Fireplaces, stoves, or portable heaters" also include room heaters that burn coal or wood.

For vacant units from which the heating equipment had been removed, the equipment used by the last occupants was to be reported.

For breakdowns or failures of heating equipment, data are shown for units occupied by the household head during the winter prior to enumeration if the equipment was unusable for 6 consecutive hours or longer during that time. To quality as having lived here "last winter," the household head must have moved into the unit prior to February 1975.

Heating equipment is considered unusable if it cannot be used for the purposes intended; the breakdown or failure may be caused by broken pipes, electrical or gas parts out of order, or downed power lines.

Insufficient heat (Parts B, E, F)—The statistics presented refer to housing units in which the household head occupied the unit during the winter prior to the date of enumeration. To quality as having lived here "last winter," the household head must have moved into the unit prior to February 1975.

Separate data are shown for units with additional heat source, rooms which lacked specified heat source, and units with closed rooms. The term "specified heating equipment" includes warm-air furnace; steam or hot water system; built-in electric units; floor, wall, or pipeless furnaces; and room heaters with flue. Excluded are room heaters without flue or vent, fireplaces, stoves, and portable heaters.

The data on additional heat source refer to units with "specified heating equipment" which *had* to use additional sources of heat to supplement the regular heating system because the regular system did not provide enough heat. Additional sources of heat such as kitchen stoves, fireplaces, or portable heaters, may have been used only in the mornings or on very cold evenings. Electric blankets, heating pads, or hot water bottles are not considered additional sources of heat.

"Rooms lacking specified heat source" include rooms lacking hot air ducts, registers, radiators, and room heaters. The intent of this item was to identify rooms in units with "specified heating equipment" which did not

contain the means of conveying the heat to the room. The kitchen was not considered to be a room for this item.

Separate data are also shown for rooms which were closed because they could not be kept warm. The rooms must have been closed for 7 consecutive days or longer during the previous winter, and the unit must have "specified heating equipment." For this item, also, the kitchen was not considered a room.

Air conditioning. (Parts A, B, C, D, E)—Air conditioning is defined as the cooling of air by a refrigeration unit; excluded are evaporative coolers, fans, or blowers which are not connected to a refrigeration unit. A room unit is an individual air conditioner which is installed in a window or an outside wall and is generally intended to cool one room, although it may sometimes be use to cool more than one room. A central system is a central installation which air-conditions the entire housing unit. In an apartment building, a central system may cool all apartments in the building, each apartment may have its own central system, or there may be several systems, each providing central air conditioning for a group of apartments. A central installation with individual room controls is a central air-conditioning system.

Fuels use for house heating and cooking. (Parts A, C, E,)—"Utility gas" is gas that is piped through underground pipes from a central system and serves the neighborhood. "Bottled, tank, or LP gas" is stored in tanks which are refilled or exchanged when empty. "Fuel oil, kerosene, etc." includes fuel oil, kerosene, gasoline, alcohol, and other combustible liquids. "Other fuel" includes any other fuel such as briquettes made of pitch and sawdust, coal dust, corncobs, or purchased steam.

Owned second home. (Parts A, C, E)—A second home may be a single-family house, vacation cottage, hunting cabin, ski lodge, etc., which is owned and held for use sometime during the year by the owner or members of his household. Second homes may also be owned in partnership with members of a different household. The figures include second homes which are sometimes rented or lesed on a short-term basis to other persons but are principally held for the owner's occasional use during the year.

The statistics refer to the number of households that own (one or more) second homes. The data, therefore, do not reflect the number of owned second homes. (See also discussion of vacant units "Held for occasional use" in section on "Occupancy and Vacancy Characteristics.")

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federal register

Wednesday
December 19, 1979

Part V

Environmental Protection Agency

Development Plan—Issuance of Protective Action Guides for Airborne Releases of Radioactivity as Federal Guidance

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1297-4]

Development Plan—Issuance of Protective Action Guides for Airborne Releases of Radioactivity as Federal Guidance

1. *Priority Classification.* The action proposed by this development plan is classified as significant and major because of its potential impact on the protection of the health and safety of the general public and on the regulatory and operating programs of other Federal agencies.

2. *Purpose.* The purpose of this action is to recommend to the President Protective Action Guides (PAG's) as Federal guidance for airborne releases of radioactivity applicable to the protection of the health and safety of the general public under radiological accident conditions.

3. *Introduction.* State Governments have the responsibility for public safety in times of emergency. In fulfillment of this responsibility, they prepare radiological emergency response plans to protect the public from accidental releases of radioactive material. These emergency response plans are supplemented by plans developed by nuclear facility operators which are coordinated with State and local plans.

State and local agencies, as well as nuclear facility operators, use Protective Action Guides as a basis for emergency response plans. Protective Action Guides represent a judgment as to when intervention is indicated to avoid radiation exposure that would otherwise result from an accidental release of radioactivity. It assumes that there is no means for complete control of the release at the facility. This judgment must consider health impact, population size and mobility, and methods for reducing exposure as well as the validity of data available. PAG's are intended to provide guidance for the protection of persons in the general population from excess radiation exposures following radiological accidents at nuclear facilities, including nuclear power plants, for accidents during the transport of radioactive materials, and for such other events that may cause contamination of the environment with radioactive materials.

Due to the probable short time available for protective actions following a radiological accident, emergency plans with PAG's are necessary and would reduce population risk by indicating when protective actions should be taken to protect the public. Guidance already exists from the Agency but does not have strength of Presidential Federal Guides.

Following a radiological accident, emergency response will be in three phases. Because of different exposure pathways and exposure time frames, separate PAG's will be needed for each phase.

PAG's developed under this development plan will be the first to be proposed as Federal guidance by EPA. These PAG's will be for the early phase when inhalation and whole body exposure from an airborne plume will be the principal radiation exposure pathways.

The FDA is currently developing information on protective actions for the second phase (contaminated food) when the ingestion exposure pathways are most important. We will use this information as a basis for revising current Federal guidance on PAG's covering the ingestion pathways. Revised PAG's for ingestion pathways will be developed and promulgated as Federal guidance under a separate development plan.

EPA is currently developing information through a contract on protective actions for the third phase, which is the long-term recovery phase (contaminated property and equipment) from an accidental release of radioactivity. This infomation will form a basis for developing PAG's for long-term response. It has not yet been determined whether these PAG's will be issued as Federal guidance.

PAG's for the different accident phases will be independent of each other so that the development of PAG's for the plume exposure pathaway will not impact on PAG's for other phases.

This program is in support of the EPA responsibility to develop Federal guidance on radiation and make recommendations to the President under the authority granted to the Administrator of EPA. This responsibility and authority, formerly vested in the Federal Radiation Council, was transferred to EPA by the President's Reorganization Plan No. 3 of 1970.

The EPA program to develop PAG's is also part of a coordinated effort involving eight Federal agencies to assist States in radiological emergency response preparedness for fixed facility and transportation accidents. The responsibilities of each agency are defined in a Federal Register notice dated December 24, 1975. This notice assigned responsibilities to the Environmental Protection Agency; Nuclear Regulatory Commission; the former Energy Research and Development Administration (now the Department of Energy); Department of Health, Education, and Welfare; Defense Civil Prepardeness Agency; Federal Disaster Assistance Administration; Federal Preparedness Agency; and the Department of Transportation. The Nuclear Regulatory Commission is designated as the lead Federal agency in radiological emergency response planning, training, and other assistance activities covered in this notice. The Federal Preparedness Agency exercises general monitorship of these activities. A major responsibility assigned to EPA by this notice was the establishment of PAG's in coordination with appropriate Federal agencies.

4. *Alternatives*—A. *No further action at this time.* EPA has issued PAG's for the plume exposure pathways as interim Agency guidance through the distribution of the "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents." Most States and facility operators have adopted this interim guidance.

This alternative is not recommended because the present guidance is not binding on regulatory or operational Federal programs and, therefore, is nonenforceable. States, in using this nonenforceable guidance, have indicated their desire for its upgrading to Federal guidance so that it will be incorporated in Federal regulations as appropriate and so that responsible State agencies can use it as justification for procurement of resources necessary to support a radiological emergency response plan. No further action would result in the dispersal of radiation guidance for radiological accidents among many Federal and State agencies with the loss of a single coherent Federal guidance position.

B. *Issue Agency guidance.* The PAG's could be developed and promulgated as Agency guidance under the authority of the Notice of Interagency Agreement published in the Federal Register, December 24, 1975. The advantage of this over our present interim guidance would be an expansion of our recommendations to include guidance on exposure of other organs. Some time and effort would be saved over alternative "C" by not having to obtain Presidential approval.

The disadvantages of this alternative are similar to those for alternative "A". It would not be binding on regulatory or operational Federal programs and, therefore, would not be enforceable. States could not use the guidance as justification for procurement of resources necessary to develop and implement their response plans.

C. *Development and promulgation of Federal guidance.* Development and promulgation of the PAG's as Federal guidance under the authority granted to the Administrator of EPA will assure that they are used by Federal agencies as appropriate in the development of regulations, in licensing of nuclear facilities, and in operational procedures for nuclear facilities operated by or for the Federal Government. This action also meets our commitments in the Interagency Agreement, contributes a necessary part of the national policy on radiological emergency response plans, and addresses the many requests from State and local agencies for Federal guidance.

The value of developing PAG's as Federal guidance more than compensates for the added effort, and, therefore, this alternative is recommended for development and promulgation of the PAG's.

5. *Issues*—A. *Risk levels.* PAG's will be developed based on an evaluation of the following criteria:

1. Short-term (acute) health effects will be avoided;

2. Long-term health effects will be kept at a level which EPA judges to be reasonably protective of public health.

Risk levels associated with PAG's derived in this manner will probably fall above the range of risk levels associated with other types of guidance and regulations previously issued by the Agency for nonemergency situations. for this reason, some may consider the PAG risk levels to be unacceptably high. The technical support documentation will address this issue and attempt to place the risks in proper perspective by considering the broad economic impact and implementability of lowering the PAG's, as well as some comparison to other risks.

B. *Costs.* No detailed cost-benefit analysis will be attempted, but the supporting documentation will include information on the expected costs associated with the PAG levels. The cost associated with implementation cannot be a direct basis for setting the PAG levels; however, costs will determine the implementability of the guidance. It is recognized that assigning different PAG levels would influence the total cost of developing and maintaining emergency response plans, as well as the total cost of implementing an emergency plan should an accident occur. However, no standard methods exist for relating cost and risk, so no attempt will be made to equate them.

C. *Impact on Federal programs.* The proposed guidance, when finalized, will impact on the regulatory emergency programs of the NRC and on the operational control procedures of DOE and DOD for facilities under their control. Currently these agencies have been operating on the basis of similar PAG's issued as EPA interim Agency guidance in 1975. Thus, promulgation of PAG's as Federal guidance should not cause major changes in Federal operating programs. Changes considered to be of minor impact on an agency will be the requirement to change standard operating procedures to incorporate the guidance.

It is anticipated that Federal regulations dealing with nuclear accident insurance indemnification will be changed to correspond to the Federal guidance and that NRC will require licensees to use the PAC's in development of radiological emergency response plans. DOE and DOD will require operators of their nuclear facilities to adopt the Federal guidance on PAG's, which is primarily a change only in emergency plans.

D. *Impact on State and local programs.* State and local governments have made a practice of using Federal guidance as a basis for developing their radiological emergency response plans. Many State officials have indicated the need for plume exposure PAG's, and in response to this need, PAG's were released as interim Agency guidance in September 1975. Since most States have adopted the interim Agency guidance in their plans, promulgation of PAG's as Federal guidance is expected to be accepted as a positive measure by State and local programs and should not cause significant increases in their program costs.

E. *Relationship to other guidance.* PAG's for ingestion pathways have been issued as Federal guidance by the former Federal Radiation Council. These PAG's are independent of plume exposure PAG's and will not be affected by this action. Other EPA standards and Federal guidance relate to routine operations where the source is under control and would not be affected by these actions.

F. *Public input.* Because of public concern over the safety aspects of nuclear power generation, this action is likely to have appreciable public interest. Therefore, public input is expected to be large and will receive due consideration.

6. *Schedule.* The schedule for the program is outlined below. This schedule is contingent upon no major problems or delays either within the Agency or with other agencies.

Item and Date

1. Development plan approved, November 1979.
2. Publish Advanced Notice of Proposed Rulemaking in Federal Register, March 1980.
3. Prepare decision package.
a. Prepare draft action memorandum to Administrator, June 1980.
b. Prepare text of proposed guidance, June 1980.
c. Prepare Technical Support Document in cooperation with Interagency Central Coordinating Committee, June 1980.
4. Conduct internal reviews.
a. Submit to working group, June 1980.
b. Submit to Steering Committee, August 1980.
c. Submit for Red Border clearance, September 1980.
d. Submit to Administrator, October 1980.
5. Publish proposed guidance for public comment and respond to public comment, November 1980.
6. Prepare final guidance, March 1981.
7. Conduct final internal review.
a. Submit to working group, April 1981.
b. Submit to Steering Committee, May 1981.
c. Submit for Red Border clearance, May 1981.
d. Submit to Administrator, June 1981.
8. Submit recommendations to President for approval and publication, July 1981.

7. *Exclusions.* No exclusions of normally required materials from the decision package are anticipated.

8. *External Participation.* Participation by Federal and State authorities and other external participation in the development of this guidance will be encouraged throughout the project.

Representatives from the eight Federal agencies participating in the Interagency Agreement (previously cited) form the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning. This Committee provides a review function for all guidance and recommendations prepared by the participating agencies. Any guidance, including Federal guidance proposed by EPA, would be reviewed by this Committee. ORP will consult with this Committee and present the status of the project, the rationale used to support the guidance, and attempt to resolve, during the development stages, any outstanding Federal level policy or technical issues.

During the development of this guidance, ORP will also consult with the Conference of Radiation Control Program Directors, Inc., which consists of State officials responsible for radiation protection. This group has already established a Task Force on Emergency Response Planning which ORP will consult with in the development and review of the guidance.

The schedule provides several opportunities for parties outside the Agency to become involved in the development of this guidance. Public

comment will be requested through publication of the proposed guidance in the Federal Register. The nuclear industry and major citizens' organizations will be specifically invited to comment. If there is sufficient interest, ORP will hold public hearings in the Washington, D.C., area.

9. *Internal Participation.* The Office of Radiation Programs is the lead office for the program.

The Working Group includes representatives from the following offices:

Office of Air, Noise, and Radiation (ANR–443).
Office of Federal Activities (A–104).
Office of General Counsel (A–133).
Office of Planning and Management (PM–223).
Office of General Enforcement (EN–341).
Office of Research and Development (A–107).
Office of Regional and Intergovernmental Operations (A–101).

(Region II has requested that they be permitted to represent regional interests and perspectives. Their contribution will be coordinated through ORIO).

This program is not expected to require an unusual level of effort from the representatives from any of these offices.

10. *Regulatory Analysis.* A regulatory analysis will not be required because it has been determined that the potential ecomomic impact of these regulations will not exceed the criteria established for conducting a regulatory analysis.

11. *Resources.* This effort is expected to require approximately two person-years of effort by the ORP staff in the development of the guidance and a combined effort of about one person-year by other EPA components in the review process.

Contracts will not be required to develop this guidance.

12. *EIS.* Agency policy does not require an Environmental Impact Statement for this type of action.

Dated: December 13, 1979.

Approve:

Douglas M. Costle,

Administrator, Environmental Protection Agency.

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Federal Register

Wednesday
December 19, 1979

Part VI

Department of Housing and Urban Development

Government National Mortgage Association

Guaranty of Mortgage Backed Securities; Amendment To Establish Rules Covering Issuers' Securities Marketing and Trading Activities

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 390

[Docket No. R-79-747]

Guaranty of Mortgage-Backed Securities; Amendment To Establish Rules Covering Issuers' Securities Marketing and Trading Activities

AGENCY: Government National Mortgage Association, HUD.

ACTION: Proposed rule.

SUMMARY: The amendment would establish rules governing the securities marketing and trading practices of issuers of securities guaranteed by the Government National Mortgage Association, "GNMA." The proposed rules have two basic elements: (1) A requirement that issuers enter into agreements to purchase or sell securities only when the transaction is suitable, taking into account the issuer's financial capacity and contractual obligations, and (2) A requirement that issuers, with respect to certain forward market transactions, enter into contracts which provide for at least weekly mark to market deposits of collateral with an independent financial institution. The proposed rules are intended to help avoid abuses in issuers' marketing and trading of securities and provide assurance that issuers' ability to administer their outstanding securities will not be jeopardized by their securities marketing and trading activities.

DATE: Comment due date: February 19, 1980.

ADDRESS: Comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his name and address, refer to the proposed rule by its docket number and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposed rule may be changed in light of comments received.

FOR FURTHER INFORMATION CONTACT: Warren Lasko, Office of Mortgage-Backed Securities, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-8772. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: GNMA proposes to amend its regulations applicable to the Mortgage-Backed Securities Program. The proposed rule requires GNMA-approved issuers of mortgage-backed securities to incorporate certain terms and conditions in their delayed delivery contracts, including an obligation of both parties to the contract to mark to the market. The proposed rule also requires issuers to engage only in securities transactions which are suitable to the issuers' financial circumstances and sound, business-like operation.

The proposed rule does not apply to transactions in a contract market designated as such by, and in compliance with the requirements of, the Commodities Futures Trading Commission pursuant to the Commodity Exchange Act, 7 U.S.C. 1, as amended.

GNMA has existing requirements which relate to the issuers' responsibility to act prudently in the sale of mortgage-backed securities. These "prudent business practice" rules appear in Chapter 2 of the *Government National Mortgage Association Mortgage-Backed Securities Guide,* Handbook GNMA 5500.1, as amended. GNMA issued the prudent business practice requirements in September, 1977, in response to its observation that not all issuers were aware of the need for care in assessing the financial capacity of firms active in securities trading, or of the need for internal managment controls on securities marketing and trading activity.

Abuses in the trading of mortgage-backed securities have continued to occur. Some abuses have resulted primarily from high pressure sales tactics, undercapitalization, and inappropriate speculative activity by participants in the market other than securities issuers. However, some issuers of GNMA-guaranteed securities also have undertaken inappropriate risks in purchasing and selling securities. By engaging in these transactions, issuers have incurred substantial losses which threatened GNMA with loss on its guarantees of the issuers' securities.

During the period 1977 to the present, the Mortgage-Backed Securities Association ("MBSA"—formerly the Mortgage Backed Securities Dealers Association) and the Public Securities Association ("PSA") have sought to address the problems and abuses which have persisted in the market for mortgage-backed securities. Each of these groups has proposed the establishment of a self regulatory organization by the dealers participating in this market. Currenty, the PSA is establishing PSA Self-Regulation, Inc. as an industry self-regulatory organization for the purpose of minimizing further trading abuses.

GNMA has cooperated fully with the market reform efforts of the two private trade associations. However, GNMA believes that it has an obligation to take direct steps to assure that issuers of GNMA-guaranteed securities conduct marketing and trading acitivities in a manner that avoids speculative risks which could jeopardize their ability to service outstanding securities. GNMA has determined that such speculative activity threatens GNMA with risk of loss and threatens to disrupt the continued flow of capital into the housing market. The proposed rules are intended to deter issuers from engaging in speculative securities trading, and, therefore, GNMA's adoption of the proposed rules is a reasonable means of protecting its financial and other interests under the Mortgage-Backed Securities Program.

A Finding of Inapplicability of the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. It is available for public inspection and copying in the Office of the Rules Docket Clerk.

It is proposed that Part 390 be amended to establish a new Subpart D and to revise and redesignate present Subpart D as Subpart E as follows:

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

* * * * *

Subpart D—Marketing and Trading Requirements

Sec.

390.50 Definitions.
390.51 Suitablility of Issuer Marketing and Trading Transactions.
390.52 Contract Requirements.
390.53 Failure to Comply.

Subpart E—Miscellaneous Provisions

390.60 Audits and Reports.
390.61 Applications.

Authority: Sec. 309, 82 Stat. 540; 12 USC 1723a, unless otherwise noted.

Subpart D—Marketing and Trading Requirements

§ 390.50 Definitions.

As used in this subpart, the following terms shall have the meaning indicated:

(a) "Delayed delivery contract" means a contract for the purchase or sale of one or more securities to be delivered at an agreed future settlement date, which is more than five business days after the contract's trade date. The term, "delayed delivery contract," includes both contracts which contemplate

mandatory delivery and acceptance of the securities (including agreements to sell/purchase and subsequently repurchase/resell) and standby contracts which require the purchaser to accept delivery of the securities at the option of the seller. The term, "delayed delivery contract," does not include futures contracts utilized in a contract market designated as such by, and in compliance with the requirements of, the Commodities Futures Trading Commission. A delayed delivery contract is "open" if it has not been fulfilled by the delivery of securities.

(b) "Mark to the market" means the act of determining the market price of securities purchased or sold pursuant to an open delayed delivery contract and the further act, by the party which has an unrealized loss (when the market price is measured against the contract's price), of depositing collateral for the benefit of the contract's other party.

(c) "Regulated transaction" means the purchase or sale by an issuer of one or more securities pursuant to a delayed delivery contract, except that the term does not include a sale of securities guaranteed by the Association where (1) the issuer holds a valid, outstanding Commitment to Guaranty Mortgage-Backed Securities issued by the Association in an amount at least equal to the face amount of the securities sold, and (2) the settlement date under the contract is no later than the last day of the calendar month in which the 120th day after the contract's trade date falls.

(d) "Securities" means interests in pools of mortgage loans and debt obligations, both of which categories of securities are either issued or guaranteed by the United States or its instrumentalities, including without limitation straight pass-through and modified pass-through certificates guaranteed by the Association and mortgage participation certificates and guaranteed mortgage certificates issued by the Federal Home Loan Mortgage Corporation.

(e) "Settlement date" means the date agreed upon by the parties to a regulated transaction for the full and final payment of funds and delivery of securities.

(f) "Trade date" menas the date on which the parties to a regulated transaction agree to the purchase or sale of securities, regardless of the date on which the securities are to be delivered or the right to deliver them may be exercised.

§ 390.51 Suitability of issuer marketing and trading transactions.

Issuers shall enter into agreements to purchase or sell securities only to the extent the transactions are suitable for the issuer in view of its financial capacity and existing contractual obligations, including contracts with the Association. An issuer shall not enter into any agreement to purchase or sell securities if the result of the transaction could materially jeopardize the issuer's ability to continue to satisfy the basic net worth requirements set forth in § 390.3 or its ability to continue to administer its outstanding securities.

§ 390.52 Contract requirements.

An issuer may engage in a regulated transaction only if it undertakes the transaction in accordance with an executed delayed delivery contract which requires at a minimum each of the following:

(a) Both parties shall agree to mark to the market at least once each week from the trade date until the settlement date.

(b) A party which deposits collateral pursuant to its obligation to mark to the market shall make the deposit in cash with an independent financial institution. The independent financial institution shall be unrelated to, not affiliated with, and in no way controlled by a party to a regulated transaction.

(c) The collateral maintained with the independent financial institution shall be increased or adjusted at least weekly to the extent necessary to assure a deposit, by the party which has a net unrealized loss with respect to all its regulated transactions with the same contra-party, equal to one hundred percent of the net unrealized loss.

(d) Both parties shall agree to the method by which the market price of securities will be determined.

(e) Each party shall maintain complete and accurate records of each regulated transaction, including its mark to the market calculations and its deposits and adjustments of collateral made with respect to each delayed delivery contract under which it is obligated to make deposits.

(f) The same independent financial institution may be the depository for collateral deposited by a party under different delayed delivery contracts. The collateral deposited by a party under one delayed delivery contract may be commingled with collateral deposited by that party under other delayed delivery contracts with the same contra-party.

§ 390.53 Failure to comply.

Failure by an issuer to comply with the requirements of this subpart is sufficient basis for the Association, at its option, to withhold from the issuer further commitments to guaranty mortgage-backed securities.

Subpart E—Miscellaneous Provisions

§ 390.60 Audits and reports.

The Association may at any reasonable time audit the books and examine the records of any issuer, mortgage servicer, trustee, or agent or other person bearing on compliance with the requirements of the Mortgage-Backed Securities Program, and the Association may require reasonable and necessary reports from such persons.

§ 390.61 Applications.

Applications for guaranty should be submitted to the Association's home office located at 451 Seventh Street, SW., Washington, D.C. 20410.

Issued at Washington, D.C., November 28, 1979.

Frederick Taylor,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 79-38348 Filed 12-18-79; 8:45 am]

BILLING CODE 4210-01-M

Federal Register

Wednesday
December 19, 1979

Part VII

Department of the Treasury

Foreign Assets Control Office

Iranian Assets Control Regulations

DEPARTMENT OF THE TREASURY

Foreign Assets Control Office

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendment is to amend § 535.531 concerning the payment of certain checks and drafts; to add certain definitional provisions; and to add § 535.806 describing the rule making activities of the office. The need for the amendments is to extend certain provisions of § 535.531 which expired on December 14, 1979; to set forth policy concerning payment of checks and drafts; and to announce that the Office will consider, on a case-by-case basis, payment under certain irrevocable letters of credit. The effect of the amendment is that the authorization for payment for certain checks and drafts will continue for 31 days (not including the previous authorization for documentary drafts drawn under irrevocable letters of credit, which expired December 14, 1979); and that affected parties will be made aware of Office policy on accepted drafts, of the opportunity to submit certain letter of credit problems to the Office for case-by-case consideration, and of certain definitional provisions of the Regulations.

EFFECTIVE DATE: December 18, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202-376-0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation, and delay in effective date are inapplicable.

§ 535.531 now incorporates the overall policy under the Regulations concerning the payment of checks and drafts involving debits to blocked accounts. The main features of that policy are as follows:

(1) § 535.531(a) extends the general license for payment of checks and drafts drawn or issued prior to the effective date until January 14, 1980.

(2) § 535.531(b) revises and recodifies, as a general license, the provisions of former § 535.417 (published December 3, 1979) concerning the payment of accepted drafts and other obligations.

(3) The general license for payment of certain documentary drafts under irrevocable letters of credit, which expired on December 14, 1979, has not been extended. However, § 535.531(c) gives notice that applications for specific licenses for such payments will be considered on a case-by-case basis. Submissions should cover all such letters of credit in which the applicant is involved, and should be submitted not later than January 10, 1980.

(4) § 535.531(d) states that any payments made under the provisions of paragraph (a) or (b) of the section in favor of Iran or an Iranian entity must be made into a blocked account in a domestic bank.

§ 535.531(b), by its terms, deals only with accepted drafts where the payee is a person subject to the jurisdiction of the United States. However, the Office will also consider, without commitment, applications to authorize payment of accepted drafts to persons not subject to the jurisdiction of the United States on a case-by-case basis. Submissions should cover all accepted drafts in which the applicant is involved and should be submitted not later than January 10, 1980.

31 CFR Part 535 is amended as follows:

1. § 535.310 is added to read as follows:

§ 535.310 Transfer.

The term "transfer" shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

2. § 535.312 is added to read as follows:

§ 535.312 Interest.

Except as otherwise provided in this part, the term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

3. § 535.417 is revoked.

§ 535.417 [Revoked]

4. § 535.531 is amended to read as follows:

§ 535.531 Payment of certain checks and drafts.

(a) A bank subject to the jurisdiction of the United States is hereby authorized to make payments from blocked accounts with such banking institution of checks and drafts drawn or issued prior to the effective date, *Provided,* that:

(1) The amount involved in any one payment, acceptance, or debit does not exceed $3000; or

(2) The check or draft was within the United States in process of collection by a domestic bank on or prior to the effective date and does not exceed $50,000.

(3) The authorization contained in this paragraph shall expire at the close of business on January 14, 1980.

(b) A bank subject to the jurisdiction of the United States as its own obligation may make payment to a person subject to the jurisdiction of the United States who is the beneficiary of any letter of credit issued or confirmed by it, or on a draft accepted by it, prior to the effective date, where the letter of credit was issued or confirmed on behalf of Iran or an Iranian entity, *Provided,* that:

(1) Notwithstanding the provisions of § 535.902, no blocked account may at any time be debited in connection with such a payment.

(2) Such a payment shall give the bank making payment no special priority or other right to blocked accounts it holds in the event that such blocked accounts are vested or otherwise lawfully used in connection with a settlement of claims.

(3) Nothing in this paragraph prevents payment being made to the beneficiary of any draft or letter of credit or to any banking institution pursuant to § 535.904.

(c) The Office will consider on a case-by-case basis, without any commitment on its part to authorize any transaction or class of transactions, applications for

specific licenses to make payments from blocked accounts of documentary drafts drawn under irrevocable letters of credit issued or confirmed by a domestic bank prior to the effective date, in favor of any person subject to the jurisdiction of the United States. Any bank or payee submitting such an application should include data on all such letters of credit in which it is involved. Applications should be submitted not later than January 10, 1980.

(d) Paragraphs (a) and (b) do not authorize any payment to Iran or an Iranian entity except payments into a blocked account in a domestic bank unless Iran or the Iranian entity is otherwise licensed to receive such payment.

5. § 535.806 is added to read as follows:

§ 535.806 Rule making.

(a) In general, rule making by the Office of Foreign Assets Control involves foreign affairs functions of the United States to which the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, the opportunity for public participation and a delay in effective date are inapplicable. However, the Office of Foreign Assets Control may consult with interested groups or persons in connection with the issuance of rules or the establishment of licensing policies.

(b) Any interested person may recommend in writing to the Director of the Office of Foreign Assets Control the issuance, amendment or the repeal of any rule.

(Secs. 201–207, 91 Stat. 1626; 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729)

Dated: December 18, 1979.

Stanley L. Sommerfield,

Director.

Approved:

Richard J. Davis,

Assistant Secretary.

FR Doc. 79-39112 Filed 12-17-79; 11:30 am]

BILLING CODE 4810-25-M

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31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendments is to clarify the rules and policies dealing with letter of credit situations, to add certain interpretative provisions, and to add Subpart F concerning reports. The need for the amendments is that the Office has received many telephone and written inquiries regarding the interpretation of the relevant provisions. The effect of the amendments is that the effect of the Regulations on various transactions will be clarified.

EFFECTIVE DATE: December 18, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Department of the Treasury, Washington, D.C. 20220, (202) 376–0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

In addition to other miscellaneous provisions, the amendments herein include the following:

1. *Letter of credit rules.* Section 535.416 provides interpretations as to the applicability of these regulations to possible transactions involving letters of credit. The amendments to this section published today are intended to amplify some of the interpretations previously given.

2. *Pre-judgment attachments.* New section 535.418 makes clear that § 535.504 authorizes pre-judgment attachments, but does not authorize any payment or delivery of blocked property to a court, marshal, sheriff or similar entity.

3. *Advised letters of credit.* Section 535.567 is being modified to make clear that specific licenses will be granted under the criteria described to allow payments from blocked accounts only in hardship cases. This has always been the purpose of this licensing policy.

4. *Standby letters of credit and performance bonds.* Section 535.568, relating to certain standby letters of credit and performance bonds, is being amended to include a provision that notwithstanding any other provision of law no payment may be made under any such instrument before sufficient time (eight business days) has passed to allow the account party to apply for a specific license under § 535.568(b). 31 CFR Part 535 is amended as follows:

1. § 535.416(d) and (e) are amended to read as follows:

§ 535.416 Letters of credit

* * * * *

(d) *Q.* Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. The Iranian entity presents documentary drafts which are deficient in some detail. May the non-Iranian account party waive the documentary deficiency and authorize the bank to make payment?

A. Yes, provided payment is made into a blocked account in a domestic bank. However, the non-Iranian account party is not obligated by these Regulations to exercise a waiver of documentary deficiencies. In cases where such a waiver is not exercised, the bank's payment obligation, if any, under the letter of credit remains blocked, as does any obligation, contingent or otherwise, of the account party. The documents are also blocked.

(e) *Q.* Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. The Iranian entity does not make timely, complete, or proper presentation of documents, and the letter of credit expires. Does there remain a blocked payment obligation held by the bank?

A. No, but any documents held by the bank continue to be blocked. It is also possible that the account party still has a related obligation to the Iranian entity and any such obligation would be blocked.

* * * * *

2. § 535.418 is added to read as follows:

§ 535.418 Authorization of judicial proceedings under § 535.504.

The general authorization for judicial proceedings contained in § 535.504(a) includes pre-judgment attachment. However, § 535.504(a) does not authorize payment or delivery of any blocked property to any court, marshal, sheriff, or similar entity, and any such transfer of blocked property is prohibited without a specific license. It would not be consistent with licensing policy to issue such a license.

3. § 535.502 is amended by revising the heading and adding new paragraph (c) as follows:

§ 535.502 Effect of license or authorization.

* * * * *

(c) Any regulation, ruling, instruction or license authorizing a transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions in Subpart B from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction or license otherwise specifies, such an

authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

4. § 535.567 is amended to read as follows:

§ 535.567 Payment under advised letters of credit.

(a) Specific licenses may be issued for presentation, acceptance, or payment of documentary drafts under a letter of credit opened by an Iranian entity and advised by a domestic bank or an Iranian bank subject to the jurisdiction of the United States, *provided,* that:

(1) The letter of credit was advised prior to the effective date;

(2) The property which is the subject of the payment under the letter of credit was not in the possession or control of the exporter on or after the effective date;

(3) The beneficiary is a person subject to the jurisdiction of the United States.

(b) As a general matter, licenses will not be issued if the amount to be paid to a single payee exceeds $500,000, or if hardship cannot be shown.

5. § 535.568 is amended to read as follows:

§ 535.568 Certain standby letters of credit and performance bonds.

(a) Notwithstanding any other provision of law, payment into a blocked account in a domestic bank by an issuing or confirming bank under a standby letter of credit in favor of an Iranian entity is prohibited by § 535.201 and not authorized, notwithstanding the provisions of § 535.508, if either (1) a specific license has been issued pursuant to the provisions of paragraph (b) hereof or (2) eight business days have not expired after notice to the account party pursuant to paragraph (b) hereof.

(b) Whenever an issuing or confirming bank shall receive such demand for payment under a standby lettter of credit, it shall promptly notify the person for whose account the credit was opened. Such person may then apply within five business days for a specific license authorizing the account party to establish a blocked account on its books in the name of the Iranian entity in the amount payable under the credit, in lieu of payment by the issuing or confirming bank into a blocked account and reimbursement therefor by the account party.

(c) If necesary to assure the availability of the funds blocked, the Secretary may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) into a blocked account in a domestic bank or the supplying of any form of security deemed necessary.

(d) Nothing in this section precludes any person for whose account a standby letter of credit was opened or any other person from at any time contesting the legality of the demand from the Iranian entity or from raising any other legal defense to payment under the standby letter of credit.

(e) This section does not affect the obligation of the various parties to the instruments covered by this section if the instruments and payments thereunder are subsequently unblocked.

(f) For the purposes of this section, the term "standby letter of credit" shall mean a letter of credit securing performance of, or repayment of, any advance payments or deposits, under a contract with Iran or an Iranian entity, or any similar obligation in the nature of a performance bond.

(g) The regulations do not authorize any person subject to the jurisdiction of the United States to reimburse a non-U.S. bank for payment to Iran or an Iranian entity under a standby letter of credit, except by payment into a blocked account in accordance with § 535.508 or paragraph (b) of this section.

(h) A person receiving a specific license under this section shall certify to the Office of Foreign Assets Control within five business days after receipt of that license that it has established the blocked account on its books as provided by paragraph (b) hereof.

6. Subpart F is added to read as follows:

Subpart F—Reports

§ 535.601 Records.

Every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least two years after the date of such transaction.

§ 535.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary of the Treasury or any person acting under his direction or authorization complete information relative to any transaction subject to the provisions of this part or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect. The Secretary of the Treasury or any person acting under his direction may require that such reports include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, investigate any such transaction or property or any violation of the provisions of this part regardless of whether any report has been required or filed in connection therewith.

(Secs. 201–207, 91 Stat. 1628; 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729)

Dated: December 18, 1979.

Stanley L. Sommerfield,

Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 79-39111 Filed 12-17-79; 11:30 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

66823 11-21-79 / Adequate notice and timely availability of tariff filings to the public

66830 11-21-79 / Aiding pollution prevention in large oil transfer operations in maritime services; expanded use of on-board frequencies

66816 11-21-79 / Amendments to radio operating licensing program

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—

66194 11-19-79 / Mobile home construction and safety standards; frame construction and prevention of storage near heat-producing appliances

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Stabilization and Conservation Service—

61047 10-23-79 / 1980 Rice Program; comments by 12-24-79

61601 10-26-79 / Disclosure of foreign investment in agricultural land; reporting obligations; comments by 12-26-79

Animal and Plant Health Inspection Service—

61048 10-23-79 / The importation of throughly cooked carcasses, parts, or products; comments by 12-24-79

Forest Service—

61618 10-26-79 / Grazing fee system; eastern region; comments by 12-26-79

Office of the Secretary—

61972 10-29-79 / Certification of essential agricultural uses and requirements; Natural Gas Policy Act; comments by 12-28-79

Rural Electrification Administration—

61048 10-23-79 / Specification for Carbon Arrester Assemblies for use in protectors; comments by 12-24-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

65372 11-9-79 / Atlantic surf clam and ocean quahog fisheries; comments by 12-29-79

68872 11-30-79 / Atlantic surf clam and ocean quahog fisheries; approval and partial disapproval of Fishery Management Plan amendments; comments by 12-29-79

Office of the Secretary—

61378 10-25-79 / Watch quota provisions; comments by 12-24-79

CONSUMER PRODUCT SAFETY COMMISSION

61602 10-26-79 / Proposed exemption from labeling requirements for certain writing instruments and cartridges; comments by 12-26-79

ENERGY DEPARTMENT

67330 11-23-79 / Proposed procurement regulations; comments by 12-24-79

Economic Regulatory Administration—

67602 11-26-79 / Activation of Standby Mandatory Crude Oil Allocation Program; comments by 12-26-79

67338 11-23-79 / Applicatons for assignment, adjustment and other agency actions; notice to aggrieved persons; comments by 12-28-79

69664 12-4-79 / Public conference on Shell Oil Company's jet fuel pricing practices at JFK International Airport; comments by 12-24-79

Federal Energy Regulatory Commission—

67158 11-23-79 / Price squeeze—substantive rules; comments by 12-24-79

ENVIRONMENTAL PROTECTION AGENCY

61978 10-29-79 / Approval of California implementation plans; comments by 12-28-79

67674 11-27-79 / Delaware; revision to state implementation plan; comments by 12-27-79

67675 11-27-79 / Discretionary authority in modification of state plans; comments by 12-27-79

62914 11-1-79 / Standards of performance for new stationary sources; phosphate role plants; comments period extended to 12-26-79

62204 10-29-79 / Textile mills point source category effluent limitations guidelines, pretreatment standards, and new source performance standards; comments by 12-28-79

FEDERAL COMMUNICATIONS COMMISSION

64442 11-7-79 / Eliminating applicability from the six meter frequency band (50-54 MHz); reply comments by 12-26-79

64441 11-7-79 / FM assignment to Vandalia, Mo; comments by 12-26-79

59580 10-16-79 / FM broadcast station in Plainview, Tex.; reply comments extended to 12-24-79

[Originally published at 44 FR 47964, Aug. 16, 1979]

66857 11-21-79 / Great Lakes public coast stations; transmission of weather broadcasts on channel 17 by voice and facsimile; reply comments by 12-28-79

FEDERAL EMERGENCY MANAGEMENT AGENCY

61211 10-24-79 / Disaster preparedness assistance—reorganization and revision of regulations; comments by 12-24-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

55191 9-25-79 / Canned fruits and berries; standards of identity; comments by 12-26-79

61053 10-23-79 / Rennet; proposed affirmation of GRAS status as a direct human food; comments by 12-24-79

Office of the Secretary—

67183 11-23-79 / Protection of privacy of individuals; comments by 12-24-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of Assistant Secretary—

61591 10-26-79 / Community Development Block grants; closeout procedures; comments by 12-26-79

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

61177 10-24-79 / Rental assistance payments; noninsured Section 236 projects; interim rule; comments by 12-26-79

INTERIOR DEPARTMENT

Land Management Bureau—

61880 10-26-79 / Sale of public lands; procedures; comments by 12-26-79

Office of the Secretary—

61378 10-25-79 / Watch quota provisions; comments by 12-24-79

Surface Mining Office—

63737 11-5-79 / Abandoned mine lands reclamation program; draft environmental impact statement; comments by 12-24-79

INTERSTATE COMMERCE COMMISSION

64851 11-8-79 / Rail general exemption authority; long- and short-haul transportation; comments by 12-28-79

[See also 44 FR 61981, Oct 29, 1979 and 44 FR 63121 Nov. 2, 1979]

61981 10-29-79 / Railroads; long and short haul and aggregate-of-intermediate provisions; exemption of certain categories of rail rates; comments by 12-28-79

TRANSPORTATION DEPARTMENT

Coast Guard—

64843 11-8-79 / Removal of COLREGS Demarcation Line at Boston Harbor Entrance seaward; comments by 12-23-79

Federal Aviation Administration—

68479 11-29-79 / Kessel, W. Va.; extension of Federal airway; comments by 12-26-79

68480 11-29-79 / Lonely DEW Station, Alaska; designation of control zone and transition area; comments by 12-26-79

TREASURY DEPARTMENT

Internal Revenue Service—

61611 10-26-79 / Exess profits on contracts for naval vessels or military aircraft; comments by 12-26-79

VETERANS ADMINISTRATION

67181 11-23-79 / Veterans education; paying educational assistance during intervals between terms; comments by 12-24-79

67179 11-23-79 / Veterans education; reports by schools; requirements; comments by 12-24-79

Next Week's Meetings

DEFENSE DEPARTMENT

Office of the Secretary—

71859 12-12-79 / Task Force on Evaluation of Audit, Inspection, and Investigative Components, Washington, D.C. (open), 12-27-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Health Resources Administration—

69994 12-5-79 / Nurse Training National Advisory Council, Hyattsville, Md. (partially open), 1-21 through 1-23-80

INTERIOR DEPARTMENT

National Park Service—

68527 11-29-79 / Upper Delaware Citizen's Advisory Council, Narrowsburg, N.Y. (open), 12-28-79

Next Week's Public Hearings

Note: There were no items eligible for inclusion in the list of Next Week's Public Hearings

List of Public Laws

Last Listing December 18, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 3407 / Pub. L. 96-145 To waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge. (Dec. 14, 1979; 93 Stat. 1085) Price $.75.

H.R. 4732 / Pub. L. 96-146 To fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol. (Dec. 14, 1979; 93 Stat. 1086) Price $.75.

H.J. Res. 458 / Pub. L. 96-147 To authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day". (Dec. 16, 1979; 93 Stat. 1087) Price $.75.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

72036 12-12-79 / HUD/CPD—Comprehensive planning assistance; managing a grant; effective 1-11-80

70717 12-10-79 / HUD/CPD—Provisions for compliance with OMB Circular No. A-95 by applicants for entitlement grants and small cities grants; effective 1-9-80

APPLICATIONS DEADLINES

71906 12-12-79 / HEW/HRA—Minority oriented primary care medical education programs; availability of funds; apply by 12-21-79

71546 12-11-79 / HEW/NIE—Teaching and learning research grant competition; reminder about application closing date of 1-21-80

71910 12-12-79 / HEW/NIOSH—Research and demonstrations relating to occupational safety and health; availability of funds; apply by 3-1, 7-1, and 11-1-80

71462 12-11-79 / HEW/OE—Citizen Education for Cultural Understanding Program; apply by 2-25-80 for FY 1980 awards

72235 12-13-79 / HEW/OE—Handicapped children's education program; outreach projects; apply by 2-27-80

71908 12-12-79 / HEW/Office of Assistant Secretary for Health—Adolescent pregnancy prevention and services; availability of funds; apply by 3-14-80

72310 12-13-79 / HUD/NVACP—Neighborhood self-help development project grants; urban cycle 1; competitive solicitation; apply between 11-21-79 and 3-21-80

72246 12-13-79 / NSF—College faculty conferences; pilot series; recommendation of areas of discipline and suggestions of names for proposals; proposals by 1-14-80

MEETINGS

72669 12-14-79 / Labor/ETA—Applications under the Rural Development Act: Kleer-Vu Industries, Inc. and Winner Chemicals, applications received during the week ending 12-8-79

72683 12-14-79 / NFAH—Media Arts Panel (Production: Radio), Washington, D.C. (open), 1-7 and 1-8-80

72683 12-14-79 / NFAH—Music Panel (Choral section), Washington, D.C. (partially open), 1-8 through 1-11-80

OTHER ITEMS OF INTEREST

72048 12-12-80 / Justice/LEAA—National Priority Program and Discretionary Program; comments by 1-11-80

72067 12-12-79 / National Occupational Information Coordinating Committee—Occupational Information; fiscal year 1980 policies and grants