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Tuesday
June 26, 1984

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Federal Maritime Commission

Aviation Safety
Federal Aviation Administration

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Food Assistance Programs
Food and Nutrition Service

Government Procurement
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Income Taxes
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Marketing Agreements
Agricultural Marketing Service

Natural Gas
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Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

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Selected Subjects

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Presidential Documents

Title 3—

The President

Executive Order 12482 of June 21, 1984

President's Advisory Committee on Women's Business Ownership

By the authority vested in me as President by the Constitution of the United States of America, and in order to extend the life of the President's Advisory Committee on Women's Business Ownership, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Executive Order No. 12426 of June 22, 1983, is amended as follows:

(a) Section 2(a) is amended by striking "foster" and inserting in lieu thereof "study methods of obtaining"

(b) Section 4(b) shall read: "The Committee shall terminate on December 31, 1984, unless sooner extended."

Ronald Reagan

THE WHITE HOUSE,
June 21, 1984.

[FR Doc. 84-17116
Filed 6-22-84; 4:19 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5214 of June 22, 1984

Helen Keller Deaf-Blind Awareness Week, 1984

By the President of the United States of America

A Proclamation

Our eyes and ears provide vital ways of interacting with the world around us. The lilt of laughter, the beat of a brass band, the smile of a friend, and the poetry of a landscape are but a few of the life blessings that our senses of sight and hearing help us to enjoy. But for some 40,000 Americans who can neither see nor hear, the world can be a prison of darkness and silence.

Inadequate education, training, and rehabilitation for those who are deaf and blind may prevent these Americans from becoming independent and self-sufficient, thereby greatly limiting their life potential and imposing a high economic and social cost on the Nation.

We must prevent such problems among our deaf-blind citizens by fostering their independence, creating employment opportunities, and encouraging their contributions to our society. Crucial to fulfilling this urgent national need is research on the disorders that cause deafness and blindness. Toward this end, the National Institute of Neurological and Communicative Disorders and Stroke and the National Eye Institute as well as a number of voluntary health agencies are supporting a wide range of investigative projects that one day may provide the clues to curing and preventing these devastating disorders.

On June 27 we commemorate the 104th anniversary of the birth of Helen Keller, America's most renowned and respected deaf-blind person. Her accomplishments serve as a beacon of courage and hope for our Nation, symbolizing what deaf-blind people can achieve.

In order to encourage public recognition of and compassion for the complex problems caused by deaf-blindness and to emphasize the potential contribution of deaf-blind persons to our Nation, the Congress, by Senate Joint Resolution 261, has authorized and requested the President to issue a proclamation designating the last week in June 1984 as "Helen Keller Deaf-Blind Awareness Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning June 24, 1984, as Helen Keller Deaf-Blind Awareness Week. I call upon all government agencies, health organizations, communications media, and people of the United States to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 84-17117
Filed 6-22-84; 4:20 pm]

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 week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

Verification of Eligibility for Free and Reduced Price Meals in Schools

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the Department's requirements for verification of eligibility for free and reduced price meals in schools for School Year 1984–85 and subsequent school years. This final rule: (1) Allows the use of an alternate verification method which utilizes a smaller sample of applications and focuses on those applications more likely to contain errors; (2) Simplifies the application process for schools and food stamp households by allowing such households to submit their Food Stamp Program case number in lieu of income information on the application; (3) Requires other households to submit additional income information on the application for free and reduced price meals; (4) Requires that households selected for verification receive written notice; (5) Requires that verification activity be completed by each School Food Authority by December 15 of each school year. This final rule is intended to facilitate the certification process, to reduce program abuse, and to result in an additional savings of Federal funds.

EFFECTIVE DATE: July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices for program participants, individual industries, Federal agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. This final rule will decrease administrative costs by providing States, School Food Authorities, and institutions more flexibility in administering the National School Lunch and School Breakfast Programs.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service (FNS) has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The Department believes that the provisions of this final rule will simplify the application process and will facilitate the verification process for State and local administrators of these programs. Discussions in the preamble will explain this in detail. This final rule imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3587).

Background

In the report entitled, "National Statistical Sample of Program Participation for May 1980 and Verification of Free and Reduced Price Application Information," the Office of Inspector General (OIG) estimated that one of every four recipients of free and reduced price school meals was receiving these benefits improperly. In response to these findings, in August of 1981 Congress expressed its concern in three provisions of Pub. L. 97–35. Section 803(a)(2) of that legislation stated that "The Secretary, States, and local school food authorities may seek verification of the data contained in the application." Congress struck the previous restrictions which required a "*cause*" for verification.

Section 803(a)(2) also provided that "Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe. * * *" Therefore, the Department believed that it was necessary to establish a verification requirement as soon as was practicable to minimize quickly the misuse of Federal funds. The Department first established mandatory minimum verification requirements in an interim rule on verification published on March 25, 1983. This interim rule was developed in response to the increasing Congressional concern regarding abuse in federally-supported school meal programs. The interim rule encouraged School Food Authorities to verify a minimum of the lesser of three percent or 3,000 of the approved free and reduced price applications on file as of October 31 of School Year 1982–83. The interim rule also made this minimum verification requirement mandatory for subsequent school years.

Section 803(a)(3) of Pub. L. 97–35 further directed the Secretary to conduct a pilot study of verification procedures designed to reduce fraud and abuse in the federally-supported school nutrition programs. Phase II of the Income Verification Pilot Project (hereinafter called the verification study) involved a large-scale nationally representative test of a variety of quality assurance procedures conducted in 114 School Food Authorities during the 1982–83 School Year. Unless noted otherwise, page citations in this preamble to the "verification study" refer to the report entitled, "Income Verification Pilot Project, Phase II, Results of Quality Assurance Evaluation, 1982–83 School Year, April 1984."

Minimum verification requirements were therefore established for School Year 1983–84 by interim rule, rather than a final rule, to enable the Department to consider final changes based on the verification study and comments from administrators and households with experience. On March 30, 1984, the Department published a proposed rule (49 FR 12942) which would modify the verification requirements and offer School Food Authorities an alternate or

"focused" method of verification. Those modifications and alternate method of verification were based on: (1) The comments received on the interim rule on verification published on March 25, 1983 (48 FR 12505); and (2) the results of the verification study. A 30-day comment period was provided during which time the Department received 268 comments. Commentors included State educational personnel, School Food Authority personnel, private citizens, advocacy groups, and professional organizations. The Department would like to thank all commentors who responded to the proposed rule.

Comment Analysis

The Department has made every effort to incorporate into this final rule all commentor suggestions which clarify or improve verification procedures and yet are consistent with the objectives of the verification requirement. The remainder of this preamble will discuss the significant changes that have been made in the Department's regulations on eligibility determinations and verification. Commentor concerns and suggestions are categorized by subject and addressed throughout this preamble.

General Comments on the Proposed Rule

Fifty-three commentors expressed concerns that verification has, in their experience, not proven to be cost-effective at the local level. These commentors believe that the increased costs of paperwork and staff resources devoted to verification exceed any consequent savings of Federal funds. While the Department recognizes that there are additional responsibilities associated with verification requirements, the Department believes that several provisions of this final rule offer School Food Authorities significant relief.

Most importantly, this final rule provides that households currently receiving food stamp benefits may substitute their food stamp case number for income information on the application. Since food stamp households constitute approximately one-half of those households which submit applications for school meal benefits, there should be a significant reduction in the time required to review and approve those applications. The most difficult and time-consuming aspect of application review and approval is associated with the income calculation necessary for each household. Now this process will not be necessary for applicants who substitute a food stamp case number for income information. Instead, School Food Authorities may rely on the certification previously performed by local food stamp offices for such applicants, thereby reducing the time needed for application approval.

Secondly, this final rule offers School Food Authorities an alternative method of application selection which permits fewer verifications. If applications to be verified are selected from those more likely to contain errors (focused sampling), School Food Authorities need verify less than half as many applications as required by the interim rule. This alternative should substantially reduce the administrative burden associated with verification. The Department's information on national program participation rates as applied to School Food Authorities categorized by enrollment size provides the following: For more than 50 percent of all School Food Authorities only an average of two applications containing income information and one application substituting a food stamp case number would need to be verified using the focused method. Although these average numbers will vary in individual School Food Authorities depending upon their free and reduced price participation rates, the Department wishes to emphasize that it believes that an average of three verifications for more than half of all School Food Authorities is a reasonable and proportionate requirement. Further, less than one percent of all School Food Authorities will be required to verify the maximum of 1,000 applications containing income information and 500 applications substituting a food stamp case number using the focused method of 3,000 applications using the random method.

Third, the Department believes that those commentors suggesting that verification costs exceed the cost savings directly achieved by verification efforts are not considering the deterrent effect to misreporting caused by verification when accompanied by an improved application form. The verification study suggests that significant and worthwhile improvements in overall program integrity are likely to occur even with a limited verification system which focuses on deterrence rather than detection. The Department believes that the maintenance of an improved verification system is essential given the degree of program abuse cited by OIG and by the verification study. Improvements identified by the verification study and contained in the proposed rule were an application form which requested income information by source and household member, and a verification alternative which focused on those applications more likely to contain errors. Both of these provisions have been retained in this final rule and are discussed in detail later in this preamble.

Although the Department has attempted to reduce the cost of verification by the changes made in this final rule, the Department believes that a minimal level of verification activity must be maintained. Many, if not all, administrative requirements associated with these programs place responsibilities directly on local School Food Authorities. These requirements often result in no cost savings to the School Food Authority nor is there any specific reimbursement designated to cover their cost. The Department believes that verification activity, like other required functions, is fundamental to the maintenance of program integrity. In this final rule the Department has attempted to strike a balance between the concerns expressed by commentors over increased cost and staff involvement needed for verification and the need to reduce program abuse. The long-term consequence of failure to correct clearly identified deficiencies is diminished public support for these vital programs. Corrective actions, as provided by this final rule, will help to preserve the base of good will essential to the continued operation of these programs. Although the Department has emphasized a strategy of deterrence of program abuse based on an improved application, it must also maintain a minimum degree of verification activity to maintain public awareness that each application could be selected for verification, thus preserving the deterrent effect over time. Therefore, the Department continues to require minimal verification activity in this final rule.

Nine commentors suggested that application and verification activities be made the responsibility of local food stamp or welfare offices more familiar with this type of activity. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) specified that responsibility for verification was to be assumed by States and School Food Authorities. The Department has no legal authority to place this responsibility elsewhere.

Approximately 30 commentors suggested that households be required to submit income documentation at the time of application to expedite the verification process. The Department has serious concerns regarding the potential barrier to eligible applicants of such a requirement. This barrier effect

was clearly identified by the verification study which found that a requirement that income documentation be submitted at the time of application constituted a barrier to eligible households while providing little improvement in the deterrent effect provided by the improved application alone. The Department believes that due to this barrier effect this final rule should not be changed to permit documentation at the time of application. Although the Department recognizes the need and desire of School Food Authorities to complete verification in a timely manner, the Department has a responsibility to ensure that eligible households not be discouraged from applying. Therefore, this final rule will not be modified to permit income documentation at the time of application. Since verification is defined as confirming the eligibility for free and reduced price benefits, it is necessary that eligibility be established prior to the initiation of verification activity. Therefore, this final rule precludes verification activity prior to the establishment of eligibility.

Two commentors suggested that the Department require that verification be performed for all households which reapply after termination due to verification. The Department wishes to emphasize that School Food Authorities may always elect to perform additional verification activity beyond that required by this final rule. The Department believes that the judgment of local School Food Authorities can best determine the necessity of additional verification activity on an individual basis when households reapply after termination. While the Department would support the judgment of a School Food Authority which decided to verify applications submitted under these circumstances, it will not impose this requirement on School Food Authorities in this final rule since there may be individual circumstances where the School Food Authority judges that such verification activity is not warranted.

Approximately 50 commentors objected to the date of October 15 specified in the proposed rule for determining the number of applications to be verified and over 25 commentors supported this date. The commentors objecting to this date believed that using October 15 as the date to determine the required number of verifications would require School Food Authorities to review all applications twice in October since School Food Authorities are required to provide the number of children eligible for free and reduced price meals at the end of October for a separate report. Therefore, the Department has, in this final rule, made October 31 of each school year the date to be used to determine the number of applications to be verified based on the number of applications on file on that date in each School Food Authority. Some commentors did not realize that schools may begin verification efforts prior to October 31 based on projected approvals.

Approximately 160 commentors objected to the date of November 15 specified in the proposed rule for completion of verification activity and over 25 commentors supported this date. Those opposing this date believed it to be unreasonable for several reasons. Such commentors believed that other required activities at the beginning of the school year would interfere with verification activity and that the process of verification itself was so time-consuming that completion by November 15 would be difficult, if not impossible. Many of these commentors apparently were among those who believed that School Food Authorities could not begin verification activity until the date specified (October 15 in the proposed rule) to determine the number of applications to be verified. The Department wishes to emphasize that verification activity may begin as soon as the School Food Authority deems appropriate. However, the Department recognizes that there are many obligations imposed on School Food Authorities at the beginning of each school year and has therefore changed the date by which verification activity is to be completed to December 15 of each school year.

Thirteen commentors believed that verification itself represented a barrier to participation by eligible households. While the Department recognizes that there may be some barrier to participation present in any method used to prevent program abuse, the Department also recognizes that the necessity to reduce abuse makes the minimal verification requirement imposed by this final rule reasonable and equitable. In this final rule, the Department offers School Food Authorities the option to conduct less than one-half the number of verifications previously required. This rule provides for minimal verification activity, coupled with the streamlined application process for food stamp households, which together should significantly reduce any barrier to participation for eligible households while maintaining an effective deterrent to misrepresentation of household income or circumstances.

Approximately 35 commentors supported the elimination of the Special Milk Program from the verification requirements of this final rule, while 4 commentors opposed this change as discriminatory. The Department continues to believe, along with the majority of commentors addressing this issue, that the low value of program benefits received in the Special Milk Program for Children (Part 215) does not justify the administrative costs associated with verification. Therefore, this final rule eliminates the Special Milk Program from the minimum verification requirements imposed by this rule.

Over 30 commentors suggested one or more of the following: Exempt certain types of School Food Authorities from verification requirements; reduce the verification requirement to less frequent than annually; make verification optional; or reduce the number of verifications required to a fraction of one percent of total applications on file. The Department is of the opinion that the verification activity required by this final rule is the minimum amount necessary to maintain an effective level of deterrence. The verification study found that the deterrent effect established by the improved application required by this final rule caused a significant reduction in misreporting. However, the verification study also suggested that it was necessary to maintain a minimal level of detection activity (verification) to preserve this deterrent effect. Therefore, the Department has decided to offer two alternative methods of verification to School Food Authorities which are both designed to maintain this minimum level of detection activity.

The random method offered to School Food Authorities is based on verification of 3 percent of approved applications on file. This method requires a higher level of verification activity since selection of the applications to be verified is not based on procedures designed to identify those applications more likely to contain errors. This method maintains the level of verification activity required by the interim rule. Since many School Food Authorities and State agencies have indicated that they were reluctant to change verification systems already established, the Department is offering the random method to permit continuity in verification activity in these School Food Authorities.

The focused method of verification offers a significant reduction in the

number of verifications required. By focusing on those applications more likely to contain errors, the Department has reduced the number of verifications required to a minimum level. School Food Authorities using this method need verify only 1 percent of all applications on file, plus one-half of 1 percent of those applications which provided a food stamp case number instead of income information. The Department believes that this level of verification is the minimum necessary to preserve an effective deterrence to program abuse. This verification activity, when combined with the improved application form required by this final rule, should result in significant improvements in program integrity and administration.

It should be noted that the Department has previously established exemptions from verification requirements in § 245.6a(A)(5). These exempted entities include residential child care institutions, schools in which FNS has approved special cash assistance claims based on economic statistics regarding per capita income, schools in which all children are served with no separate charge for food service and no special cash assistance is claimed, and in some years, schools which participate in the Special Assistance Certification and Reimbursement Alternatives. Therefore, the Department has determined that no further reduction in verification activity is possible in this final rule.

Approximately 20 commentors suggested that the Department mandate higher levels of verification activity up to 100 percent of total applications on file. The Department wishes to emphasize that additional verification activity is left to the discretion of State agencies and School Food Authorities. The Department has established the minimum verification requirements in this final rule to impose as small a burden as possible on School Food Authorities and still maintain an effective level of deterrence. The Department will not mandate additional activity in the final rule but recommends it if a State agency or School Food Authority deems it advisable to improve program integrity.

Several commentors suggested that State agencies rather than FNS have authority to grant extensions for completion of verification activity by School Food Authorities. The Department believes that it is necessary to keep this discretion with FNS to ensure, to the extent possible, consistent standards of verification activity on a national basis.

Improved Application

Based on findings of the verification study, the proposed rule suggested improvements to the application for free and reduced price meals. These changes require that households submit total household income identified by source of income for each household member. The verification study found that this type of application significantly reduced income misreporting by households and would make a sizeable contribution to program integrity if used on a national basis. The verification study found that the improved application resulted in only 3 percent of totally ineligible applicants receiving free and reduced price benefits (verification study page 87). This verified error rate is contrasted with comparable error rates over 3 times as great in studies where the improved application was not utilized (verification study page 42). In effect, the improved application is best at deterring the most serious types of misreporting. Approximately 40 commentors stated that they believed that this type of application would represent a barrier to participation by many eligible households. Approximately 45 commentors, many with practical experience using an application of this type, supported its use. In addition to establishing that the improved application achieved a significant reduction in misreporting, the study produced no evidence that the improved application adversely affected the participation of eligible individuals. Further, the verification study reported that 86 percent of a sample of the households interviewed after completing the application were not concerned about reporting detailed income information for each adult member.

Additionally, this rule provides that food stamp households may, at their option, substitute their food stamp case number for income information. Since food stamp households represent a substantial portion of the children served in these programs, the substitution of a food stamp case number for income information should help assure that no participation barrier exists for those households.

Several commentors stated that the Department has not provided enough information concerning the verification study to enable commentors to submit fully informed comments. The Department made every reasonable effort to provide the verification study to all interested persons and organizations. The Department released the verification study to the public on April 1, 1984. The study was widely disseminated and was available to all individuals or organizations which requested copies. As appropriate, the Department has utilized findings of the verification study as the proposed rule and this preamble clearly state. The Department attempted to place the verification study on public display at the Office of the Federal Register but was informed that the study did not meet the legal standards specified for the display of public documents.

One commentor re-emphasized a point initially raised in the verification study about the *degree* to which evidence supports the findings that the improved application reduced errors. The verification study indicates that no definitive estimate of the *magnitude* of error reduction can be safely made because of the lack of a formal control group (page 81). However, the verification study findings unambiguously point out that there is overwhelming evidence to indicate that the improved application significantly reduces error. The Department's decision to recommend use of the application, therefore, was based on its demonstrated error-reducing capabilities, not the precise degree of error reduction which may actually be achieved.

Section 245.6(c) contains a provision allowing School Food Authorities to complete and file an application for needy families which fail to apply. This application should be completed using the best income and family size information available to the school. One commentor suggested that this procedure be codified in this final rule. The Department wishes to point out that this procedure has been in Part 245 for many years and has not been changed by either the proposed or this final rule.

Approximately 50 commenters believed that an application of the type required in this final rule would impose a significant increase in the time and staff needed by School Food Authorities to review and approve applications. Approximately 45 commenters, many representing School Food Authorities using applications of this type, supported the proposal to utilize this type of application. While the verification study did find that there was a marginal increase in time needed to process the application used in the study, other provisions of this final rule serve to mitigate this potential burden. It should be noted that the application used in the verification study was considerably more extensive in both information collection and in actual size than the application required by this final rule (verification study appendix A). The Department has utilized only

those features of the verification study application which give evidence of deterring program abuse. As a result, the recommended application gathers household income by source and household member. Since several other items on the verification study application are not required by this final rule, the Department does not expect any overall increase in processing time or cost associated with the improved application required by this final rule. The Department's reasoning for this conclusion is explained in detail later in the preamble.

In this final rule, the Department is also permitting food stamp households to substitute their food stamp case number for income information on the application for free and reduced price meals. Since food stamp households account for approximately one-half of all applicants for school meal benefits nationwide, this provision should substantially reduce the workload associated with application processing, especially in those School Food Authorities located in low-income areas with a high percentage of free benefit households, most of which are receiving food stamps. Applications which contain a food stamp case number instead of income will require *no* income review by the School Food Authority. Instead, School Food Authorities will, if the application meets all other requirements, automatically approve the children for free meals. Since the income determination is the most time-consuming component of application processing, this final rule offers significant administrative relief to many School Food Authorities.

One commenter suggested that it could cost School Food Authorities over $20 million per year to process an improved application. It should be noted that this estimation was based on an average additional cost of $1.50 above prior years application processing costs, as suggested by the verification study, multiplied by an estimated 15 million applications for free and reduced price meals submitted annually. Although the verification study did estimate that an additional $1.50 was needed to process the verification study application, this estimated increase in cost may not reasonably be applied to the application required by this final rule (verification study page 79). The application required by this final rule is significantly less burdensome than the application utilized during the verification study. The application required by this final rule requires less information and will be simpler to process. Further, the verification study points out that even if there were a slight cost increment for processing a new kind of application, such processing costs are likely to diminish in time as School Food Authorities become more familiar with the improved form.

The Department estimates that initially the improved application form and the lack of familiarity with processing of this form may produce an increase in processing costs for nonfood stamp households. However, the income exemption for food stamp households in this final rule will provide a reduction in application processing costs which will more than compensate most School Food Authorities. Approximately one-half of all applicants for school meal benefits are from households which also receive food stamps and these households will not be required to provide income information on the application. The expedited processing of applications from food stamp households will more than compensate most schools for the time spent on both the improved application and the entire verification process, regardless of which verification method is selected by the school.

Additional cost savings result from the focused sampling and verification method offered by this final rule which requires less than one-half as many verifications as required by the interim rule. The Department cannot accurately project cost savings in this area because they are dependent on the number of School Food Authorities selecting this focused method of verification. However, the Department anticipates significant cost savings for large School Food Authorities selecting this method.

Verification Methods

The proposed rule offered two alternative methods of verification to School Food Authorities. The "random" sampling method required that School Food Authorities verify the lesser of 3 percent or 3,000 of the approved free and reduced price applications. The "focused" verification method specified that School Food Authorities were required to select and verify: (1) The lesser of 1 percent or 1,000 of total applications, selected from non-food stamp households claiming monthly income within $100 or yearly income with $1200 of the income eligibility limit for free or reduced price meals; plus (2) the lesser of one half of 1 percent (.5%) or 500 applications of food stamp households that provided food stamp case numbers in lieu of income information.

Approximately 70 commentors generally supported the availability of an alternative verification method. Although some of these commentors stated that they preferred one verification method over another for a variety of reasons, their comments supported the flexibility offered by the proposed rule. Commentors expressing opposition to verification in general have been addressed previously in this preamble.

Fourteen commentors stated that they opposed use of the focused verification method because they believed it to be discriminatory to a certain group of households. It is worth noting that the focused method relies only on income information provided by the household and does not discriminate with respect to race, color, handicap, national origin, sex or age. This focused approach is based on statistical formulas which distinguish applications likely to result in an excess benefit reward.

Some commentors believed that households verified under this method would be likely to be singled out year after year as subjects of verification activity. The Department has not specified in this final rule the procedures to be used by School Food Authorities to select individual applications for verification from the group of applications claiming monthly income near the income eligibility limit for free and reduced price meals. The Department strongly recommends that School Food Authorities not verify the same applicant household in consecutive years if that household has been the subject of a previous verification which confirmed eligibility.

It should be noted that the verification study provides clear support for focusing verification activity (page 64, 91). Further, Phase I of the Income Verification Pilot Project demonstrated that use of an error-prone model similar to that used in this final rule was four times more likely to identify persons receiving excess benefits than use of random-sampling procedures ("Income Verification Pilot Project (IVPP), the Development Of An Error-Prone Model For School Meal Programs, Revised August, 1983", page 3). Further, this type of focused monitoring has been used by other Federal programs, such as the Food Stamp Program, for many years and has proved to be most effective in concentrating limited monitoring resources where necessary.

The Department does not believe that focused verification is discriminatory and believes further that the number of verifications required is so minimal that it is unlikely that any one household will receive disproportionate attention year after year. More importantly, the Department is confident that school

officials have the ability and desire to devise a selection method that is equitable to the families in their communities. School officials submitting comments are representative of school officials nationwide and all seemed very concerned about protecting parent-educator relationships.

Approximately 40 commentors stated that they believed the selection process for the focused verification method would be so time-consuming in certain School Food Authorities that the time needed would exceed that saved by performing fewer verifications. The Department has retained the random method of verification as an option for those School Food Authorities which believe that focused verification is unsuitable for their local circumstances. However, the Department does not believe that the selection process using the focused method will be time-consuming. Many of these commentors seemed to believe that School Food Authorities must randomly select applications to be verified using the focused method from all applications with monthly income within $100 or yearly income within $1200 of the income eligibility limit for free or reduced price meals. This would require that School Food Authorities wait until all such applications have been received and classified prior to proceeding with any verification activity.

The Department wishes to emphasize that School Food Authorities may verify any application after approval which falls within the income limits for focused verification. Since most School Food Authorities can, based on the experience of prior years, accurately estimate the minimum number of total verifications which will be required to meet the requirements of the focused method, verification activity can commence as soon as those applications are approved. It is not necessary to categorize all applications to meet the requirements of focused verification.

However, these commentors also point out that the requirement to verify the lesser of one-half percent (.5%) or 500 of applications which substitute a food stamp case number in lieu of income information does require that all applications of this type be identified before the minimum number to be verified is known. This will be true of the first year until a pattern is established. In subsequent years schools should have the experience to accurately estimate the number of verifications required. Schools wishing to get an early start in the first year may start verification of food stamp households based on their best estimates. In any event, those School Food Authorities which believe that the focused method presents practical difficulties due to local circumstances may, of course, utilize the random method although it has a higher number of required verifications.

Six commentors stated that they believe that State agencies should be able to determine which verification method is most suitable on a statewide basis. These commentors argue that this would simplify State agency training and monitoring efforts. The Department agrees with these commentors that administrative efficiencies could result when one method is mandated on a statewide basis. In addition, providing this authority to State agencies would be consistent with general practice in these programs. The Department has, as a general rule, always permitted State agencies to establish statewide policy if consistent with Federal requirements. Therefore, the Department has provided in this final rule that a State agency may require that all School Food Authorities within that State perform one method of verification; i.e. random or focused. Of course, additional verification activity may be performed at local discretion.

Four commentors suggested that focused verification does not address certain types of applications which they consider to be more likely to misreport income. Examples cited include households which report "zero" income or those households terminated due to verification in previous years. The verification study did not find that these kinds of applications were especially likely to contain errors and, therefore, has not focused verification activity on these households. However, the Department wishes to emphasize that the verification requirements of this rule are *minimum* requirements and that additional verification activity may be conducted up to and including 100% of all applications as deemed appropriate by the School Food Authority. As stated previously, the Department endorses verification efforts which enhance program integrity.

Clarification of Sample Selection Process

Approximately 40 commentors requested clarification of the procedures to be used to select applications for verification using the focused method. The number of applications which must be verified is based on the applications on file as of October 31 of each school year. However, verification activity may begin prior to that date since October 31 is used only to determine the minimum number of verifications needed. School Food Authorities using the *focused* method must verify the lesser of 1 percent or 1000 of *total* approved applications. Total applications means all non-food stamp *and* food stamp applications. The School Food Authority must arrive at this total number, determine what one percent of this total is, and then select that number of applications from non-food stamp households with income near the eligibility limits (with monthly income within $100 or yearly income within $1200 of the income eligibility limits for free and reduced price meals). In addition, School Food Authorities must verify the lesser of one-half percent (.5%) or 500 of those applications which substitute a food stamp case number for income information. The number of these verifications required is based on the number of applications which substitute a food stamp case number for income information, not the total number of applications on file with the School Food Authority.

Example—Focused Sampling could be accomplished as follows using, for this example, a School Food Authority with 900 approved applications which includes 600 food stamp households.

1. Count *all* approved applications, including food stamp households, to determine the number required to fill the 1% non-food stamp sample size. (1%×900=9)

2. Separate applications into two groups, non-food stamp and food stamp households.

3. From the non-food stamp group select the sample of households (9) that report income within $100 monthly or $1200 yearly below the income eligibility limit for free or reduced price meals and proceed to verify their income.

4. From the food stamp group determine the number required to fill the .5% sample size. (.5%×600=3)

5. Submit a list of the selected names (3) and case numbers to the food stamp office for confirmation of current receipt of food stamps or request a current "Notice of Eligibility" from the household.

Food Stamp Households

The proposed rule contained several provisions designed to expedite the certification and verification procedures for food stamp households. The proposed rule would permit food stamp households to substitute their food stamp case number in lieu of income information on the free and reduced price applications. School Food Authorities receiving such applications would be able to determine eligibility without evaluating income information. Approximately 60 commentors

supported this provision. These commentors believed that this provision would eliminate duplication of verification effort already accomplished by the food stamp office and would expedite the application approval process. Eleven commentors opposed this provision on the grounds that it treated food stamp households differently than other households. The Department wishes to emphasize that the substitution of food stamp numbers instead of income information is a voluntary act by the household. No School Food Authority or State agency may require that a food stamp case number be given by the household. Further, the Department does not believe that this provision treats food stamp households differently. These households must have their income verified to participate in the Food Stamp Program. By allowing food stamp households to substitute their food stamp case number for income information, the Department is permitting these households to avoid a duplicative process. Eight commentors opposed this provision because they believed that the potential for misuse or the food stamp case number of verification information obtained from the food stamp office outweighed any benefits. The Department wishes to emphasize that the use of food stamp case numbers is specifically restricted in this final rule. This final rule provides that food stamp case numbers are to be used only: (1) In lieu of income information in the free and reduced price application and (2) to verify current receipt of food stamp program benefits by the applicant household. No other uses are permitted in this final rule. The Department does not believe that it is necessary to impose any additional restrictions on the use of food stamp case numbers or food stamp participation information since their use is already clearly specified.

The second major provision of the proposed rule affecting food stamp households would provide an expedited method of verification for those households. The proposed rule would permit School Food Authorities to verify applications which contained a food stamp number instead of income information in one of two ways. School Food Authorities could opt to verify those applications by either confirming with the local food stamp office that the household is currently receiving Food Stamp Program benefits or by obtaining a copy of a current "Notice of Eligibility" for Food Stamp Program benefits from the household. Fourteen commentors suggested that difficulties in working with local food stamp offices may delay timely completion of these verifications. The Department recognizes that verification of these households is contingent on the cooperation of local food stamp offices and will encourage such offices to expedite this verification activity.

Several commentors stated that the "Notice of Eligibility" may not always be available from the household to confirm current food stamp status or that another document is more commonly used in their area. The Department wishes to emphasize that the "Notice of Eligibility" is the document issued to the food stamp household periodically and which states the period of eligibility for food stamp benefits. If School Food Authorities elect to accept another document as a substitute for the "Notice of Eligibility" it should clearly establish the *current* receipt by that household of food stamp benefits. The Authorization to Participate (ATP) document is usually issued monthly and is exchanged by the household at a bank or other issuance site for the actual food stamps. The ATP Card may serve to establish current receipt of food stamps by the household. However, the Food Stamp Identification Card by itself is not sufficient since it is issued at the time of initial certification, does not usually contain an expiration date, *does not* establish current participation in the Food Stamp Program and is usually retained by the household after participation in the Food Stamp Program has ended. The language of § 245.6a(a)(3) has been changed from that of the proposal to provide that School Food Authorities may accept from households selected for verification other offical documentation issued by the food stamp office which establishes current participation in the Food Stamp Program.

Several commentors pointed out that the provisions in § 245.6a(a)(3) concerning adverse notice for food stamp households provide those households with a substantially longer period of time in which they may continue to participate in the program than non-food stamp households after verification fails to establish eligibility. After review, the Department believes these commentors to be correct. The provision, as proposed, permitted food stamp households to submit income information along with documentation when it was established that the household was not currently receiving food stamps. Only when the household failed to provide this information or when the information did not establish eligibility was the food stamp household notified that their benefits would be terminated. Non-food stamp households, on the other hand, are immediately notified that their benefits will be terminated after verification establishes that the household is not eligible. Therefore, the Department is changing this provision so that when current participation in the Food Stamp Program cannot be established for a household which used a food stamp case number instead of income information, the household will be provided with a notice that benefits will be terminated within 10 days, unless the household submits income information and documentation establishing eligibility for free or reduced price meal benefits. All other requirements of § 245.6a(e) dealing with adverse action shall apply. This change ensures that both food stamp and non-food stamp households are given 10 days notice prior to a reduction or termination of benefits.

Notice of Verification

The proposed rule required that School Food Authorities provide written notice of verification to those households selected for verification. This requirement applies to all verification activity except that utilizing a system of records. Seven commentors opposed this rule arguing that this required additional paperwork and was not needed. Approximately 40 commentors supported this provision believing that it offered protection to the household being verified. The Department has retained this provision in the final rule. The Department believes that written notification will best serve to protect the interests of all involved. The Department wishes to point out however that this notice need not be separate from other written correspondence and may be a part of other notices supplied to the household.

Clarifications

Several commentors suggested that the language found at § 245.6a(a) has changed from that found in the interim rule so that the Department is imposing verification requirements directly on School Food Authorities. The Department inadvertently changed this language in the proposal and shares the concerns of those commentors. This final rule will therefore specify that "* * * State agencies shall ensure that * * * School Food Authorities * * *" One commentor pointed out that the language in § 245.6(a) was inconsistent since it contained references to both families and households. The Department shares the concerns of this commentor and has removed all

references to family in this section and has used the term household exclusively. One commenter stated that the definition of verification found at § 245.2(k) was confusing and did not clearly establish the extent of permissible verification activity. After review, the Department agrees with this commentor and has modified the definition of verification to more closely follow the language of the National School Lunch Act, § 245.2(a-3) and § 245.6(b). The definition has been changed in this final rule to be consistent with the sentence in the Act which states in § 9(b)(2)(c) that "The Secretary, States and local school food authorities may seek verification of the data contained in the application." Therefore, in this final rule "verification" means confirmation of eligibility for free or reduced price benefits under the National School Lunch program or School Breakfast Program. Verification shall include confirmation of income eligibility or current participation in the Food Stamp Program. At State or local discretion verification may also include confirmation of any other information on the application which is defined as documentation at § 245.2(a-3). The Department believes that the definition of verification provided in the proposed rule was effectively the same. However, the Department also believes that the definition of verification provided by this final rule does more closely conform to the statutory and regulatory provisions discussed above. Several other nonsubstantive changes were made to clarify the regulations.

Further explanations and history on the application and verification process in schools and the first phase of the verification study may be found in the preambles of the previously published proposed and interim rules cited earlier in this preamble and are incorporated by reference.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs—Social programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Reporting and recordkeeping requirements.

PART 245—DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

Accordingly, Part 245 is amended as follows:

1. In § 245.2, paragraphs (a-3) and (k) are revised as follows:

§ 245.2 Definitions.

* * * * *

(a-3) "Documentation" means the completion of the following information on a free and reduced price application: (1) Names of all household members; (2) social security number of each adult household member or an indication that a household member does not possess one; (3) household income received by each household member, identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security) and total household income; or in lieu of income information, the Food Stamp Program case number for those households currently receiving food stamps; and (4) signature of an adult member of the household.

* * * * *

(k) "Verification" means confirmation of eligibility for free or reduced price benefits under the National School Lunch Program or School Breakfast Program. Verification shall include confirmation of income eligibility or current participation in the Food Stamp Program. At State or local discretion verification may also include confirmation of any other information in the application which is defined as documentation in § 245.2(a-3).

2. In § 245.5, paragraph (a)(1)(iii) is revised; paragraphs (a)(1) (iv) through (x) are redesignated as paragraphs (a)(1) (v) through (xi); and a new paragraph (a)(1)(iv) is added. The revision and addition read as follows:

§ 245.5 Public announcement of the eligibility criteria.

(a) * * *

(1) * * *

(iii) An explanation that an application for free or reduced price benefits cannot be approved unless it contains complete documentation of eligibility information including names of all household members, social security numbers of all adult household members or an indication that a household member does not possess one, total household income and the amount and source of income received by each household member, and the signature of an adult household member;

(iv) an explanation that households currently receiving food stamps may submit their Food Stamp Program case number instead of income information;

3. In § 245.6:

* * * * *

a. Introductory paragraph text of (a) is amended by revising the third sentence; and by adding one sentence after the fourth sentence;

b. Paragraph (a)(1) is amended by adding the words "contacting a Food Stamp Office to determine current receipt of food stamps," between the words "determine income," and "contacting the State" in the fifth sentence;

c. Paragraph (a)(2) is amended by removing the third sentence; and

d. Paragraph (d) is removed.

The revision and addition read as follows:

§ 245.6 Application for free and reduced price meals and free milk.

(a) * * * The information requested in the application with respect to the current annual income of the household shall be limited to total household income and the income received by each member identified by source of income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income). * * * The application shall require applicants to provide total households income and the income received by each household member identified by source of income; and shall enable household receiving food stamps to provide their Food Stamp Program case number in lieu of income information. * * *

* * * * *

4. In § 245.6a:

a. Introductory text of paragraph (a) is revised;

b. The first sentence of paragraph (a)(2) is revised;

c. Paragraph (a)(3) is revised; and

d. Paragraph (b) is amended by removing the words "school conferences" in the first sentence, and by removing paragraph (b)(4);

The revisions read as follows:

§ 245.6a Verification requirements.

(a) *Verification Requirement.* State agencies shall ensure that by December 15 of each School Year, School Food Authorities have selected and verified a sample of their approved free and reduced price applications in accordance with the conditions and procedures described in this section. Verification activity may begin at the start of the school year but the final required sample size shall be based on the number of approved applications on file as of October 31. Any extensions to these deadlines must be approved in writing by FNS. School Food Authorities are required to satisfy the verification requirement by using either random sampling or focused sampling as described below. *Random* sampling consists of verifying a minimum of the lesser of 3 percent or 3,000 applications

which are selected by the School Food Authority. *Focused* sampling consists of selecting and verifying a minimum of: the lesser of 1 percent or 1,000 of total applications selected from non-food stamp households claiming monthly income within $100 or yearly income within $1200 of the income eligibility limit for free or reduced price meals; plus the lesser of one half of 1 percent (.5%) or 500 applications of food stamp households that provided food stamp case numbers in lieu of income information. A State may require all School Food Authorities to perform either random or focused sampling. School Food Authorities may choose to verify up to 100 percent of all, applications to improve program integrity. Any State may, with the written approval of FNS, assume responsibility for complying with the verification requirements of this Part within any of its School Food Authorities. When assuming such responsibility, States may utilize alternate approaches to verification provided that such verification meets the requirements of this Part.

* * * * *

(2) *Notification of selection.* Households selected to provide verification shall be provided written notice that they have been selected for verification and that they are required, by such date as determined by the School Food Authority, to submit the requested verification information to confirm eligibility for free or reduced price benefits. * * *

(3) *Food stamp recipients.* Verification of the eligibility of households who provide their Food Stamp Program case number on the application in lieu of income information shall be accomplished either by confirming with the local food stamp office that the household is currently receiving Food Stamp Program benefits *or* by obtaining from the household a copy of a current "Notice of Eligibility" for Food Stamp Program benefits or equivalent official documentation of current participation issued by the food stamp office. If it is not established that the household is currently receiving food stamp benefits, the procedures for adverse action specified at § 245.6a(e) shall be followed. The notification of forthcoming termination of benefits provided to such households shall include a request for income information and for written evidence which confirms household income to assist those households in establishing continued eligibility for free meal benefits.

* * * * *

(Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758))

Dated: June 21, 1984.

John W. Bode,

Deputy Assistant Secretary for Food and Consumer Services.

[FR Doc. 84-16344 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 332]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 332 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 29-July 5, 1984. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 332 (§ 908.632) becomes effective June 29, 1984.

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

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

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

The regulation is consistent with the marketing policy for 1983-84. The marketing policy was recommended by the committee following discussion at a public meeting on February 14, 1984. The committee met again publicly on June 19, 1984, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges. The committee reports the demand for Valencia oranges continues to decline.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because there is insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared policy of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been notified of the regulation and its effective date.

List of subjects in 7 CFR Part 908

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

PART 908—[AMENDED]

Section 908.632 is added as follows:

§ 908.632 Valencia Orange Regulation 332.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period June 29, 1984, through July 5, 1984, are established as follows:

(a) *District 1:* 184,000 cartons;

(b) *District 2:* 266,000 cartons;

(c) *District 3:* Unlimited cartons.

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

Dated: June 21, 1984.

Thomas R. Clark,

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

[FR Doc. 84-16330 Filed 6-22-84; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Reduction of Risk from Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to require improvements in the design and operation of light-water-cooled nuclear power plants to reduce the likelihood of failure of the reactor protection system to shut down the reactor (scram) following anticipated transients and to mitigate the consequences of anticipated transients without scram (ATWS) event. The final rule requires the installation of certain equipment in nuclear power plants. It also encourages the development of a reliability assurance program for the reactor trip system on a voluntary basis. This will significantly reduce the risk of nuclear power plant operation.

EFFECTIVE DATE: July 26, 1984.

FOR FURTHER INFORMATION CONTACT: David W. Pyatt, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443-7631.

SUPPLEMENTARY INFORMATION: An anticipated transient without scram (ATWS) is an expected operational transient (such as a loss of feedwater, loss of condenser vacuum, or loss of offsite power to the reactor) which is accompanied by a failure of the reactor trip system (RTS), a part of the protection system, to shut down the reactor. The reactor trip system consists of those power sources, sensors, initiation circuits, logic matrices, bypasses, interlocks, racks, panels and control boards, and actuation and actuated devices that are required to initiate reactor shutdown; this includes circuit breakers, the control rods and control rod mechanisms. That portion of the RTS exclusive of the control rods and control rod mechanisms is here referred to as the scram system. ATWS accidents are a cause of concern because under certain postulated conditions they could lead to severe core damage and release of radioactivity to the environment. The ATWS question involves safe shutdown of the reactor during a transient, if there is a failure of the RTS. There have been precursors to an ATWS; the latest was a failure of the automatic portion of the RTS at the Salem 1 nuclear generating station on February 25, 1983. In that incident, manual shutdown was accomplished after 30 seconds, and no core damage or release of radioactivity occurred.

On November 24, 1981, the Commission invited comments on three alternative proposed rules relating to ATWS (46 FR 57521). Each of the three alternative proposed rules had the objective of reduction of risk from ATWS and each featured a different approach to achieve that objective. One alternative (the Staff Rule) emphasized individual reactor evaluation to identify needed improvements. The second alternative (the Hendrie Rule) emphasized reliability assurance and would have also required certain hardware modifications. The third alternative, proposed by the Utility Group on ATWS in petition for rulemaking PRM 50-29, prescribed specific changes that were keyed to the type of reactor and its manufacturer.

Thirty-nine public comments were received at or close to the April 23, 1982 deadline for submission of comments. An additional comment was received on June 24, 1982. Copies of the comments may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. The following organizations and individuals provided comments:

1. F. I. Lewis, Philadelphia, Pennsylvania (private citizen)
2. S. L. Hiatt, Mentor, Ohio (private citizen)
3. Washington Public Power Supply System (WPPSS)
4. Standardized Nuclear Unit Power Plant System (SNUPPS)
5. South Carolina Electric and Gas Company (South Carolina)
6. General Electric Company (GE)
7. Duke Power Company (Duke)
8. Atomic Industrial Forum (AIF)
9. Detroit Edison (DE)
10. Mississippi Power and Light Company (MP&L)
11. Texas Utilities Generating Company (TUGC)
12. Commonwealth Edison Company
13. Combustion Engineering, Incorporated (CE)
14. The Utility Group on ATWS, representing 22 utilities
15. Combustion Engineering Owners Group
16. Houston Lighting and Power (HL&P)
17. Portland General Electric Company (PGEC)
18. GPU Nuclear (GPU)
19. Babcock and Wilcox Company (B&W)
20. Ebasco Services, Incorporated (Ebasco)
21. Public Service Electric and Gas Company (PSE&G)
22. Carolina Power and Light Company (CP&L), first comment
23. Stone and Webster Engineering Corporation (S&W)
24. Florida Power Corporation (FPL)
25. Gulf States Utilities Company (Gulf)
26. Duquesne Light Company
27. Wisconsin Public Service Corporation (WPSC)
28. Pacific Gas and Electric Company (PG&E)
29. Tennessee Valley Authority (TVA)
30. Pennsylvania Power and Light Company (PP&L)
31. Virginia Electric and Power Company (VEPCO)
32. Arkansas Power and Light Company (AP&L)
33. Alabama Power Company (Alabama)
34. Wisconsin Electric Power Company (WEPC)
35. Power Authority of the State of New York (PASNY)
36. Yankee Atomic Electric Company (Yankee)
37. Public Service Company of Indiana (Indiana)
38. Northeast Utilities Service Company (NUSCO)
39. Carolina Power and Light Company (CP&L), second comment
40. American Electric Power Service Corporation (received June 24, 1982)

Following are members of the Utility Group on ATWS, the petitioner in the PRM-50-29.

Arkansas Power and Light Company
Boston Edison Company
Connecticut Yankee Power Company
The Detroit Edison Company
Florida Power Corporation
Gulf States Utilities Company
Maine Yankee Atomic Power Company
Northeast Nuclear Energy Company
Pacific Gas and Electric Company
Public Service Electric and Gas Co.
Washington Public Power Supply System
Baltimore Gas and Electric Company
Commonwealth Edison Company
Consumers Power Company
Duke Power Company
Florida Power and Light Company
Long Island Lighting Company
Nebraska Public Power District
Omaha Public Power District
Pennsylvania Power and Light Company
Vermont Yankee Nuclear Power Corp.

The breakdown by preference among commenters for the three alternative proposed rule approaches is as follows:

Support "Utility Rule" (PRM-50-29)

WPPSS
DE
Commonwealth Edison
The Utility Group on ATWS
HL&P
Ebasco
PSE&G
FPL
Gulf
PP&L
Yankee

Support "Hendrie Rule" (Most support for this option is tentative with many reservations.)

South Carolina
Duquesne

CP&L, first comment (could also be considered a "No Rule" choice)
WPSC
VEPCO
S&W

Favor No Rule

SNUPPS
GE
Duke
AIF
MP&L
TUGC
CE
CE Owners Group
PGEC
GPU
B&W
PG&E
AP&L
Alabama
WEPC
Indiana
CP&L, second comment
NUSCO
American Electric

The Staff Rule option was favored by Ms. S. L. Hiatt who commented that it was the most stringent of the three proposals, but that it would be better to return to the implementation of specific hardware changes than to require evaluation models. Commenters TVA and PASNY stated a preference for "Alternative 2A" of NUREG-0460[1], Vol. 4, which is very similar to the Utility Rule. The comments from Mr. M I. Lewis did not favor any of the alternatives, but he pointed out limitations of both NRC-proposed rules (limitations of modeling) and felt that the Commission was not fully addressing ATWS.

Most of the utility commenters preferred that the Commission promulgate no rule on ATWS. However, many commenters chose either the Utility Rule or the Hendrie Rule as the more favorable of the alternatives presented (including some commenters within the Utility Group). The No Rule category described above includes those who felt that the risks from ATWS are already sufficiently low, plus those who recommended combining the ATWS rulemaking with other Commission activities such as the Severe Accident Program or the development of a Safety Goal.

The comments provided by the Utility Group on ATWS consisted of a three volume technical report which includes a review and evaluation of past NRC and industry studies, a generic but substantial probabilistic risk assessment of the issue for each NSSS vendor, and a value-impact analysis of all three proposed rules. The conclusions are:

1. The Staff and Hendrie Rules fail the value-impact test.
2. Only the Utility Rule is consistent with current NRC policies.
3. The record and notice for the Staff and Hendrie Rules are inadequate.

In order to resolve the ATWS rule issue, it was necessary for the NRC staff to evaluate the Utility Group report. This was done by a technical assistance contract.

A report which provided a critique of the Utility Group comments was prepared by Energy Incorporated through Sandia National Laboratories and may be examined at the Commission's Public Document Room (PDR) at 1717 H Street, Washington, D.C. Also, a summary of 39 public comments, as well as a plan to resolve the ATWS rule, is available in SECY-82-275 at the PDR.

As proposed in SECY-82-275 and the Commission briefing on July 13, 1982, a Task Force and Steering Group of NRC personnel from several offices was formed to consider the following alternatives:

1. Promulgation of no ATWS rule or including ATWS under the Severe Accident Program;
2. Adoption of the proposed or a modified version of the Utility Group Rule (PRM-50-29);
3. Adoption of the Staff Rule or a modification of it; or
4. Adoption of those portions of the Hendrie Rule for which there exists a technical basis.

The Commission has given careful consideration to all the comments and is now publishing a final rule. This final rule uses in part the same approach that is used in the Utility Group's petition for rulemaking. Prescribed changes, keyed to the reactor's type and manufacturer, are set out in the final rule. The costs and values of these changes and of other considered changes are discussed in a document on file in the Commission's Public Document Room, entitled "Recommendations of the ATWS Task Force."

Summary of Staff, Hendrie, and Utility Rules

The Staff Rule (46 FR 57521) would have resolved ATWS by establishing performance criteria (e.g., there would be analyses to verify that Service Level C of the ASME Boiler and Pressure Vessel Code would not be exceeded, fuel integrity would be maintained, there would be no excessive radioactivity release, the containment would not fail, and long-term shutdown and cooling would be assured). The Hendrie Rule (46 FR 57521), while using much of the same information base as the Staff Rule, proposed to resolve ATWS by establishing a reliability assurance program for systems that prevent or mitigate ATWS accidents and prescribing certain hardware modifications which would allow for: (1) Automatically tripping recirculation pump of a BWR under conditions indicative of an ATWS; (2) automatically actuating the standby liquid control system (SLCS) for BWRs; (3) providing a reliable scram discharge volume for BWRs; (4) providing for the prompt, automatic initiation of the auxiliary feedwater system for conditions indicative of an ATWS; and (5) assuring that the instruments necessary for the diagnosis of and recovery from ATWS accident sequences will not be disabled. Finally, the Utility Rule proposed specific design modifications for each reactor manufacturer. It contained proposals that: (a) all Westinghouse reactors have initiation of the auxiliary feedwater system and turbine trip diverse from the reactor protection system; (b) all Combustion Engineering and Babcock and Wilcox reactors have diverse initiation of auxiliary feedwater and turbine trip (similar to Westinghouse) and a diverse scram system; and (c) existing boiling water reactors manufactured by General Electric have (1) a means to trip the recirculation pumps upon receipt of a signal indicative of an ATWS, (2) a diverse scram system, and (3) a modification of the scram discharge volume. Also, new (three years after the rule becomes effective) General Electric plants would have a standby liquid control system increased to 86 gpm and all reactor licensees would institute training for operators.

Basis for Final Rule as Promulgated by the Commission

The vast majority of the commenters felt that the approach of the Staff Rule was too open-ended in terms of costs to resolve ATWS (e.g., the analyses could be very costly and time consuming). The Hendrie Rule was found difficult to interpret by most commenters. The ATWS Steering Group opted to evaluate generic plants, in a fashion similar to the Utility Group approach, and define the various fixes and estimate the reduction in probability for ATWS sequences as each additional requirement was added. This would then give a value (reduction in risk) that could be compared to the impact (cost in dollars) of each

[1] A free single copy of NUREG-0460, Vol. 4, to the extent of supply, may be requested for public comment by writing to the Publication Services Section, Document Management Branch, Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

incremental requirement. There are large uncertainties in these analyses, and the detailed results of the analyses can be found in the report entitled "Recommendations of the ATWS Task Force" (discussed above). A brief discussion of the final rule's provisions, including value/impact evaluations, is given next:

Diverse and Independent Auxiliary Feedwater Initiation and Turbine Trip for PWRs: § 50.62(c)(1)

This was proposed by the Utility Group on ATWS. It consists of equipment to trip the turbine and initiate auxiliary feedwater independent of the reactor trip system. It has the acronym AMSAC, which stands for *A*uxiliary (or *A*TWS) *M*itigating *S*ystems *A*ctuation *C*ircuitry. It has a highly favorable value/impact for Westinghouse plants[2] and a marginally favorable value/impact for Combustion Engineering and Babcock and Wilcox plants. Since it has the potential for a spurious trip of the reactor which reduces its value/impact, it should be designed to minimize these trips.

Diverse Scram System: 50.62 (c)(2) and (c)(3)

This was proposed by the Utility Group on ATWS for General Electric, Combustion Engineering, and Babcock and Wilcox plants. It has a favorable value/impact from the Staff's analysis. However, the principal reasons for requiring the feature are to assure emphasis on accident prevention and to obtain the resultant decrease in potential common cause failure paths in the trip system. It also has the potential for a spurious trip of the reactor; therefore, it should be designed to minimize spurious trips. For General Electric plants, installation may extend by one or two days the downtime during a refueling outage.

A diverse scram system for Westinghouse plants was not a recommendation of the Utility Group on ATWS and was not a clear requirement of the Staff Rule or the Hendrie Rule, although the Utility Group on ATWS interpreted the Staff Rule to include it. The system does, however, have a marginally favorable value/impact for Westinghouse plants, assures emphasis on accident prevention, and results in a minimization of the potential for common cause failure paths. To assure full opportunity for public comment, the requirement for a diverse scram system for Westinghouse plants will be published separately as a proposed rule.

[2] The installation of a diverse scram system significantly affects the value/impact of AMSAC.

Increased Standby Liquid Control System (SLCS): § 50.62(c)(4)

The SLCS is a system for injecting borated water into the reactor primary coolant system. The neutron absorption by the boron causes shutdown of the reactor. Addition of this system was proposed by the Utility Group on ATWS for new plants (those receiving an operating license three years after the effective date of the final rule). The Commission believes that, with the use of the Emergency Procedure Guidelines proposed by the BWR Owners Group and General Electric that are being implemented at operating BWRs, increasing the SLCS capacity for operating plants may insure an intact containment for isolation transients, although there is uncertainty in containment failure modes. Because of the vulnerability of BWR containments to ATWS sequences, the Commission has determined that this enhanced mitigation feature is warranted. The high pressure portion of the ECCS of BWR/5 and BWR/6 licensees (HPSC) is injected into spray spargers in the core exit plenum. For these plants, the preferred location for the injection of the borated water from the SLCS is the HPCS line just external to the reactor vessel instead of the standpipe at the core inlet plenum. A similar location is preferred for those BWR/4 licensees with HPCI injection into spargers in the core exit plenum. This injection location provides significant improvement in mixing of the borated water, particularly under low vessel water level conditions such as encountered when the EPGs are followed. This injection location is also preferred, since it could prevent local power increases and possible power excursions during the recovery phase of an ATWS when cold unborated ECCS water could be added above the core. Some BWR/5 and BWR/6 licensees already have this injection location and have designed the SLCS accordingly.

Automatic Recirculation Pump Trip for BWRs: § 50.62(c)(5)

Recirculation pump trip (RPT) was proposed as a rule requirement by the Utility Group on ATWS. This safety feature will result in a reduction of reactor power from 100 percent to about 30 percent following a transient (and failure to scram) within a minute or so. This proposed requirement has already been implemented on all operational BWRs in response to a show cause order dated February 21, 1980. The BWR owners generally agree that this is a necessary requirement, and it is being included in the final rule for completeness.

Automatic Initiation of Standby Liquid Control System

One of the alternatives considered by the Task Force was an automatically initiated standby liquid control system with a capacity of greater than 86 gpm (such as 150–200 gpm). This would have resulted in a considerable risk reduction (about a factor of seven) after the ARI is installed for operating plants. Unfortunately, the cost to do this (based on information supplied by the Utility Group on ATWS) is on the order of $24 million per plant and is significantly impacted by the costs of downtime from an inadvertent trip which would inject boron into the reactor water and by the costs of downtime for installation in existing plants. The value/impact does not favor this alternative for existing plants.

New plants (those which will receive construction permits after the effective date of this rule) will be required to have equipment for automatic initiation of the SLCS. Most of those plants already have been designed for this feature. Also, other plants that have been designed and built to include this feature must utilize the feature. The equipment for automatic SLCS actuation should be designed to perform its function in a reliable manner and to provide high reliability against spurious actuation.

Adding Extra Safety Valves or Burnable Poisons

One of the alternatives considered by the Task Force was adding more safety valves to plants manufactured by Combustion Engineering (CE) and Babcock and Wilcox (B&W). This would reduce the peak pressure in the reactor vessel and yield a higher probability of the plant surviving an ATWS with no core damage. The peak overpressure could also be reduced by modifying the core behavior (the fraction of the time the moderator temperature coefficient is unfavorable) by adding burnable poisons. The Utility Group on ATWS estimated that installing larger valve capacity could cost up to $10 million per plant. A large fraction of this cost is the downtime for installation of the valves. While the probability of ATWS can be reduced about a factor of three or more, the value/impact is unfavorable for this alternative for existing plants. These plants all have large dry containments and will be most able to mitigate the radiological consequences from an ATWS. This rule does not cover enhanced pressure relief capacity for new CE and B&W plants. However, the Commission expects that this issue

would be addressed during the NRC's design review of any specific new plant or standard plant application.

Need for all Control Rods to be Inserted for PWRs

By using soluble boron for burnup and xenon control, PWRs normally operate at or near 100 percent power with control rods nearly out (except for some Babcock and Wilcox "rodded" reactors which keep one bank inserted for xenon control). Thus, nearly all rods are available to participate in a scram.

Insertion of only about 20 percent (approximately 10) of the control rods is needed to achieve hot, zero power provided that the inserted rods are suitably uniformly distributed. What is important is the uniform spacing of the rods. In installing a diverse scram system, the licensee can allow for partial scram failures if it is demonstrated that the rod insertion pattern is sufficiently uniformly spaced such that a hot, zero power is achieved.

Considerations Regarding Reliability Assurance

As a result of the failure of the Salem Unit 1 reactor to scram automatically on February 25, 1983, the NRC conducted an investigation of the events (see NUREG-0977, "NRC Fact-finding Task Force Report on the ATWS Events at Salem Nuclear Generating Station, Unit 1, on February 25, 1983" [3]). One of the principal findings was the lack of adequate attention being paid to the reliability of the reactor trip system. The Salem Generic Issues Task Force recommended to the Commission that a reliability assurance program be included in the final ATWS rule (NUREG-1000, Volume 1, "Generic Implications of ATWS Events at the Salem Nuclear Power Plant"[3]). While this rule does not require such a program, the Commission urges the voluntary development of a reliability assurance program for the RTS.

The reliability assurance program should have the following elements:

1. An analysis of the challenges to and failure modes of the RTS system, considering independent failures quantitatively and common cause failures qualitatively. An estimate of the challenge rate and the reliability of the RTS should be a part of the analysis.

2. A numerical performance standard for the RTS challenges and the RTS unavailability to use as an aid in the initial and continuing evaluation of the adequacy of the system.

3. A process of evaluating plant-specific and industry-wide operating experience to provide feedback to assess whether the RTS is performing reliably enough.

4. Procedures within quality assurance programs to ensure that the RTS performs satisfactorily in service from a reliability perspective. The frequency of challenges to the RTS should be as low as practicable.

A pivotal aspect of the ATWS issue is the reliability of the reactor trip system (RTS), including the control rods, and the difficulty associated with assessing the impact of common cause failures on the availability of the system to function when required. All RTS systems are designed for high availability, yet ATWS precursors at Kahl and Browns Ferry 3, and the ATWS event at Salem 1 did occur and were the result of common cause failures of the RTS. The Kahl and Brown Ferry 3, incidents were described in the Federal Register notice containing the proposed rules which was published on November 24, 1981 (46 FR 57521). The Salem 1 incident occurred after the proposed rules were published.

An analysis of the RTS should be performed using existing methodologies for quantitative evaluation of system reliability (e.g., unavailability). A fault tree and qualitative common cause failure analysis should be performed to identify the potential important faults of the RTS. Examples of quantitative analysis for the RTS are: WASH-1400 (the Reactor Safety Study) [4], the Indian Point Probabilistic Safety Study [5], the Zion Probabilistic Safety Study [5] and other probabilistic safety studies performed by Industry at their own initiative or at the request of the Commission. There are an estimated 15-20 probabilistic studies of plants that have been performed or are being performed, although some of these do not include detailed RTS analyses.

Additional methodological guidance is given in the PRA Procedures Guide, NUREG/CR-2300 [6], January 1983. This Guide was developed jointly by the Commission, the American Nuclear Society and the Institute of Electrical and Electronic Engineers.

Each licensee should establish a goal or benchmark to assess the performance of the trip system. The Commission and the industry have had considerable disagreement about the "correct" or "appropriate" value of RTS unavailability. It would be more fruitful for each licensee to have a benchmark for comparison as the plant operates and generates new data. The treatment of common cause failures will be analyzed in a qualitative fashion to determine if there are any significant failure modes previously unidentified. The cost of doing this can be minimized by forming or using existing owners groups, since there is much commonality in RTS designs.

Each licensee, as part of the RTS unavailability analysis, should examine its maintenance, surveillance, and testing requirements. The testing frequency would be examined to determine if testing is done too often or not often enough. The type of testing, e.g., completeness and sequencing of component verification for operability, would be throughly reviewed. The nature and frequency of maintenance, e.g., lubrication, cleaning, calibration, dimensional verification, physical movement, would be reviewed. Recordkeeping procedures should be reviewed.

The Commission believes that a reliability assurance program for the reactor trip systems should be developed and implemented, with clear objective of providing additional assurance that the desired high reliability of the RTS is indeed achieved and maintained. Operating experience in the United States appears to demonstrate, in some instances, that implementation of Appendix A (particularly General Design Criterion 21) and Appendix B to 10 CFR Part 50, and other NRC regulatory requirements may not have yielded the degree of reliability that is possible to achieve with available technology in a cost-effective manner. One reason for this failure might be that a reliability standard has not been sufficiently developed nor quantitatively set down in procedures. Another reason might be a failure to understand fully the dominant role played by common cause failures.

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[3] Copies of NUREG-0977 and 1000 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

[4] Microfiche copies are available for purchase from the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

[5] These may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

[6] Copies of this NUREG may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

The techniques for a reliabilty assurance program are in existence. They have been applied in an orderly, structured fashion in defense and aerospace applications since at least the 1960s. However, details of its application to a commercial nuclear power plant have not been worked out. Therefore, it is strongly recommended that the development of a voluntary reliability assurance program, limited to the reactor trip system, be performed jointly by the NRC and Industry, appropriately coordinated with INPO, EPRI, and the various owners groups. If this program is not voluntarily implemented in an effective manner, the Commission will reconsider the question of rulemaking in this area.

The development of industry programs on a voluntary basis has precedence in the evaluation of operating data for commercial nuclear power plants. The industry has developed the Nuclear Plant Reliability Data (NPRD) System as a voluntary program for the reporting of reliability data. The NPRD system is now undergoing a program of substantial improvement under INPO direction with close NRC interest. Even while such improvement is underway, the NPRD system is a valuable element of a reliability assurance program.

Challenges to Safety Systems

This rule concerns itself with mitigating systems which are intended to reduce the challenge to plant safety systems due to a low probability ATWS event. However, the Commission has concluded that a reduction in the frequency of challenges to plant safety systems should be a prime goal of each licensee, and the Commission believes that ATWS risk reductions can also be achieved by reducing the much larger frequency of transients which call for the reactor protection system to operate. Challenges to the reactor protection system may arise from such things as: Unreliable components, inadequate post-trip reviews, testing, and tolerance of inadequate or degraded control systems. Operating experience in Japan indicates a transient frequency that is substantially less that in the United States. Utilities have categorized transients for over ten years but have not specifically instituted a program to reduce them. While not specifically required by this rule, the Commission urges licensees to analyze challenges to the plant safety systems, particularly the reactor trip system, so as to determined where improvements can be made.

Considerations Regarding System and Equipment Criteria

The Commission place a high premium on hardware, operating practices and maintenance practices which will reduce the frequency of challenges to plant safety systems. Therefore equipment required by this rule should be of sufficient quality and reliability so as to perform its intended function while at the same time minimizing the potential for transients, e.g., inadevertent scrams, which challenge other safety systems.

The additional equipment required by this amendment to implement diversity for auxiliary feedwater system initiation, turbine trip, recirculation pump trip, and reactor trip, while required to be reliable, will not have to meet all of the stringent requirements normally applied to safety-related equipment. The equipment required by this amendment is for the purpose of reducing the probability of unacceptable consequences following anticipated operational occurrences. Since the combination of an anticipated operational occurrence, failure of the existing reactor trip system, and a seismic event or an event which results in significant plant physical damage has a low probability, seismic qualification and physical separation criteria need not be applied to the equipment required by this rule. In view of the redundancy provided in existing reactor trip systems, the equipment required by this amendment does not have to be redundant within itself.

The amendment is to require diversity to those portions of existing reactor trip systems, where only minimal diversity is currently provided. The logic circuits and actuation devices (e.g., circuit breakers on pressurized water reactors) in existing reactor trip systems utilize redundant, but in general identical, components and thus are subject to potential common cause failures. Existing reactor trip systems, however, measure a variety of plant parameters and utilize a variety of sensor types. Common cause failures in the diverse sensors of existing reactor trip systems are considered sufficiently unlikely that additional sensor diversity is not necessary. Even though sensor diversity is not necessary, it is desirable that sensors in the existing reactor trip system not be used to provide the signals for the diverse equipment required by this amendment. Use of the same sensor for the existing reactor trip system and the diverse equipment would result in interconnections between the two systems that are difficult to analyze and which could increase the potential for common cause failures affecting both systems. Since the sensors for the equipment required by this amendment do not have to be safety related, there should be considerable flexibility for using existing sensors without using reactor trip system sensors. However, there may be some cases where the use of less than safety-related sensors would result in increased risk from frequent safety system challenges or where it would not be cost effective to use sensors separate from those in the existing reactor trip system. This is particularly the case where not using sensors in the existing reactor trip system would result in the need to install a new sensor connected to the reactor coolant system. This could result in significant radiation does to personnel making the modifications. Another case would be where installation of additional containment penetrations would be required. In cases where existing protection system sensors are used to provide signals to the diverse equipment, particular emphasis should be placed on the design of the method used to isolate the signal from the existing protection system to minimize the potential for adverse electrical interactions.

The equipment required by this amendment must be implemented such that it does not degrade the existing protection system. This is to be accomplished by making the diverse equipment electrically independent to the extent practicable from the existing protection system and by insuring that the existing protection system will continue to meet all applicable safety-related criteria after installation of the diverse equipment.

The following table illustrates the system specifications that the staff would find acceptable for the diverse scram and mitigating systems. The staff will publish this guidance in a Regulatory Guide or Standard Review Plan revision which will also cover

testing, maintenance, and surveillance. Additionally, the staff will issue explicit QA guidance for the non-safety related equipment in the form of a generic letter. The generic letter will specify which requirements of the following sections of Appendix B are to be applied to non-safety related equipment: (1) Instructions, procedures, and drawings, (2) document control, (3) inspection, (4) test control, (5) control of measuring and testing equipment, (6) inspection, test, and operating status, (7) corrective action, and (8) quality assurance records.

Exemptions

Some of the older operating nuclear power plants (e.g., those licensed to operate prior to August 22, 1969) may be granted an exemption from these amendments if they can demonstrate that their risk from ATWS is sufficiently low. Factors important to this demonstration could be power level, unique design features that could prevent or mitigate the consequences of an ATWS, remaining plant lifetime, or remote siting.

[7590-01]

GUIDANCE REGARDING SYSTEM AND EQUIPMENT SPECIFICATIONS

System / Guidance	Diverse Reactor Trip System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCS actuation for BWRs: Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
ety Related EE-279)	Not required, but the implementation must be such that the existing protection system continues to meet all applicable safety related criteria	Not required, but the implementation must be such that the existing protection system continues to meet all applicable safety related criteria
undancy	Not required	Not required

xisting recirculation pump trip equipment installed in BWRs in accordance with vious staff requirements for the mitigat'cn of anticipated transients without am need not be modified

[7590-01]

System / Guidance	Diverse Reactor Trip System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCS actuation for BWRs: Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
Diversity from existing Reactor Trip System	Equipment diversity to the extent reasonable and practicable to minimize the potential for common cause failures is required from the sensors to and including the components used to interrupt control rod power or vent the scram air header Circuit breakers from different manufacturers alone is not sufficient to provide the required diversity for interruption of control rod power. The sensors need not be of a diverse design or manufacturer Existing protection system instrument-sensing lines may be used Sensors and instruments-sensing lines should be selected such that adverse interactions with existing control systems are avoided	Equipment diversity to the extent reasonable and practicable to minimize the potential for common cause failures is required from the sensors to, but not including, the final actuation device--e g , existing circuit breakers may be used for auxiliary feedwater initiation The sensors need not be of a diverse design or manufacturer Existing protection system instrument-sensing lines may by used. Sensors and instrument-sensing lines should be selected such that adverse interactions with existing control systems are avoided
Electrical Independence from existing Reactor Trip System	Required from sensor output to the final actuation device at which point non-safety related circuits must be isolated from safety related circuits	Required from sensor output to the final actuation device at which point non-safety related circuits must be isolated from safety related circuits

[7590-01]

System / Guidance	Diverse Reactor Trip System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCS actuation for BWRs: Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
Physical Separation from existing Reactor Trip System	Not required, unless redundant divisions and channels in the existing reactor trip system are not physically separated The implementation must be such that separation criteria applied to the existing protection system are not violated	Not required, unless redundant divisions and channels in the existing reactor trip system are not physically separated The implementation must be such that separation criteria applied to the existing protection system are not violated
Environmental Qualification	For anticipated operational occurrences only, not for accidents	For anticipated operational occurrences only, not for accidents
Seismic Qualification	Not required	Not required
Quality Assurance for Test, Maintenance, and Surveillance	Explicit guidance will be issued in a letter	Explicit guidance will be issued in a letter
Safety-Related (1E) Power Supply	Not required, but must be capable of performing safety functions with loss of offsite power Logic and actuation device power must be from an instrument power supply independent from the power supplies for the existing reactor trip system Existing RTS sensor and instrument channel power supplies may be used provided the possibility of common mode failure is prevented	Not required, but must be capable of performing safety functions with loss of offsite power Logic power must be from an instrument power supply independent from the power supplies for the existing reactor trip system Existing RTS sensor and instrument channel power supplies may be used provided the possibility of common mode failure is prevented
Testability at Power	Required	Required.

[7590-01]

System / Guidance	Diverse Reactor Trip System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCS actuation for BWRs: Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
Inadvertent Actuation	The design should be such that the frequency of inadvertent reactor trips and challenges to other safety systems is minimized.	The design should be such that the frequency of inadvertent actuation and challenges to other safety systems is minimized

With the promulgation of this final ATWS rule, the Commission has completed action on PRM-50-29. The petitioner's requests have been granted in part through the incorporation of requirements into the final rule which address the following issues: (1) (For GE BWRs) (a) recirculation pump trip following an event indicative of an ATWS, and (b) independent, redundant and diverse electrical initiation of scram following an event indicative of an ATWS; (2) (For CE and B&W PWRs) automatic initiation of auxiliary feedwater independent of the reactor protection system; and (3) (For Westinghouse PWRs) automatic initiation of turbine trip and auxiliary feedwater independent of the reactor protection system. The petitioner's request for promulgation of specific provisions *within the context of an ATWS rulemaking* for the following systems are hereby denied: (1) (For GE BWRs) a scram discharge volume system [this provision was not included in the final ATWS rule because licensees already have installed or are installing this system]; and (2) (For CE and B&W PWRs) an alternate means to shut down the reactor that is diverse from and redundant to the electrical portion of the reactor protection system *up to but not including* the *trip breakers* [the final ATWS rule includes a requirement for the installation of an alternate shut-down system which *must include* the trip breakers].

Additional View of Commissioner Asselstine

While I approve this rule, I would have required automation of the Standby Liquid Control System (SLCS) for all boiling water reactors. In addition, while I approve the elements of the final rule dealing with future reactors, I am not satisfied that sufficient attention has been given to future reactors. It appears that significant additional reductions in the ATWS risk can be achieved without incurring insurmountable economic costs if such measures are considered during the design phase. I believe this rule should not be taken as a barrier to further consideration of measures for future reactors that can reduce ATWS risk below that achieved by this rule.

Additional Views of Commissioner Roberts

In addition to specifying measures to reduce the risk from ATWS events, the Statement of Considerations which accompanies this rule directs licensees to "volunteer" to implement a reliability assurance program for the Reactor Trip System.

The Reactor Trip System is one of the most important safety systems at commercial nuclear power plants. However, it is only one of many safety-related systems which must be closely monitored and carefully maintained to ensure a plant's safety and reliability. It is my view that a more logical approach to reliability assurance would be to consider such a program embracing those several safety systems which experience and analyses show could be significantly improved by such a program. This program should be reviewed separately from the ATWS rulemaking effort.

Furthermore, the Commission should not call upon the industry to implement complicated and costly reliability assurance programs until it more thoroughly analyzes the concept and until it provides specific guidance.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from David W. Pyatt, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-7631.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 [44 U.S.C. 3501 et. seq.]. These requirements were approved by the Office of Management and Budget approval number 3150-0011.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule affects only licensees that own and operate nuclear utilization facilities licensed under sections 103 and 104 of the Atomic Energy Act of 1954, as amended. These licensees do not fall within the definition of small businesses set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Incorporation by reference, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, and Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to 10 CFR Part 50 is published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new § 50.62 is added to read as follows:

§ 50.62 Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants.

(a) *Applicability.* The requirements of this section apply to all commercial light-water-cooled nuclear power plants

(b) *Definition.* For purposes of this section, "Anticipated Transient Without Scram" (ATWS) means an anticipated operational occurrence as defined in Appendix A of this part followed by the failure of the reactor trip portion of the protection system specified in General Design Criterion 20 of Appendix A of this part.

(c) *Requirements.* (1) Each pressurized water reactor must have equipment from sensor output to final actuation device, that is diverse from the reactor trip system, to automatically initiate the auxiliary (or emergency) feedwater system and initiate a turbine trip under conditions indicative of an ATWS. This equipment must be designed to perform its function in a reliable manner and be independent (from sensor output to the final actuation device) from the existing reactor trip system.

(2) Each pressurized water reactor manufactured by Combustion Engineering or by Babcock and Wilcox must have a diverse scram system from the sensor output to interruption of power to the control rods. This scram system must be designed to perform its function in a reliable manner and be independent from the existing reactor trip system (from sensor output to interruption of power to the control rods).

(3) Each boiling water reactor must have an alternate rod injection (ARI) system that is diverse (from the reactor trip system) from sensor output to the final actuation device. The ARI system must have redundant scram air header exhaust valves. The ARI must be designed to perform its function in a reliable manner and be independent (from the existing reactor trip system) from sensor output to the final actuation device.

(4) Each boiling water reactor must have a standby liquid control system (SLCS) with a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute of 13 weight percent sodium pentaborate solution. The SLCS and its injection location must be designed to perform its function in a reliable manner. The SLCS initiation must be automatic and must be designed to perform its function in a reliable manner for plants granted a construction permit after July 26, 1984, and for plants granted a construction permit prior to July 26, 1984, that have already been designed and built to include this feature.

(5) Each boiling water reactor must have equipment to trip the reactor coolant recirculating pumps automatically under conditions indicative of an ATWS. This equipment must be designed to perform its function in a reliable manner.

(6) Information sufficient to demonstrate to the Commission the adequacy of items in paragraphs (c)(1) through (c)(5) of this section shall be submitted to the Director, Office of Nuclear Reactor Regulation.

(d) *Implementation.* By 180 days after the issuance of the QA guidance for non-safety related components each licensee shall develop and submit to the Director of the Office of Nuclear Reactor Regulation a proposed schedule for meeting the requirements of paragraphs (c)(1) through (c)(5) of this section. Each shall include an explanation of the schedule along with a justification if the schedule calls for final implementation later than the second refueling outrage after July 26, 1984, or the date of issuance of a license authorizing operation above 5 percent of full power. A final schedule shall then be mutually agreed upon by the Commission and licensee.

Dated at Washington, DC, this day of 19th day of June 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-16333 Filed 6-25-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-44-AD; Amdt. 39-4882]

Airworthiness Directives; Canadair Model CL-600 and CL-601 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adds a new airworthiness directive which supersedes two existing airworthiness directives (AD) applicable to the Canadair Model CL-600 and CL-601 airplanes. These AD's require repetitive inspections of the outboard flap vane attachment structure. The manufacturer has modified the outboard flaps on all airplanes, making some inspection requirements unnecessary. This rule consolidates and revises the inspections contained in the existing AD's.

EFFECTIVE DATE: June 27, 1984.

ADDRESSES: The service information specified in this AD may be obtained upon request to Canadair Ltd, Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, PQ H3C 369, Canada, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Lester Lipsius, Airframe Section, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 S. Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: AD 83-14-06, Amendment 39-4687 (48 FR 33245; July 21, 1983), and telegraphic AD T83-20-51, issued September 30, 1983, require inspection of the wing outboard flap vane support structure for cracks. The manufacturer has since modified the outboard flap design so that some of the inspections prescribed by these AD's are no longer required. The repetitive inspection intervals may also be increased. The FAA has been advised that all airplanes in the world fleet have been modified in accordance with the manufacturer's instructions. The Canadian Department of Transport has issued an AD which reflects the revised repetitive inspections. This amendment incorporates the revised inspections and intervals and supersedes AD's 83-14-06 and T83-20-51.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

This amendment combines the inspection requirements of two existing AD's and imposes no additional regulatory or economic burden on any person. Further, it deletes inspection requirements that now are superfluous due to modification of the affected aircraft, therefore, notice and public procedure hereon are unnecessary and contrary to the public interest, and good cause having been shown therefor, the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Canadair: Applies to Model CL-600-1A11 (CL-600) and Model CL-600-2A12 (CL-601) airplanes, certificated in all categories. Compliance required as indicated.

A. To detect possible fatigue cracks in the outboard flap vane support structure, accomplish the following inspections for cracks on each side of the aircraft, initially within 100 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 100 hours time in service.

1. Visually inspect the following parts:

a. The flap vane support straps, P/N 600-10400-13 and -23, at the inboard and outboard ends of the outboard flap.

b. The lower skins on the outboard flap vanes with particular attention given to the spanwise direction at the mid-chord position and the chordwise direction adjacent to the vane attachment points.

c. The three vane main support fittings and two vane intermediate support fittings attached to the outboard flap vane.

Main Supports: P/N 600-14562-1 and -2 (FS 189); P/N 600-14563-1 and -2 (FS 235); P/N 600-14564-1 and -2 (FS 280).

Intermediate Supports: P/N 600-14588-1 and -2 (FS 209); or P/N 600-14586-1 and -2 (FS 209); or P/N K600-14502-5 and -6 (FS 209); P/N 600-14589-1 and -2 (FS 254); or P/N 600-14585-1 and -2 (FS 254); or P/N 600-14502-7 and -8 (FS 254).

Particular attention should be given to the root of the attachment lugs.

d. The two intermediate support blades attached to the outboard flap leading edge structure.

P/N 600-10463-35 (FS 209); or P/N K600-14502-1 (FS 209); P/N 600-10463-37 (FS 254); or P/N K600-14502-3 (FS 254).

2. Conduct an eddy current or dye-penetrant inspection on the following parts:

The three outboard flap vane main support blades which form an integral part of the outboard flap hinge fittings.

P/N 600-14543-1 and -2 (FS 189);
P/N 600-14546-1, -2, -3, and -4 (FS 235;)
P/N 600-14547-1 and -2 (FS 280).

This must be accomplished along the root radius at the bottom edge of the blade where it passes through the leading edge of the flap. To accomplish this inspection, it is necessary to remove the sealant from the root radius. Reseal after inspection.

B. Parts found cracked during inspection must be replaced with serviceable or new parts prior to further flight. After replacement, continue to inspect in accordance with paragraph A., above.

C. Alternate means of compliance, which provide an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

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

E. Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the repetitive inspection intervals required by this AD.

This supersedes Amendment 39-4687 (48 FR 33245; July 21, 1983), AD 83-14-06, and telegraphic AD T83-20-51 issued September 30, 1983.

This amendment becomes effective June 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89))

Note: For the reasons given earlier in the preamble this amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons and because few, if any, Canadair Model CL-600 or CL-601 airplanes are operated by small entities, I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on June 7, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-16882 Filed 6-25-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ASO-12]

Alteration of Transition Area, Eufaula, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Eufaula, Alabama, transition area by revising the geographical coordinates of Weedon Field and designating additional controlled airspace south of the airport. The airport coordinates are improperly listed in the transition area description and this amendment will correct the deficiency. A new instrument approach procedure has been developed to serve the airport and additional controlled airspace is required for containment of Instrument Flight Rule (IFR) operations in the vicinity of the airport. This action will lower the base of controlled airspace, in the area south of the airport, from 1,200 to 700 feet above the surface.

EFFECTIVE DATE: 0901 GMT, August 30, 1984.

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

SUPPLEMENTARY INFORMATION:

History

On Monday, April 16, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71). This action will correct the geographical coordinates of Weedon Field and provide controlled airspace for aircraft executing a new instrument approach procedure to the airport (49 FR 14966). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments received were favorable. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Eufaula, Alabama, transition area by correcting the geographical coordinates of Weedon Field and adding controlled airspace south of the airport to accommodate IFR aeronautical operations.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Eufaula, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, August 30, 1984, as follows:

Eufaula, AL—[Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Weedon Field (Lat. 31°56'59"N., Long. 85°07'45"W.); within 5 miles each side of Eufaula VORTAC 014° and 177° radials, extending from the 6.5-mile radius area to 11.5 miles north and south of the VORTAC.

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

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

Issued in East Point, Georgia, on June 15, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84-16883 Filed 6-25-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ASO-3]

Designation of Transition Area, Fort Payne, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Fort Payne, Alabama, transition area to accommodate Instrument Flight Rule (IFR) operations at the Isbell Field Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on a new non-Federal radio beacon (RBN), has been developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations.

EFFECTIVE DATE: 0901 GMT, August 30, 1984.

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

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 29, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Fort Payne, Alabama, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to the Isbell Field Airport (49 FR 12281). The operating status of Isbell Field Airport is changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments or objections were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Fort Payne, Alabama, transition area to accommodate IFR aeronautical operations in the vicinity of the Isbell Field Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Fort Payne, Alabama, transition area is designated under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended), effective 0901 GMT, August 30, 1984, as follows:

Fort Payne, AL [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Isbell Field Airport (Lat. 34°28'20"N., Long. 85°43'25"W.); within 3 miles each side of the 043° bearing from the Fort Payne RBN (Lat. 34°31'03"N., Long. 85°40'16"W.), extending from the 6.5-mile radius to 8.5 miles northeast of the RBN.

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

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

Issued in East Point, Georgia, on June 15, 1984.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 84-16094 Filed 6-25-84; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-226 (Colorado-36); Order No. 386]

High-Cost Gas Produced from Tight Formations; Colorado

Issued: June 26, 1984.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the National Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. The Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation of the State of Colorado, Oil and Gas Conservation Commission that a portion of the Niobrara Formation located in Larimer and Weld Counties, Colorado, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, (202) 357-8511 or victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III.

Based on a recommendation made by the State of Colorado, Oil and Gas Conservation Commission (Colorado), the Commission amends its regulations [1] to include a portion of the Niobrara Formation, located in Larimer and Weld Counties, Colorado, as a designated tight formation eligible for incentive pricing. The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on March 15, 1984.[2]

Evidence submitted by Colorado supports the assertion that a portion of the Niobrara Formation, located in Larimer and Weld Counties, Colorado, meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective July 26, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration, of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

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[1] 18 CFR 271.703(d) (1983).

[2] 49 FR 10273 (March 20, 1984); 26 FERC ¶ 62,260 (1984). Comments on the proposed rule were invited. No comments were received. No party requested a public hearing and no hearing was held.

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703(d) is amended by revising paragraph (166) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(166) *Niobrara Formation in Colorado.* RM79–76–226 (Colorado-38).

(i) *Delineation of formation.* The Niobrara Formation is located in Weld County, Colorado, in Township 4 North, Range 68 West, Sections 4 through 6; and in Larimer County, Colorado, in Township 4 North, Range 69 West, Sections 1 through 10, 15 through 22; Township 5 North, Range 68 West, Sections 19 through 21, 28 through 33; Township 5 North, Range 69 West, Sections 25 through 36, 6th P.M.

(ii) *Depth.* The average depth to the top of the Niobrara Formation is 3,000 feet. The Niobrara Formation averages 300 feet in thickness.

[FR Doc. 84–16982 Filed 6–25–84; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–171; (Texas–9 Addition III); Order No. 384]

High-Cost Gas Produced From Tight Formations; Texas

Issued: June 26, 1984.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation of the Railroad Commission of Texas that an additional area of the Travis Peak Formation located in Nacogdoches County, Texas, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Elisabeth Pendley (202) 357–8476, or Walter W. Lawson (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III:

Based on a recommendation made by the Railroad Commission of Texas (Texas), the Commission amends its regulations [1] to include an additional area of the Travis Peak Formation in Nacogdoches County, Texas, as a designated tight formation eligible for incentive pricing.[2] The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on March 14, 1983.[3]

Evidence submitted by Texas supports the assertion that the Travis Peak Formation, located in Nacogdoches County, Texas, meets the guidelines contained in § 271.703(c)(2). The Commission adopts this recommendation.

This amendment shall become effective July 26, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(36)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(36) *Travis Peak Formation in Texas.* RM79–76–171 (Texas–9 Addition III).

* * * * *

(iii) *Melrose, South (Travis Peak) Field.*

(A) *Delineation of formation.* The Travis Peak Formation in the Melrose, South (Travis Peak) Field is located four miles south of the city of Melrose, southeastern Nacogdoches County, Texas Railroad Commission District 6, and is within a 2.5 mile radius around the Texlan Oil Company, Inc. T.W. Baker No. 1 well.

(B) *Depth.* The top of the Travis Peak Formation is encountered at 8,920 feet and the base of the formation is at 9,940 feet (log depths).

[FR Doc. 84–16980 Filed 6–25–84; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–189 (Wyoming–16); Order No. 385]

High-Cost Gas Produced From Tight Formations; Wyoming

Issued: June 26, 1984.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here the Commission adopts the recommendation of the State of Wyoming Oil and Gas Conservation Commission that portions of the Muddy, Lakota, Morrison and Sundance Formations located in Natrona County, Wyoming, be

[1] 18 CFR 271.703(d) (1983).

[2] The designated tight formation is located in the Melrose, South (Travis Peak) Field, four miles south of the city of Melrose, Texas, and is the stratigraphic equivalent of the Travis Peak Formation in three other areas in Texas which have been approved by the Commission; the Sym-Jac, West (Houston) Field in Cherokee County, Order No. 154 issued June 10, 1981, in Docket No. RM79–76 (Texas–9); the Bear Grass Area in portions of Freestone and Leon Counties, Order No. 180, issued October 8, 1981, in Docket No. RM79–76 (Texas–9 Addition); and the Martinsville (Travis Peak) Field in eastern Nacogdoches County, Order No. 330, issued September 27, 1983, in Docket No. RM79–190 (Texas–9 Addition IV).

[3] 48 FR 11299, March 17, 1983. Comments on the proposed rule were invited and one comment from Champlin Petroleum Company supporting the recommendation was received. No party requested a public hearing and no hearing was held.

designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Elisabeth Pendley, (202) 357-8476, or Victor H. Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III.

Based on a recommendation made by the State of Wyoming Oil and Gas Conservation Commission (Wyoming), the Commission amends its regulations[1] to include portions of the Muddy, Lakota, Morrison and Sundance Formations in Natrona County, Wyoming, as designated tight formations eligible for incentive pricing.[2] The Director of the Office of Pipeline and Producer Regulation issued a notice proposing the amendment on May 27, 1983.[3]

Wyoming's recommendation is submitted under the alternative requirements of § 271.703(c)(2)(ii). Under these requirements, the Commission may approve any formation which meets the stabilized production rate guideline found in § 271.703(c)(2)(i)(B) and the crude oil production guideline in § 271.703(c)(2)(i)(C) but does not meet the permeability guideline in § 271.703(c)(2)(i)(A), if the jurisdictional agency shows that the formation exhibits low permeability characteristics and that the incentive price is necessary to provide reasonable incentives for production from the formation.

We believe that the recommended formations satisfy the guidelines set forth in § 271.703(c)(2)(ii). The record submitted by Wyoming contains completion data from three wells which penetrated the Muddy, Lakota, Morrison and Sundance Formations; one well was completed at a depth of 19,640 feet. The record states that the low in-situ gas permeability found throughout the recommended area is attributable to the great depths of these formations. Hydraulic fracturing has been performed at great expense with the open flow potential 2.78 times that demonstrated in unstimulated performance. The total cost of drilling and completing one well was $16 million and no payout is expected for this well. A second well drilled in the designated area exceeded $15 million and failed to establish commercial production. Finally, the commingled acreage stabilized production rate against atmospheric pressure of wells completed for production does not exceed the allowable for that depth. No well is expected to produce more than five barrels of crude oil per day without stimulation.

Additionally, the Commission is designating as tight formations the Muddy, Lakota, Morrison and Sundance Formations, which are entirely below 15,000 feet, when most gas produced from such depths qualifies under NGPA section 107(c)(1) and therefore is already price deregulated under NGPA section 121. It is our position that Wyoming may recommend areas for designation as a tight formation even if they are located at depths greater than 15,000 feet so long as the tight formation standards are met. The purpose for designating formations deeper than 15,000 feet as tight formations is to allow gas produced from wells drilled before February 19, 1977, to qualify as recompletion tight formation gas under § 271.703(b)(3).

Evidence submitted by Wyoming supports the assertion that the Muddy, Lakota, Morrison and Sundance Formations located in Natrona County, Wyoming, meet the guidelines contained in § 271.703(c)(2)(ii). The Commission adopts this recommendation.

This amendment shall become effective July 26, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended to read as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703(d) is amended by adding paragraphs (d)(172) through (175) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(172) Muddy Formation in Wyoming. RM79-76-189 (Wyoming-16).

(i) *Delineation of formation.* The Muddy Formation is located in Natrona County, Wyoming, in Township 36 North, Range 86 West, 6th P.M., Sections 4 through 9, Sections 15 through 22, and Sections 28 through 30; Township 36 North, Range 87 West, 6th P.M., Sections 1 through 3, Sections 11 through 14, NE¼ of Section 23, and N½, N½ S½ of Section 24; Township 37 North, 86 West, 6th P.M., Sections 19, 20, and 28 through 33; Township 37 North, Range 87 West, 6th P.M., Sections 23 through 26, and Sections 35 and 36.

(ii) *Depth.* The vertical limits of the Muddy Formation are defined as the Mowry Shale above, and the Thermopolis Shales below. The average depth to the top of the formation is 19,800 feet.

(173) Lakota Formation in Wyoming. RM79-76-189 (Wyoming-16).

(i) *Delineation of formation.* The Lakota Formation is located in Natrona County, Wyoming, in Township 36 North, Range 86 West, 6th P.M., Sections 4 through 9, Sections 15 through 22, and Sections 28 through 30; Township 36 North, Range 87 West, 6th P.M., Sections 1 through 3, Sections 11 through 14, NE¼ of Section 23, and N½, N½ S½ of Section 24; Township 37 North, 86 West, 6th P.M., Sections 19, 20, and 28 through 33; Township 37 North, Range 87 West, 6th P.M., Sections 23 through 26, and Sections 35 and 36.

(ii) *Depth.* The vertical limits of the Lakota Formation are defined as the Thermopolis Shale above, and the Morrison Shale below. The average depth to the top of the formation is 20,020 feet.

(174) Morrison Formation in Wyoming. RM79-76-189 (Wyoming-16).

(i) *Delineation of formation.* The Morrison Formation is located in Natron County, Wyoming in Township 36 North, Range 86 West, 6th P.M., Sections 4 through 9, Sections 15 through 22, and Sections 28 through 30; Township 36 North, Range 87 West, 6th P.M., Sections 1 through 3, Sections 11 through 14, NE¼ of Sections 23, and N½, N½ S½, of Section 24; Township 37 North, 86 West, 6th P.M., Sections 19, 20 and 28 through 33; Township 37 North, Range 87 West, 6th P.M., Sections 23 through 26, and Sections 35 and 36.

(ii) *Depth.* The vertical limits of the Morrison Formation are defined as the Lakota Shale above, and the Sundance

[1] 18 CFR 271.703(d) (1983).

[2] The United States Department of Interior, Bureau of Land Management concurs with Wyoming's recommendation.

[3] 48 FR 24732, June 2, 1983. Comments on the proposed rule were invited and one comment supporting the recommendation was filed by Champlin Petroleum Corporation. No party requested a public hearing and no hearing was held.

Shale below. The average depth to the top of the formation is 20,100 feet.

(175) Sundance Formation in Wyoming. RM79-76-189 (Wyoming-16).

(i) *Delineation of formation.* The Sundance Formation is located in Natrona County, Wyoming, in Township 36 North, Range 86 West, 6th P.M., Sections 4 through 9, Sections 15 through 22, and Sections 28 through 30; Township 36 North, Range 87 West, 6th P.M., Sections 1 through 3, Sections 11 through 14, NE¼ of Section 23, and N½, N½ S½ of Section 24; Township 37 North, 86 West, 6th P.M., Sections 19, 20, and 28 through 33; Township 37 North, Range 87 West, 6th P.M., Sections 23 through 26, and Sections 35 and 36.

(ii) *Depth.* The vertical limits of the Sundance Formation are defined as the Morrision Shale above, and the Triassic Shale below. The average depth to the top of the formation is 20,300 feet.

[FR Doc. 84-16981 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Issued: June 21, 1984.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(l) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of July 1984 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to January 1984 are found in the tables in § 282.304.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar year 1984]

	January	February	March	April	May	June	July
Incremental Pricing Threshold	$2.283	$2.291	$2.299	$2.307	$2.315	$2.323	$2.331
NGPA Section 102 Threshold	3.586	3.609	3.632	3.656	3.680	3.705	3.730
NGPA Section 109 Threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407
130% of No. 2 Fuel Oil in New York City Threshold	7.730	7.570	7.570	8.550	8.590	7.670	7.930

[FR Doc. 84-16964 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 84-131]

Change in Hours of Customs Service at Noyes, Minnesota

AGENCY: Customs Service, Treasury.

ACTION: Change of hours of service.

SUMMARY: This document reduces the hours of service currently provided at the Customs port of Noyes, Minnesota, located on the U.S.-Canadian border, in the Pembina, North Dakota, Customs District.

Because traffic at Noyes does not justify the current 24-hour schedule, service between midnight and 8 a.m is being eliminated. The Customs port of Pembina, only a mile and a quarter from Noyes, will remain open 24-hours daily and absorb any traffic that would otherwise enter the United States at Noyes between midnight and 8 a.m.

This change, which will enable Customs to obtain more efficient use of its personnel, facilities, and resources, will result in substantial savings to the Government. Further, it will not have any major adverse impact on industry, transportation, or the local population.

EFFECTIVE DATE: July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157)

SUPPLEMENTARY INFORMATION:

Background

Section 101.6, Customs Regulations (19 CFR 101.6), provides that, with certain stated exceptions, each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8 a.m. and 5 p.m. However, because of local conditions, different but equivalent hours may be necessary to maintain adequate and efficient service.

The Customs ports of entry of Noyes, Minnesota, and Pembina, North Dakota, both located on the U.S.-Canadian border in the Pembina, North Dakota, Customs District, currently operate on a 24-hour basis and are staffed by Customs and Immigration and Naturalization Service personnel. Because traffic at Noyes and Pembina does not justify the hours of service between midnight and 8 a.m., and since these two ports are located only a mile and a quarter from each other, Customs does not believe it is cost efficient to staff both locations on a 24-hour basis. Because Pembina is located on an interstate highway and Noyes is not, and since a lesser volume of traffic is processed at Nayes between midnight and 8 a.m. than is processed at Pembina during the same hours, by notice published in the Federal Register on January 12, 1984 (49 FR 1530), Customs proposed to eliminate service between midnight and 8 a.m. at Noyes.

As stated in the notice, the change will enable Customs to realize a savings of more than $40,000 a year. In addition, the proposal will not have any major adverse impact on industry,

transportation, or the local population because of the close proximity to Pembina which will easily absorb the additional workload.

Discussion of Comments

Fifteen comments were received in response to the notice. One commenter favored the reduction in hours, fourteen opposed. The commenter in favor stated that since there are very few trucks or tourists traveling either port during the midnight shift, Customs is justified in proceeding with the proposal.

The opposing comments contained several common observations, i.e., that the ports of Noyes and Pembina are unique in that traffic can travel through both ports easily, better service to North Dakota is unfair to Minnesota, and there are more cost efficient measures which could be taken such as moving the administration building from Pembina to Noyes.

In response to these comments, Customs believes that because the ports are located only a mile and a quarter apart, and since Pembina is located on an interstate highway and handles the majority of traffic, it appears more practical to close Noyes during these hours rather than Pembina. In addition to these factors, because Customs plans no further reduction in the hours of service at Noyes, and since there is only a small amount of traffic on the road after midnight, Customs believes there will be little, if any, adverse impact on local businesses in either North Dakota or Minnesota. With regard to the suggestion that the administration building in Pembina be closed and moved to Noyes, based on the number of employees now located at Pembina and when coupled with relocation expenses, etc., there would not be any savings.

Canadian Customs and Excise commented that, as a result of the change, they would have to look seriously at moving their automated commercial facility (Emerson East), located at Noyes, to Pembina (Emerson West), at considerable cost and inconvenience. However, this has been resolved through meetings between U.S. and Canadian Customs and Excise officials. The Deputy Minister of Revenue for Canadian Customs and Excise recently advised Customs that the Canadians can accommodate changes if necessary.

Members of the transportation industry were among those opposing the proposal. A trucking firm stated that the proposal would cause delays, additional costs, and undue hardship on the movement of goods. Customs does not agree. For northbound trucks requiring Canadian inspection and previously utilizing the Noyes/Emerson East crossing, an additional distance of less than 5 miles would be necessary to cross at Pembina/Emerson West. However, a significant percentage of loaded trucks presently enter first at Pembina/Emerson West and would not be affected by the change. In fact, a truck destined to Canada on Interstate 29 would save ½ mile by entering at Pembina/Emerson West rather than crossing over to Noyes to enter Emerson East directly. The additional workload can be sufficiently handled at Pembina during the midnight to 8 a.m. hours of service. Therefore, Customs believes any adverse impact on the movement of goods will be minimal.

A railroad company also opposed the proposal on the basis that since the railroad inspection facilities have always been located in Noyes, overtime costs would escalate and there would be some inconvenience to the joint agency of U.S. and Canadian railroad clerks whose office is located on the Canadian side of the border at Emerson East opposite Noyes. These clerks meet trains coming into the United States with the necessary paperwork for Customs clearance at Noyes. Since Customs has never regularly provided service to the railroads during the midnight shift, and they arrive sporadically and never on a scheduled basis, overtime has always been incurred by the requesting railroads. The only change for requesting overtime service will be to call Customs at the Pembina office rather than the Noyes office. Customs will develop a procedure to correct any transportation problems the joint agency of U.S. and Canadian railroad clerks may encounter. Between midnight and 8 a.m., the railway agents will be able to enter at Noyes and report for inspection to the Customs officer at the depot who has been called to clear the train.

Finally, an issue was raised concerning the 7:15 a.m. arrival of the Greyhound bus at Noyes. One local business uses this stop to board freight for further delivery. The terminal manager for Greyhound Bus lines at Fargo, North Dakota, was contacted and indicated the existing route could be changed to enter at Pembina.

Accordingly, after consideration of the comments, and further review of the matter, Customs has determined that it is desirable to make the change as proposed.

Change in Hours of Service

Customs service at Noyes, Minnesota, will be provided between the hours of 8 a.m. and midnight, daily. No service will be provided between midnight and 8 a.m.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,
Acting Commissioner of Customs.
Approved. June 8, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 84-16223 Filed 6-25-84; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6544

[I-17847]

Idaho; Withdrawal of Forest Service Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 13.51 acres of national forest lands to protect the improvements to be constructed for the Moyer Creek Administrative Site. This action will close the land to mining, but not to surface entry or mineral leasing, for 20 years.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands, which are under the jurisdiction of the Secretary of Agriculture are hereby withdrawn from entry and location under the general mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, for protection of the Moyer Creek Administrative Site.

Boise Meridian Salmon National Forest

T. 20 N., R. 18 E.,

sec. 35, beginning at U.S. Mineral Monument No. 3, Blackbird Mining District, thence South 80°24'04" East a distance of 5036.33 feet to the true point of beginning; thence South 30°59'28" East a distance of 1727.95 feet; thence North 72°55'03" West a distance of 1019.17 feet; thence North 04°05'17" East a distance of 1184.91 feet to the true point of beginning.

The area described aggregates 13.51 acres in Lemhi County.

2. The withdrawal made by this order does not alter the applicability of those public lands under lease, license, or permit, or govern the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Inquiries should be addressed to the Chief, Branch of Land Operations, Bureau of Land Management, Idaho State Office, 3380 American Terrace, Boise, Idaho 83706.

Dated: June 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-16894 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6545

[(OR-19614 (WASH), OR-19650 (WASH), OR-19651 (WASH), OR-19654 (WASH))]

Washington; Partial Revocation of Powersite Classification Nos. 161, 177, and 207; Partial Revocation of Powersite Reserve No. 534

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Secretarial orders and an Executive Order insofar as they affect 279.46 acres of land withdrawn for powersite classification and powersite reserve purposes. This action will restore 240.65 acres to surface entry. The balance of 38.81 acres is included in the Skagit National Wild and Scenic Rivers System and will remain closed to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-230-Washington, it is ordered as follows:

1. The Executive Order of June 30, 1916, which withdrew lands for use by the U.S. Geological Survey for Powersite Reserve No. 534, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 33 N., R. 11 E.,
sec. 31, lots 2 and 3.

The area described contains 77.15 acres in Skagit County.

2. The Secretarial Orders of January 8, 1927, April 18, 1927, and November 13, 1928, which withdrew lands for use by the U.S. Geological Survey for Powersite Classification Nos. 161, 177, and 207, respectively are hereby revoked insofar as they affect the following described lands:

Willamette Meridian

T. 28 N., R. 14 W.,
sec. 15, lots 4 and 5.
T. 29 N., R. 3 W.,
sec. 18, lot 1 and S½SE¼.
T. 34 N., R. 10 E.,
sec. 19, lot 7

The area described contains 202.31 acres in Clallam and Skagit Counties.

3. Lot 2, sec. 31, T. 33 N., R. 11 E., is included in the Skagit National Wild and Scenic Rivers System and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

4. At 8:30 a.m., on July 24, 1984, the lands described in paragraphs 1 and 2, except as provided in paragraph 3, will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on July 24, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. The lands described in paragraphs 1 and 2, except as provided in paragraph 3, have been and remain open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 18, 1984.

Garrey E. Carruthers

Assistant Secretary of the Interior.

[FR Doc. 84-16895 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6546

[ORE-011495]

Oregon; Modification of Public Land Order No. 4289 of October 5, 1967

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a public land order affecting 911.42 acres of public land withdrawn for the Rogue River Basin Reclamation Project. This action will permit location, entry and mining subject to contract provisions imposed by the Bureau of Reclamation as provided in the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: July 24, 1984.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154, it is ordered as follows:

1. Public Land Order No. 4289 of October 5, 1967, which withdrew public lands for the Rogue River Basin Reclamation Project is hereby modified to permit mineral location, entry, and mining, under the provisions of the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154:

Willamette Meridian

T. 40 S., R. 7 W.,
sec. 1, S½ of lot 1, SW¼NE¼, NE¼SW¼, and those portions of lots 2 and 3, and the SE¼NW¼ that are located outside of patented M.S. 930.

Siskiyou National Forest

T. 39 S., R. 6 W.,
sec. 29, SW¼
sec. 30, lot 2, W½ and W½E½ of lot 4, and N½S½SE¼;
sec. 31, lot 2, 3, and 4, W½ and W½E½ of lot 1, SE¼NE¼NE¼, S½NE¼, and SE¼NW¼.
T. 40 S., R. 6 W.,
sec. 6, lots 4 and 5.

The areas described aggregate approximately 911.42 acres in Josephine County.

2. At 8:30 a.m., on July 24, 1984, the lands will be opened to location, entry, and mining under the provisions of the Act of April 23, 1932 (SUPRA). Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including

attempted adverse possession under 30 U.S.C. Section 28, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

3. Prior to location or entry under the mining laws and as a condition precedent to the vesting of any rights, the intending locator or entryman must properly execute and record the appropriate contract for mining as provided in the Act of April 23, 1932 (SUPRA). The contract for mining may be obtained from the Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho, 83724.

4. Any mining location made on the lands is subject to the provisions that if and when the lands are actually required for reclamation purposes, they may be utilized by the United States without payment, and any structures or improvements placed on the lands which may interfere with contemplated reclamation works will be removed or relocated without expense to the United States, its successors and assigns.

The lands have been and remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-16833 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6547

[I-18220]

Idaho; Withdrawal of Forest Service Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 107.02 acres of national forest land to protect the watershed, hydrologic values, and fishery in the Salmon River drainage. This action will close the land to mining, but not to surface entry or mineral leasing, for 20 years.

EFFECTIVE DATE: July 24, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from location under the general mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, for protection of watershed, hydrologic and fishery values in the Salmon River drainage.

Boise Meridian

T. 23 N., R. 20 E.,
sec. 12, 13, 14.

Beginning at USLM No. 4, Eureka Mining District, said Monument No. 4 being more particularly located in the unsurveyed NW¼SE¼ Section 24.

From point of beginning, North 4°32'52" East 5061.93 feet to Corner No. 1, the True Point of Beginning, said Corner being identical with Corner No. 1 Lemhi Gold Placer, as shown on Moose Creek Hydraulic Placer Mineral Survey Plat No. 3057

Thence North 0°01' West, 4103.7 feet along the west line of Lemhi Gold Placer to a point at the intersection of line 1-2 of Rocky Mountain Placer, MS No. 1867, which point lies North 58°56' West, 58.1 feet for Corner No. 1 of MS No. 1867 and said point being Corner No. 2 of herein described lands;

Thence North 58°56' West, along line 1-2 of MS No. 1867 for a distance of 617.35 feet to Corner No. 3;

Thence South 0°01' East, 4529.24 feet to Corner No. 4;

Thence South 8°33' East, 1677.1 feet to Corner No. 5;

Thence South 89°49' East, 833 feet to Corner No. 6, said Corner No. 6, being identical with Corner No. 4 of Moose Creek Hydraulic Placer MS 3057;

Thence North 8°33' West, 1677.1 feet along the west line of said Moose Creek Hydraulic Placer to Corner No. 7 said Corner No. 7 being identical with Corner No. 5 of MS No. 3057;

Thence North 89°49' West, 183 feet to Corner No. 1, the True Point of Beginning.

The area described aggregates 107.02 acres in Lemhi County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. The withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Inquiries concerning the forest lands should be addressed to Chief, Branch of Lands and Minerals, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: June 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-16839 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6548

[CA-13720]

California; Partial Revocation of Secretarial Order of January 10, 1927, and Partial Revocation of Departmental Order of June 24, 1952

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes one Secretarial order and one Departmental order (partially overlapping) as they affect 109.06 acres of national forest land withdrawn for powersite classification purposes. This action will open the lands to appropriate forms of surface entry on the national forest. The lands have been and remain open to mining and mineral leasing.

EFFECTIVE DATE: July 24, 1984.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-1144 California, it is ordered as follows:

1. The Secretarial Order of January 10, 1927, and Departmental Order of June 24, 1952, creating Powersite Classification No. 163 and Powersite Classification No. 425, respectively, are hereby revoked insofar as they affect the following described lands:

Plumas National Forest Mount Diablo Meridian

T. 22 N., R. 13 E.,
sec. 8, NE¼NE¼ and SW¼NE¼;

sec. 30, lots 7 and 8 (formerly described as lot 5).

The area aggregates approximately 109.06 acres in Plumas County, California.

2. The State of California has waived its preference right of application for highway rights-of-way or material sites as provided by Section 24 of the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10:00 a.m. on July 24, 1984, the lands will be opened to such disposition as may by law be made of national forest lands, subject to valid existing rights and the requirements of applicable regulations.

4. The lands have been and remain open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning these lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: June 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-16397 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Docket No. 84-17]

Interest in Reparation Proceedings

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This rule changes the method of assessment from simple to compound interest calculated on U.S. Treasury obligations. The rule implements section 11(g) of the Shipping Act of 1984 but would be equally applicable to proceedings under the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933, initiated on or after June 18, 1984.

EFFECTIVE DATE: July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Office of Policy Planning and International Affairs, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5870.

SUPPLEMENTARY INFORMATION:

I. Background

This proceeding was instituted by a Notice of Proposed Rulemaking published in the Federal Register on April 23, 1984 (49 FR 17044) for the purpose of conforming the Commission's current rule on the award of interest in reparations proceedings to section 11(g) of the recently enacted Shipping Act of 1984. Section 11(g) of the Act requires that interest assessed in reparations proceedings be at "commercial rates compounded from the date of injury." The current Commission rule on the assessment of interest in reparations proceedings specifies that "Interest (simple) will accrue from the date of payment of freight charges to the date reparations are paid."

The proposed rule would make two modifications to the current rule. The first modification changes the period during which interest accrues. The period in the current rule extends from the date the freight charges are paid until the date reparations are paid. The period in the proposed rule would extend from the date the injury occurred until the date specified in the Commission Order awarding reparations.

The second modification changes the manner in which interest is accrued. In the current rule, simple interest is assessed on reparations awards, while in the proposed rule, interest is compounded on a daily basis.

The comment period on the proposed rule was 30 days after publication in the Federal Register. Comments were received from Traffic Service Bureau, Inc., United States Lines, Inc. and United States Lines (S.A.) Inc. (together U.S.L.), and two Trans-Pacific conferences. These comments are discussed below.

The Period of Time During Which Interest Accrues

The proposed rule states that "Interest awarded in reparations proceedings will accrue from the date of injury to the date specified in the Commission Order awarding reparations." Traffic Service Bureau, Inc. suggests that interest should accrue from the date of injury to the date reparations are paid. It points out that: (1) This is the policy of the current rule; and (2) it encourages the timely payment of reparations.

U.S.L. suggests that a "mechanism should be developed whereby payment may be made in the discretion of the Respondent after service of the Recommended Decision of [the] Administrative Law Judge or the Settlement Officer." They argue that: (1) The rule provides a disincentive for earlier payment, (because once a date is specified in the Commission Order, there will be no incentive to pay before that date); and (2) the respondent is forced to pay interest during comment or Commission review periods subsequent to the date of recommended decisions by Administrative Law Judges or Settlement Officers. U.S.L. suggests that in the event that a party wishes to object to the decision of the Administrative Law Judge or of the Settlement Officer, that party should be required to file a notice of intention to object prior to the date specified for payment, and a failure to file such a notice would be deemed a waiver of its right to file objections. U.S.L adds that "interest on any additional amount only, as determined by the Commission to be owed, could then be calculated in the same manner as the previous award."

The Commission, in enforcing the current rule, determines the relevant *rate* of interest to be assessed on reparations awards. The current rule also specifies that this relevant rate of interest is to be assessed on a simple basis (i.e., it is not compounded). The Commission however does not compute the actual interest *amount*, but leaves this to the respondent. Under the proposed rule, not only would the Commission determine the relevant rate of interest, but it would also calculate the actual amount of interest to be paid. This involves: (1) A determination of the relevant rate of interest (in this regard the current and the proposed rules are identical); and (2) the daily compounding of this rate of interest via a compounding formula in order to determine the precise interest payment to be made.

The proposed rule, in responding to a Congressional mandate to compound interest, requires the use of several involved calculations in order to compute the actual interest payments. While the least complicated compounding formula is used, it nevertheless lands itself to easy error either in misapplication or simple arithmetic mistakes. It is thus believed that if such calculations are made in all cases by the Commission, not only will there be a uniform application of the rule, but also, there will be a minimal number of errors, because of a developed, inhouse expertise (due to repetitive calculations) in the application of the formula (as opposed to occasional use by outside parties).

In order to include the amount of the interest payments in the Commission Orders awarding reparations, it is necessary to know the specific termination date of the reparations period. Under the current rule, where interest accrues until the date reparations are paid, such a date is unknown at the time of the Commission Order. Hence, the proposed rule (in order to identify a specific termination date for the reparations period), recommends that the reparations period terminate on the date specified in the

Commission Order awarding reparations. The proposed rule also states that "Normally, the date specified within which payment must be made will be 15 days subsequent to the date of service of the Commission Order." The amount of lost interest which would accrue during the 15-day period would be negligible.

With respect to U.S.L.'s argument that some mechanism should be established to toll the time for payment of interest, this flies in the face of the theory underlying interest. No matter how long a proceeding may continue, the "offender" still has the use of the illegally-obtained monies. It should also be mentioned at this point that carriers as well as shippers benefit from this rule inasmuch as the 1984 Act permits carriers to proceed against shippers for underpayment.

In response to Traffic Service Bureau, Inc.'s concern about timely payment of reparations, it should be noted that in those instances of delinquent payments, the complainant may seek enforcement of the Commission Order in the United States District Court having jurisdiction over the parties as well as petitioning the Commission for relief.

The Compounding of Interest on a Daily Basis

The proposed rule specifies that interest will be compounded on a daily basis. U.S.L. argues against daily compounding and suggests that compounding occur every six months because this is the same maturity period as for six-month Treasury bills which are the benchmark on which the reparations rate of interest is based.

There is an important conceptual point that should be made concerning the above issue. The intent behind the proposed rule was to establish a benchmark interest rate that would produce a reasonable result for the reparations process. The Commission is not attempting to look behind a particular entity's uses of working capital to reveal in each case where the monies at issue were actually invested. The fungibility of money would make such an exercise impossible because the funds could have been placed in numerous alternative forms of investments. These alternatives include certificates of deposit, Treasury bills and bonds, money market funds, long-term corporate debentures, and literally hundreds of other instruments of varying risk and maturity. Thus, the linkage between the use of six-month-Treasury-bill yields and a compounding of interest every six months is spurious. The interest rate factor determined by evaluating the monthly yields on six-month Treasury bills is simply a representation of what the Commission believes to be a fair rate of interest.

Daily compounding is recommended in the proposed rule because it is the most precise and least complicated, compounding formula which can be used. Perhaps of more importance, daily compounding is now used in the commercial sector by most major money market funds.

Furthermore, if six-month compounding were adopted by the Commission, there would still be a residual, daily compounding computation necessary in those instances when the reparation period did not precisely terminate at the beginning or the end of a six-month interval. This would unnecessarily complicate the proposed rule's compounding formula. Finally, the difference in the amount of reparations between six-month compounding (as recommended by U.S.L.) and daily compounding (as used in the proposed rule) is not very large. For example, at 10%, daily compounding over 5 years, a dollar would grow to $1.648, whereas with semiannual compounding, the amount would be $1.629.

The Use of the Six-Month Treasury Bill Rate

The Trans/Pacific Freight Conference of Japan/Korea and Japan/Korea-Atlantic and Gulf Freight Conference, and their member lines, have argued against the proposed rule's use of the interest rates on six-month Treasury bills. They point out that six-month Treasury bills are available only in minimum $10,000 denominations, and consequently suggest that "it would be inappropriate to assess interest rates beyond those available in commercial passbook accounts for reparation awards before the Commission." U.S.L. on the other hand stated that: "While it can be argued that some index other than secondary market interest rates on six-month Treasury Bills may be more valid, since not all claims will involve $10,000 or more, U.S. Lines is satisfied that this index represents a readily ascertainable rate and a rate that is adequately reflective of the statutory intent."

This issue was raised in Docket 81-22 (the rulemaking for the current reparation rule). In its Final Order in that proceeding, the Commission upheld the use of six-month Treasury bills as a basis for calculating a reparations rate of interest and stated that: "While most reparation amounts, by themselves, would probably not be large enough to invest in Treasury bills, there are a myriad of investment opportunities at rates approximating the Treasury bill rate which are available to the small investor." The Commission thus concluded that "the use of an average Treasury bill rate as opposed to a fixed 'statutory' rate or 'passbook' rate is a valid exercise of agency discretion." As such the six-month Treasury bill rate fully meets the benchmark standard contemplated in this rule.

To reiterate, the six-month Treasury bill rate represents a benchmark interest rate that establishes a reasonable level of compensation. The Commission is not attempting to identify the actual investment instruments used in each instance. It should be pointed out, however, that a hypothetical investor with less than $10,000 could obtain a return that would closely approximate the six-month Treasury bill rate by investing in a money market fund which invested solely in Treasury bills. As previously stated, most major money market funds compound interest on a daily basis.

All other comments have been considered and have been found to be without merit.

In view of the foregoing, the Commission is adopting the proposed rule as final, without change.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure.

PART 502—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553, sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 821 and 841a.) and sections 11(g) and 17(a) of the Shipping Act of 1984 (46 U.S.C. app. 1710(g) and 1716(a)), the Commission is revising 46 CFR § 502.253 to read as follows:

§ 502.253 Interest in reparation proceedings.

Interest awarded in reparation proceedings will accrue from the date of injury to the date specified in the Commission Order awarding reparations. Normally, the date specified within which payment must be made will be 15 days subsequent to the date of service of the Commission Order. The rate of interest will be derived from the average monthly rates on six-month U.S. Treasury bills commencing with the rate for the month that the injury occurred and concluding with the latest available monthly Treasury bill rate at the date of the Commission Order awarding reparations. Compounding will be daily from the date of injury to the date specified in the Commission Order awarding reparations. The monthly rates on six-month U.S. Treasury bills

for the reparation period will be summed and divided by the number of months for which interest rates are available in the reparation period to determine the average interest rate applicable during the period.

By the Commission.

Francis C. Hurney,

Secretary

[FR Doc. 84-16893 Filed 6-25-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 83-115; FCC 84-252]

Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies

AGENCY: Federal Communications Commission.

ACTION: Denial of petitions for reconsideration or stay of final rules.

SUMMARY: The Commission has required that any of the companies divested from AT&T (BOCs) which choose to provide enhanced services or customer premises equipment (CPE) after June 30, 1984 do so only through structural separation from basic transmission services. The rules require that the BOCs conform to the requirements imposed on AT&T in the Second Computer Inquiry (Computer II), subject to certain modifications. Several parties requested that the Commission reconsider the application of the modified Computer II rules to the BOCs. In addition, two BOCs requested that the Commission stay the effective date of the rules as they pertain to the BOCs pending resolution of the petitions for reconsiderations and of a pending judicial appeal. The Commission has denied these requests, finding that the grounds for stay have not been met and that until it has gained more experience in the effects of the BOCs' provision of enhanced services and CPE, structural separation will enable it to control potential anticompetitive conduct or cross-subsidization of CPE and enhanced services by the BOCs' regulated operations. In addition, the Commission has retained the modifications of the Computer II rules as applied to the BOCs, finding that these will enable the BOCs to provide services which can benefit consumers, and do not raise the threat of conduct which will outweigh the benefits provided by the limited amount of unseparated activity they permit.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Povich, (202) 632-9342.

Memorandum Opinion and Order on Reconsideration

In the matter of Petitions for Reconsideration of an Order in Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies (CC Docket No. 83-115).

Adopted June 1, 1984.

Released June 1, 1984.

By the Commission: Commissioner Dawson issuing a separate statement at a later date.

I. Introduction

1. We have before us petitions for reconsideration of our decision to apply modified structural separation conditions to the unregulated offerings of customer premise equipment (CPE) and enhanced services by the recently divested Regional Bell Operating Companies (regional companies or BOCs) [1] pursuant to the principles we established in the *Second Computer Inquiry (Computer II)*.[2] In fashioning separation requirements for the divested companies in their provision of CPE and enhanced services we decided to apply a more limited form of structural separation than we required of American Telephone and Telegraph Company (AT&T) at the time we first established the structural separation requirements for regulated and unregulated activities in *Computer II*. The Order permitted the regional companies to engage in the provision of CPE and enhanced services as of January 1, 1984, the date of the divestiture, until June 30, 1984 without structural separation. During this start up period the regulated operations of the regional companies may support affiliated CPE or enhanced service providers in a manner otherwise prohibited by the rules.

2. Several parties, including the seven regional companies, request that we vacate the structural separation requirements and permit the BOCs to integrate the offering of enhanced services and CPE with their regulated offerings.[3] Other parties request that we affirm our decision to require the regionals to adhere to the modified structural requirements, and further urge that we apply the full panopy of restrictions to the regionals.[4] Finally, certain of the regionals request that we allow shared activities with their separate entity beyond those activities the Order permits.[5] We recognize that

[1] *BOC Separation Order*, FCC 83-552, 49 FR 1190 (Jan. 10, 1984) (Hereinafter referred to as Order), *appeal pending*, Illinois Bell Tel. Co. v. FCC, Nos. 84-1145, 84-1382, 84-1475 (7th Cir., filed January 30, 1984). Because most of the BOCs have proposed forming subsidiaries on a regional basis, we generally refer herein to the BOCs as the regional operating companies. The separate subsidiary requirement also applies, of course, to any individual BOC planning to offer CPE, enhanced services, or cellular services on its own. See *BOC Separation Order* at para. 1 n.3.

[2] Amendment of § 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 50 (1981), *further reconsideration*, 88 FCC 2d 512 (1980), *aff'd sub nom.* Computer & Communications Industry Ass'n v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[3] At least one operating company of each RBOC, except the Bell Atlantic Operating Companies, objects to the imposition of any structural separation. Bell Atlantic does not oppose structural separation. Rather, it seeks permission to offer protocol conversion functions within its regulated offerings and opposes petitions which request that we rescind the exceptions we have drawn in the BOC Separation Order. On March 1, 1984, Illinois Bell Telephone Company and Wisconsin Bell moved the Commission to stay the Order's prohibition on direct BOC provisions of CPE and enchanced services pending resolution of petitions for reconsideration and completion of appellate review. Utilizing the factors enumerated in Virginia Petroleum Jobbers v. FPC, 259 F.2d 921 (D.C. Cir. 1958), as modified in Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977), we conclude that Illinois and Wisconsin Bell have not made a sufficient showing to warrant the grant of a stay pending reconsideration or appellate review. In particular they have not demonstrated any irreparable harm should a stay not be granted. The have demonstrated that the Order's requirements will impose costs on them. We find, however, that those costs are outweighed by the harm to ratepayers and consumers if we delay the implementation of separate structure beyond the time which is essential to the regionals' ability to reenter competitive activities on an effective basis. We conclude that a balancing of the equities favor denial of the stay request.

[4] Certain petitioners also challenge the requirement that any offering of cellular CPE by the regional companies be made through a separate subsidiary other than the cellular service subsidiary. Order at para. 76 n.29. The Commission will shortly take action on that matter. In the interim, cellular CPE may be offered through the BOC organization or organizations providing enhanced services and CPE but not through the cellular subsidiary. *Id.* No party seeks reconsideration of that part of the Order which continues the requirement that the divested companies offer cellular services through a subsidiary separate from the Computer II subsidiary pursuant to § 22.901 of our Rules.

[5] NYNEX Corp., BellSouth and Ameritech, either in their interim capitalization plans or petitions for reconsideration or both, have proposed to market network services and CPE on an integrated basis. Those proposals are being evaluated in the context of capitalization plan review or separate waiver proceedings. NYNEX filed a petition for waiver on May 10, 1984. Public comments on that petition are being solicited. In addition, certain pleadings by the divested companies request that we permit the offering of code and protocol conversion functions as a non-tariffed part of regulated service offerings within the regulated network. Those issues are under consideration in Docket No. 80-750.

Continued

structural separation will generate certain inefficiencies, particularly in the regional companies' provision of enhanced services. For example, certain regionals have asked the Commission to waive aspects of the structural separation requirements to allow the network to perform protocol conversion. Those more refined proposals are currently being considered.[6] However, on the general record before us at this time, we find that it is beneficial to require structural separation of the BOCs' CPE and enhanced services activities. This approach will enable us to gain more experience regarding the effects of the BOCs' enhanced services and CPE offerings in the new post-divestiture environment. We have not imposed on the regionals the full range of structural separation requirements which we imposed on AT&T. As we stated in the Order, we are prepared to review the Order's requirements in two years and will modify those requirements as changed circumstances evolve.

A. Background

3. In the *Second Computer Inquiry* we decided that enhanced services and CPE should be detariffed and not subject to Title II regulation. To ensure that the ratepayer for regulated monopoly services not cross-subsidize these competitive activities we concluded that all carriers should separate the revenues and costs associated with the provision or unregulated products and services from the revenues and costs associated with the offer of transmission services through the mechanism of separate accounting. In the case of AT&T, however, we determined that the *Computer II* goals could best be met by the offer of CPE and enhanced services through a subsidiary which operated independently both structurally and financially from the basic network.

4. Following the adoption of the *Computer II* rules, in a judicially approved agreement between AT&T and the Department of Justice reflected in the Modification of Final Judgment (MFJ), AT&T agreed to divest itself of 22 of the BOCs.[7] At divestiture on January 1, 1984 these 22 companies were consolidated into 7 regional companies.[8] The MFJ permits the divested BOCs to establish Bell Communications Research, Inc. (Bell Research, originally named the Central Services Organization). Each regional funds approximately one-seventh of the expenses of Bell Research and participates in its projects. Bell Research personnel possess expertise in the development, modernization and improvement of efficient local networks including provision of enhanced services such as protocol conversion and interface specifications with CPE.[9] We issued a Notice of Proposed Rulemaking in this proceeding to determine whether and what types of structural separation might be appropriate for the divested regional companies given any changed circumstances that might result from the upcoming divestiture.[10]

5. Following a thorough review of the record in the instant proceeding, we found that the potential for the regionals to cross-subsidize competitive offerings with funds derived from regulated services, or to engage in anticompetitive conduct such as discriminatory interconnection of competitors' offerings to the network, was sufficient to require structural separation of the regionals' competitive offerings. We found that, in the factual circumstances of the divested regional operating companies, a modified form of structural separation would at this time produce benefits to consumers. We also found that the reduced regulatory intrusion into the conduct of unregulated businesses which attend structural separation, as opposed to accounting separation, would benefit competition. We concluded that these benefits outweighed the costs to the regionals in forming and operating through separate entities.

6. In order to permit immediate and flexible reentry by the BOCs into the provision of CPE and enhanced services, however, we deferred the effective date of compliance with structural separation until June 30, 1984, provided that interim plans for capitalizing separate operations were filed with the Commission. We found that the benefits of the regionals' entry during this initial start up period outweighed the potential harms which could occur without structural separation.[11]

7. In order to tailor our structural remedies to fit the individual circumstances of the divested companies, and because we found that consumers would benefit with no concomitant harm to the public interest or competition, we allowed the following joint operations which are not otherwise permitted under § 64.702 of our Rules. First, customer representatives of a BOC's telephone company may inform residential and business customers seeking basic services that they may obtain CPE from the regional's or BOC's CPE organization, provided the customer is informed that other vendors also provide CPE. Second, the operating company's personnel may provide installation and maintenance services in support of residential and single-line business telephones on behalf of customers of the CPE entity. Third, BOC regulated operations may provide billing services on behalf of the CPE affiliate for four years following January 1, 1984. Fourth, we permitted RBOC telephone companies to provide CPE associated with party-line service on an unseparated basis. Fifth, we provided the regionals an opportunity to demonstrate that some alternative corporate structure, such as an unincorporated division, could satisfy the Commission's concerns regarding the financial independence of the separate organization.

Communications Protocols under § 64.702 of the Commission's Rules and Regulations (Protocol Order), FCC 83-510, released Nov. 21, 1983, *recon. pending*, and separate waiver proceedings. ENF File No. 84-15, 19, 20, 21, 22, 23.

[6] ENF File Nos. 84-15, 19, 20, 21, 22, 23.

[7] United States v. AT&T, 552 F. Supp. 131 (D.D.C 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983). AT&T was not required to divest itself of Southern New England Co. (SNET) and Cincinnati Bell, Inc. (CBI), operating companies in which AT&T held a minority interest. CBI and SNET have, following the effective date of the AT&T divestiture, reached agreements designed to phase out AT&T control of those companies. *See* Letter from D. J. Culkin to Chief, Common Carrier Bureau (February 29, 1984).

[8] The MFJ placed line-of-business restrictions on the services and products which the BOCs can provide. *See* Order at paras. 8-9 and n.9-10.

[9] Bell Communications Research, Inc. Memorandum (*Bell Research Report*), at 10 (Feb. 23, 1984). NATA and IECMA and others argue that we should prohibit Bell Research from engaging in any activities which directly or indirectly support CPE or enhanced services. Commenters on the Bell Research Report also suggest that Bell Research's activities may violate the MFJ and that we commence a separate proceeding into Bell Research organization and activities. It appears that Bell Research activities implicate critical national public interest concerns that require our scrutiny. We have already initiated a proceeding regarding Bell Research's activities. *See* Order at para. 73; FCC Public Notice No. 2911 (March 14, 1984). The staff is directed to continue its inquiry into the activities of Bell Research, pursuant to Sections 218 and 403 of the Act, and to report to us their findings by October 31, 1984. We are currently considering in another proceeding, options by which Bell Research may support national security and emergency preparedness communications needs. Second Further Notice of Proposed Rulemaking, in Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (NSEP Rulemaking), CC Docket No. 81-893, at para. 13 (released May—, 1984).

[10] Notice of Proposed Rulemaking (Notice), 48 FR 13056 (March 29, 1983).

[11] We required that the BOCs file interim capitalization and accounting plans demonstrating how they would achieve compliance with the Order by June 30, 1984. Our review of BOC interim plans will allow us to guide the BOCs in making any modifications necessary to achieve compliance with the *Computer II* rules. Permanent capitalization plans are to be filed by June 30, 1984. Order at para. 74.

B. Issues Before the Commission

8. Petitions for reconsideration of the Order and other pleadings have been filed by numerous parties. These include the regional companies or their operating companies; manufacturers or associations of manufacturers of telecommunications equipment; providers or associations of providers of enhanced services; telecommunications carriers; and state regulatory authorities.[12]

9. The parties are divided on whether we have established the correct balance of safeguards necessary to maximize consumer benefits from the entry by the regional operating companies into the CPE and enhanced services marketplaces. The Association of Data Processing Organizations, Inc. (ADAPSO), the Independent Data Communications Manufacturers Association, Inc. (IDCMA), and North American Telecommunications Association (NATA), supported by several other parties, contend that, despite the changed circumstances caused by the divestiture, the regional companies have shown no justification for removal of the structural separation requirements which applied to the BOCs prior to divestiture. These parties further assert that we erred in permitting exceptions to the *Computer II* rules such as dial-tone referral, joint billing and joint installation and maintenance.

10. In contrast, the regional companies, NTIA, and certain other parties argue that, using the four guidelines stated in *Computer II* to analyze the costs and benefits of structural separation to carriers, the regional should be treated like General Telephone & Electronics Corp. (GTE), Cincinnati Bell, Inc. (CBI) and Southern New England Telephone Co. (SNET), which are not subject to similar separation requirements.[13] Each regional petitioner and certain other parties request that if the structural separation requirements are not rescinded, we preserve the exceptions contained in the Order. In addition, Pacific Bell (Pacific), BellSouth Corp. (BellSouth) and Southwestern Bell Corporation (Southwestern) each request removal or modification of the conditions placed on the provision of billing services due to the asserted difficulties and costs of bringing their billing systems into conformity with our Order on a timely basis.

II. Discussion

A. Jurisdiction Over Regional Holding Companies and Their Subsidiaries

11. As a threshold matter we reject arguments proffered by certain regional companies which assert that the regional holding companies and their non-common carrier subsidiaries are not subject to our jurisdiction under the Act because they do not directly provide common carrier facilities. This is an overly restrictive view of our jurisdiction. See *Computer and Communications Industry Ass'n* v. *FCC*, 693 F.2d 198, 212–14 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983) (affirming *Computer II*, and holding that FCC has ancillary jurisdiction to impose separation requirements on AT&T); *General Telephone of the Southwest* v. *United States*, 449 F.2d 846, 855 (5th Cir. 1971); *Application of General Telephone & Electronics Corp. To Acquire Control of Telenet Corp.*, 72 FCC 2d 91, 96 (1979). Our examination into holding company and other affiliate transactions is necessary to fulfill our responsibilities to ratepayers by ensuring that structural separation is complied with. *See* 47 U.S.C. 218, 219(a) and 403.

B. Applicability of Modified Structural Separation to the BOCs

12. We cannot accept the contention advanced by the regionals that the Order in this proceeding arbitrarily imposed structural separation on the divested companies without following the guidelines developed in *Computer II* or without considering each of the BOCs' unique circumstances after they were divested from AT&T. The BOCs argue that we may impose structural separation only if they exhibit each of the characteristics articulated in the *Reconsideration*. In particular they assert that structural separation is unwarranted because no BOC controls bottleneck transmission facilities on a nationwide basis, and because the BOCs lack the vertical integration which characterized the predivestiture Bell System.

13. As we stated in the Order, the factors considered in *Computer II* and in the Order do not constitute rigid requirements each of which must be met before structural separation can be applied to a particular carrier. Instead, these were only guidelines we considered relevant in deciding which carriers should be required to form separate subsidiaries in *Computer II*. These factors together with other considerations relevant to the particular circumstances of the BOCs, were weighed here in a cost-benefit analysis to determine whether structural separation would be warranted for the BOCs. Thus, not every one of these four factors need be satisfied to impose structural separation. Reliance on static guidelines would be inconsistent with the balancing test we applied in *Computer II*, and might cause us to relinquish our duty to make rulings consistent with current circumstances and the overall public interest objectives of the Act.[14] Indeed in the *Final Decision* we stated that the balance of costs and benefits of structural separation, as well as the proper degree of separation imposed, could change with the circumstances.[15] Therefore, we modified the *Computer II* requirements to recognize that the divested BOCs' circumstances differ from those of pre-divestiture AT&T.

14. In deciding to require structural separation for AT&T's provision of enhanced services and CPE we focused in part upon AT&T's ability to use its nationwide control over bottleneck facilities and its vertical integration with research and development and manufacturing operations to engage in anticompetitive conduct. As noted above, we recognized that the divested regionals do not exhibit these characteristics to the extent that AT&T did. We concluded in the Order, however, that the regional control over bottleneck facilities possessed by the divested companies is sufficient to enable them to engage in anticompetitive conduct requiring structural separation at this time. Further, while the BOCs are not now permitted to manufacture CPE, they are permitted to engage in research and development of both basic and competitive offerings. Order at para. 36.

15. The Order was based upon our findings that in light of current circumstances, a modified structural separation is necessary to ensure that BOC provision of CPE and enhanced services does not lead to unreasonable rates for regulated services or diminished competition in the provision of CPE or enhanced services. Absent modified structural separation it would

[12] A list of parties filing pleadings in this proceeding is attached as an Appendix to this Order. A summary of those pleadings has been placed in the docket of this proceeding. All motions for waiver of page limitations or for leave to late-file or supplement pleadings are granted.

[13] Those four guidelines included a carrier's ability through control over local transmission bottleneck facilities to engage in anticompetitive activity; the carrier's ability to engage in cross-subsidization to the detriment of communications ratepayers; the carrier's vertical integration with entities supported by basic communications services-derived revenues; and possession of sufficient resources to enter competitive markets through a separate subsidiary. *Reconsideration*, 84 FCC 2d at 72.

[14] *See* Geller v. FCC, 610 F.2d 973, 980 (D.C. Cir. 1979).

[15] *Final Decision*, 77 FCC 2d at 389, 463.

be more difficult to control the regionals' ability to cross-subsidize competitive offerings or to discriminate in the interconnection of competitors' offerings. The benefits to consumers of controlling such potential conduct outweight the costs of separation. We do recognize the possible inefficiencies inherent in structural separation. Structural separation may reduce possible economies of scale and scope. Public services might be provided more cheaply on an unseparated basis. However, until we have had the opportunity to measure the effect of structural separation on the regionals' provision of CPE and enhanced services, structural separation is valuable to maximize the benefits and minimize the harms of the regionals' participation in these activities while we acquire experience which will enable us to adjust the structure under which this participation may be most beneficial.

1. Protection of Competition for CPE and Enhanced Services Offerings

16. We found in the Order that each BOC has the ability to act in an anticompetitive manner which could adversely affect consumers. We based this determination on our examination of circumstances pertinent to the BOCs following divestiture. These circumstances include their substantial control over monopoly bottleneck facilities in large regions which include virtually every populous urban area. Arguments in petitions for reconsideration do no cause us to change these findings.

17 In each region of the country, the regional companies, through their operating companies, control the preponderance of "bottleneck" facilities, and serve most areas with an overwhelming concentration of urban and business ratepayers. IDCMA points out that 41 of 45 cities in the United States with populations of 300,000 or more are served by BOCs. Even the smallest regional company serves cities with over 300,000 in population. Marketing of CPE and enhanced services in such locations is likely to be most intense. Control in urban areas therefore provides the regionals with substantial opportunities to affect the interconnection of CPE and enhanced services to the network. As we have stated:

> The importance of the control of local facilities cannot be overstated. As we evolve into more of an information society, the access/bottleneck nature of the telephone local loop will take on greater significance.[16]

As parties to this proceeding point out, absent structural separation, the BOCs could also use their predominance in providing local service to induce subscribers to use BOC-provided CPE by discriminating in the quality and timing of installing and maintaining network facilities, with the effect of impairing the benefits of competition and the public interest objectives of the Act.

18. Certain of the companies also contend that their operating companies lack the concentrated urban bottleneck control which would enable them effectively to use local facilities to their competitive advantage. Nevada Bell represents that it serves only 35% of the access lines in its own state. The U.S. West operating companies represent that they serve a sparsely populated region comprising 40% of the nation's land mass with only 10% of its population. Ameritech and U.S. West also emphasize that their BOCs are limited to serving noncontiguous LATAs which limits their ability to use their bottleneck control anticompetitively. There is no reason, however, for treating individual BOCs which are owned by larger regional companies differently, from the regional parent companies at this time. The Regionals' assertions do not contradict our finding that each BOC is an operating arm of a centralized regional company, and that the regionals each serve most or all of the urban and industrial areas in their respective regions. In each of these regions, between 70 and 92 percent of all exchange service customers are served by BOCs. Therefore each BOC is part of a larger organization with the ability to engage in significant anticompetitive conduct and cross-subsidization. As part of the pre-divestiture Bell System, each BOC was subject to structural separation because of AT&T's control over it. Here, too the individual BOCs are subject to structural separation because they are controlled by the larger regional companies. These findings are buttressed by statistics cited by NATA, Rolm and IDCMA, and uncontradicted by any of the parties, that the regionals control far more bottleneck facilities in concentrated population centers than independent carriers.

19. The regional petitioners cite various factors which they assert reduce their incentive and ability to engage in anti-competitive conduct and thereby reduce the need for structural separation as a regulatory tool. Southwestern Bell and NYNEX argue that our Part 68 registration program [17] allows connection of equipment manufactured by all vendors. In addition, the *Computer II* network information disclosure rules require all carriers to disclose to the public information affecting changes to the telecommunications network which would affect either intercarrier interconnection or the attachment of CPE to the network.[18] U.S. West and NYNEX also cite statements in their interim capitalization plans and plans for shared services that the BOCs will continue to use Centralized Operations Groups (COGs) to ensure equal interconnection of CPE provided by competing vendors.[19] The network information disclosure requirement and BOC procedures, it is argued, ensure that their BOCs lack the ability to discriminate in providing access to basic facilities against competing equipment and services providers.

20. Most of these arguments were presented in response to the Notice. While these safeguards alone may, at some time in the future, prove adequate to protect the public interest, the structural separation conditions are necessary at this time. No argument in the petitions for reconsideration compel us to conclude otherwise. Structural separation reduces the common transactions between providers of basic services and affiliated providers of competitive offerings, and highlights transactions such as the flow of funds, transfers of information, and the procedures for accomplishing interconnection by affiliated vendors. Indeed, in the *COG Order* we clarified that the use of identical procedures by the regionals' CPE entity and competing vendors to obtain basic services on behalf of customers is a part of the structural separation requirement. We also made clear that the COG-like procedure was only one mechanism to

[16] *Id.* at 468.

[17] 47 CFR 68.1 *et seq.*

[18] 47 CFR 64.702(d)(2); Computer and Business Equipment Manufacturers Ass'n, 93 FCC 2d 1223 (1983).

[19] A COG is an organization established by each BOC to serve as centralized point of contact for customers and vendors of CPE including key, PBX and multifunction systems. COGs were established pursuant to a settlement agreement between AT&T and some interconnect vendors. *Jarvis, Inc. v. American Telephone and Telegraph Co.*, Civil Action No. 74-1674 (D.D.C. settlement effective May 27, 1979). COGs process orders for BOC services relating to the interconnection of customer premises equipment including scheduling and coordination services. The first COG was established in 1980 and COGs were operational in all BOCs by the end of 1981. We recently directed the BOCs to implement procedures and meet with interconnect vendors to resolve any service problems reported by the interconnect industry in obtaining service interconnection on behalf of their customers. *NATA Petition for Emergency Relief*, FCC 84-132 at para. 2 and n.3 (released April 11, 1984). (*COG Order*).

achieve the BOCs' overall obligation to provide nondiscriminatory interconnection.[20] Without structural separation, which reduces a carrier's ability to engage in anticompetitive conduct, neither the COG-like procedure, nor other safeguards would be as effective as we have deemed necessary in the present circumstances to maintain open entry, fair competition, and reasonable rates and practices.[21]

21. The BOCs also argue that the joint establishment of discriminatory network interfaces would be difficult to implement, easy to detect and unlikely given that they intend to contract with a number of CPE vendors to manufacture their CPE requirements. We are concerned, however, that particularly in the provision of business CPE, the importance of network specifications for sophisticated systems will increase, adding to the opportunity and incentive to fashion discriminatory specifications within each regional territory. Structural separation places controls on the dissemination of information, including network information, which can curtail discriminatory activity.

2. Ability of BOCs to Cross-subsidize CPE and Enhanced Services Activities From Regulated Services

22. The regional companies make the same arguments concerning the likelihood of cross-subsidization as they did in responding to the Notice.[22] They argue that opportunities for cross-subsidization have been diminished by the prohibition in the MFJ against ownership of manufacturing facilities and provision of interexchange services. They also assert that their incentives and ability to cross-subsidize are diminished by the growing pressure from state regulatory authorities to control basic transmission rates. Finally, they assert that because there are few common costs between the provision of CPE and network offerings, cross-subsidization would be easily detectable, that accounting review is sufficient to detect any misallocation of costs, and that any cross-subsidization which occurs would be too minor to warrant structural separation.

23. As we found in *Computer II*, accounting and tariff review and the complaint process promote the goal of separating costs, as does the *Computer II* requirement that every carrier maintain separate books of account for regulated and unregulated transactions.[23] The *Computer II* structural separation requirements, however, increase the benefits to the public to be derived from these other safeguards by decreasing common activities which must be allocated between regulated and unregulated operations and minimizes regulatory intrusion and oversight over this process. The BOC's have not demonstrated that the range of common activities is of a level to alleviate our concerns. In addition, separate organizations facilitate narrow, targeted scrutiny of permissible intracorporate transactions for the proper allocation and payment of costs.

24. The Order also acknowledged that the regional companies are no longer directly affiliated with AT&T or any manufacturing entity. However, even absent such affiliation, we found that unseparated CPE and enhanced services activities between each BOC and its affiliates could generate enough cross-subsidization to warrant structural separation. Structural separation, while not a foolproof method of detection or deterrence, will assist our efforts to ensure that ratepayers are properly charged for regulated activities, since BOC separate organizations must be charged for unregulated activities.[24] Upon gaining experience with the BOC's competitive offerings as their entry into competitive markets matures, we may determine that other safeguards will suffice and will adjust our requirements accordingly.

25. Several parties have argued that state commissions can protect ratepayers from bearing the costs of CPE and enhanced services ventures. Although we have no doubt that state commissions are motivated to hold down rates for regulated services, their ability to do so may be hampered by the multistate nature of the regional companies. Most of the regional's subsidiaries will operate on a broad regional basis transcending state boundaries. *See, e.g.*, Interim Capitalization Plan of BellSouth (January 30, 1984). Even Ameritech, which purports to establish subsidiaries in each state within its territory, provides numerous services from both the parent and regional subsidiaries which transcend state boundaries. *See* Interim Capitalization Plan filed by Ameritech (January 30, 1984). This fact may frustrate the states for effectively controlling the inclusion of CPE and enhanced services costs in regulated revenue requirements.

26. What is more, AT&T's divestiture of the BOC's pursuant to the MFJ and our adoption of an access charge plan have resulted for the first time in the BOC's filing their own tariffs with this Commission for a wide variety of interstate services. See *MTS and WATS Market Structure, Third Report and Order*, CC Docket 78-72, Phase I, 93 FCC 2d 241 (1983), *reconsideration*, 48 FR 42987, *further recon.*, 49 FR 7810, *further recon. pending, appeal filed*, No. 83-1225 (D.C. Cir., March 1, 1983). Prior to divestiture, the BOC's generally provided interstate service jointly with AT&T, and concurred in the latter's tariffs. The few service offerings that were contained in independent BOC tariffs, were filed by AT&T on behalf of the BOC's. The Commission, therefore was engaged in little direct oversight of BOC rates and revenue requirements. This industry structure has, of course, given way to a new regime under which the BOC's are independent providers of many access and other intraLATA interstate services to interexchange carriers and end users. We, therefore, have the responsibility to determine that BOC revenue requirements do not include improper expenses or rate base items to ensure that rates are just and

[20] *COG Order* at para. 11. In addition, we expect that any Maintenance of Service Charge (MOSC) provisions in tariffs filed by the BOCs will be applied equally when a BOC's CPE is involved or a competitor's CPE is involved. *See* Maintenance of Service Charge Declaratory Ruling, Mimeo No. 1640 (released January 5, 1984).

[21] The BOCs also argue that they have no incentive to discriminate against competitors' offerings bacause it would be counterproductive to both the BOCs and regulated ratepayers. Discrimination would, according to several parties, cause customers of those competitors to bypass the local network, harming both the BOCs and ratepayers. The BOCs' arguments in this regard may be valid; however, we are currently examining elsewhere the difficult problems raised by potential bypass. We are not ready at this time to remove structural separation based upon bypass concerns. *See* FCC Pub. Notice No. 3206 (released March 28, 1984).

[22] We found in the Order that the potential for cross-subsidization occurs where there are transactions in which the same personnel perform both network and competitive functions, such as installation and maintenance or marketing. In addition, cross-subsidization can occur where the cost of an activity is not charged to unregulated operations, such as with advertising for unregulated products. Order at paras. 28-30.

[23] *Final Decision*, 77 FCC 2d at 475.

[24] The regionals further assert that we were incorrect in assuming that the use of excess computer capacity for enhanced services would burden basic service ratepayers. They assert that such usage would actually ease the burden on ratepayers by promoting efficient use of the network. We recognize that ratepayers could benefit from efficiencies of the shared use of computer capacity to provide unregulated services. However, in practice there may be significant opportunity and incentive to disadvantage ratepayers by adding unnecessary capacity to the network at ratepayer expense and by failing to charge unregulated operations a reasonable price for the use of such capacity. We conclude at this time that the benefits of modified structural separation outweigh the costs. Nevertheless, we will monitor closely developments in the communications industry in order to modify these requirements as changed circumstances develop.

reasonable. 47 U.S.C. 201(b). In view of the multitude of service offerings and individual rates we can reasonably expect the BOC's to file as they adjust to their new status, it becomes even more important for the Commission to avail itself of self-policing regulatory tools rather than to rely solely on the resource-consuming activities of cost support analysis and accounting review. We find, therefore, that, at the present time, structural separation is the best mechanism to assist us in preventing the improper inclusion of expenses associated with CPE and enhanced services activities in regulated revenue requirements.

27 Another Commission objective in permitting carriers to offer CPE and enhanced services is ensuring that such entry does not hinder the viability and continued growth of the regulated network. This includes the requirement that a carrier obtain our approval of the capitalization, or modification thereof, of its affiliate providing unregulated products and services.[25] Our review of capitalization plans helps us to determine that the proposed activity will not burden the eventual financial independence of the separated unregulated operation and will not burden the carrier's ability to maintain and improve the basic network. Financially independent subsidiaries do not compete for additional funds which would otherwise be used to improve and maintain the underlying network. Of course, we will continue to evaluate whether BOC CPE and enhanced services offerings may provide indirect benefits to regulated operations which justify modifying or removing the current financial requirements.[26]

C. Viability of Operating Through Structural Separation

28. We are not persuaded by petitions for reconsideration which assert that the BOCs should be relieved of structural separation either because they are unable to support the expense or because other carriers not subject to structural separation could afford the expense. The interim capitalization plans filed on behalf of each subsidiary for CPE and enhanced services demonstrate that the cost of establishing such operations is currently minor in proportion to the amount of total operating company revenues. As we concluded in the Order, moreover, the regionals do not face costs of disentangling existing offerings of CPE and enhanced services from basic operations.[27] Although there may be cost savings from certain unseparated activites, the regional companies still have not in their petitions for reconsideration identified specific levels of cost from establishing separate organizations which they would not, in any event, incur if competitive offerings could be performed on an unseparated basis.[28]

29. Ameritech and Pacific Bell argue that we have failed to recognize that the MFJ's restrictions on the BOCs' provision of "information services" makes structural separation of any enhanced services they may offer even more burdensome than for CPE. They assert that the MFJ limits them to certain "low-level" functions which could not be offered economically through a separate organization.[29]

30. As we acknowledged in the Order, and in *Computer II*, there may be inefficiencies inherent in separating enhanced services from the basic network.[30] We found on balance, however, that these inefficiencies should be tolerated at this time in light of the benefits to the public from structural separation in reduced opportunities for cross-subsidization and unreasonable discrimination. Furthermore, as we stated in the Order, we are prepared to review the proper degree of separation and will be able to adjust for any unnecessary inefficiencies.[31] In particular with respect to potential network operations on protocols, we have created a framework for doing so, and will act promptly on the regionals' requests for waivers to incorporate protocol conversion into the network.[32]

D. Applicability of Structural Separation to BOCs Vis-A-Vis Other Carriers

31. A major criticism made by several regionals is that we had no legitimate basis for subjecting them to structural

[25] 47 CFR 64.702(d)(4). American Telephone and Telegraph Co. (Enhanced Services Order), 90 FCC 2d 404, *recon. granted in part and denied in part*, 91 FCC 2d 578 (1982), *further recon. denied*, FCC 83-427 (released September 20, 1983) (approving enhanced services capitalization plan), *further recon. pending*. U.S. West complains that our requirement that capitalization plans be filed 180 days prior to capitalization as required by § 64.702(d)(4) prevents it from rapidly entering competitive markets. "[T]he subsidiary, at the end of some determinate period, must be in a position to establish its financial independence and assume for itself the risks associated with its competitive ventures." Enhanced Services Capitalization Order, 90 FCC 2d at 412. We recognize that this lead time and disclosure requirement can have adverse consequences in a marketplace where other competitors are not subject to the same regulatory burden. But, this requirement permits us to review the capitalization amounts to assure that regulated funds are not unreasonably diverted to CPE and enhanced services operations. As indicated, subsidiaries should be capitalized with sufficient funding to ensure that the parent need not continually seek permission to infuse more funds. Therefore, once U.S. West's formal capitalization plan receives our approval, U.S. West has the option of funding additional activities of its *Computer II* subsidiary without receiving approval for funding from the parent. A 180 day waiting period and Commission approval in this case would not be required as long as the new venture is operated consistent with the *Computer II* separation conditions.

[26] Some parties argue that the amount of funding proposed by the regionals for unregulated activities is miniscule in comparison to the operating budgets of the regionals. It should be noted, however, that AT&T's initial capitalization amount for AT&T Information Systems (ATTIS) for the provision of enhanced services was $39 million. Since that investment, more than $11 billion in funds and assets have been provided to or transferred to ATTIS. Enhanced Services Order at 407-03; New CPE Capitalization Plan Order, 91 FCC 2d at 580; Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services, CC Docket No. 81-893, FCC 83-551 (Embedded CPE Detariffing Order) at para. 190 (released December 15, 1983), *recon. pending*. These amounts illustrate that relatively small initial capitalization can aggregate into substantial sums, and illustrate the importance of our ability to review the regional companies' funding levels to meet our responsibility under the Communications Act to ensure the viability of the nationwide network.

[27] Order at para. 59.

[28] It also appears that the regional companies do not oppose the concept of structural separation itself. Ameritech has decided to form multiple subsidiaries rather than one unified subsidiary. Bell Atlantic, BellSouth and Pacific Telesis all support their requests before the Court for waivers of MFJ line-of-business restrictions by offering to operate through separate subsidiaries. Motion of Pacific Bell and Nevada Bell for Permission to Enter into Foreign Business Ventures, filed February 8, 1984; Motion for a Waiver Permitting BellSouth Corporation to Provide a Response to NASA Request for Proposal, filed February 24, 1984, Bell Atlantic Corporation's Motion for a Waiver of Section II(D) of the Modification of Final Judgment, filed January 26, 1984 (proposed acquisition and operation of certain assets of a company leasing equipment other than CPE). These motions also do not demonstrate a variance between the costs of establishing subsidiaries as the Regionals would choose and the costs of establishing separate organizations as required by the Order. Nor do they describe the relationship of the regulated to unregulated activities the Regionals would establish. Furthermore, Bell Atlantic has not sought reconsideration of our requirement that it establish separate competitive operations although it objects to specific separation requirements. In addition, U.S. West has stated herein that it voluntarily established a separate CPE subsidiary prior to the Order, although it objects to the restrictions we have placed on the interaction between those entities and its operating companies. It is therefore difficult to weigh the assertions that requiring the regionals to operate through separate structure imposes substantial costs on the regional companies.

[29] The regional companies also request that we specify which enhanced services are not prohibited "information services" so that they will not be inhibited from entering competitive activities. Requests for waiver of line-of-business restrictions or further definition of the term "information services" are better addressed by the Court. Order at para. 22. There does not at this time appear to be any public interest reason for the Commission to involve itself in these determinations.

[30] Order at para. 55; *Final Decision* at 478-79.

[31] Order at para. 61.

[32] *See* Protocol Order, *supra* note 5; ENF File Nos. 84-15, 19, 20, 21, 22, 23.

separation when GTE [33] CBI and SNET are not required to comply with *Computer II's* structural separation conditions.[34] As we stated in the Order, this proceeding is concerned only with whether structural separation is warranted for the BOCs following divestiture, and our decision is sustainable on this basis alone.[35] In any event we did find that the BOCs may be distinguished from GTE and other independents based upon the BOCs' control of bottleneck facilities in large geographic regions containing virtually all of the populous urban areas which encompass the greatest use of CPE and enhanced services, and the lack of disentanglement costs generated by requiring the BOCs to establish separate structure for unregulated offerings. These findings have not been effectively refuted in reconsideration petitions.[36]

32. BellSouth, Ameritech, U.S. West and Pacific Bell assert that a comparison of GTE with the regionals would show that GTE possesses greater numbers of assets, net plant, construction budgets, and access lines than the regional companies. They further argue that the Order's finding that the BOCs uniformly serve large, contiguous, urban areas, while the areas served by GTE are scattered and largely rural, was an over-generalization.[37] NYNEX and Comdial represent that since GTE's service areas are spread over 31 states and 52% of GTE's subscribers are served by 11% of its central offices GTE's operations are quite concentrated. Pacific, NYNEX and BellSouth point out that GTE has a major presence in urban areas such as Los Angeles, San Diego, and Tampa-St. Petersburg. BellSouth enumerates urban areas within its operating companies' territories where GTE has a major presence. Pacific Bell cites GTE's more than 2 million access lines in California and presence in two of Pacific's key exchange areas, Los Angeles and San Diego, in support of its argument that it not be required to form a separate subsidiary to offer CPE and enhanced services. U.S. West compares itself to GTE and contrasts its operating territory with those of other regionals, representing that it serves a sparsely populated region comprising 40% of the nation's land mass with only 10% of its population. In addition, U.S. West notes that in the *Computer II Reconsideration* the Commission, in exempting GTE from structural separation, relied in part on GTE's representation that over 90% of exchanges served by GTE had 7500 or fewer main stations.[38] By comparison, in the states served by U.S. West BOCs, 66% to 97% of exchanges served by those BOCs have 7500 or fewer main stations. Nevada Bell represents that it has significantly fewer access lines than either CBI or SNET.

33. The regional companies also point out that CBI and SNET each controls monopoly bottleneck facilities in a populated urban area, while the MFJ limits the divested companies to serving non-contiguous LATAs. They point out that GTE serves almost the entire state of Hawaii and SNET serves virtually all of Connecticut. Finally, the regionals argue that GTE, CBI and SNET may provide interexchange services, while the regional operating companies may not.

34. We disagree with the conclusions the regionals draw from the foregoing. Individually, the regionals possess great financial strength and clear dominance of bottleneck facilities in their respective operating territories. Each regional company has annual revenues of more than $7.4 billion, and serves from 10 to 14 million network access lines.[39] At divestiture, each RBOC employed close to or more than 100,000 persons, and served at least 70 percent of the population in its service territory populated by 20 to 30 million persons.[40] If GTE and each regional company are compared statistically in a national context, there are similarities. This does not, however, contradict our finding that there are important distinctions between the locus of BOC and GTE operations which justify treating the BOCs differently from GTE at this time.[41]

35. We have already pointed out the extent to which the BOCs dominate urban population centers where CPE marketing efforts are likely to be most intense.[42] Further, in most geographic areas where BOCs assert that GTE is a formidable presence, statistics show that the geographically adjacent BOC is nevertheless the larger carrier in the area. IDCMA points out that in California, although GTE serves ⅓ of the Los Angeles area, Pacific Bell serves 13 Standard Metropolitan Statistical Areas (SMSAs) with a population of over 250,000 as compared to GTE's six, and in Florida, Southern Bell serves 8 of 10 SMSAs of that size.

36. The differences become even more dramatic when each RBOC is compared with CBI and SNET. While CBI and SNET each controls a populous urban exchange area, those areas are adjacent to overwhelmingly more populous areas served by the Ameritech and NYNEX BOCs, respectively. These companies dwarf CBI and SNET in terms of access lines, assets, and other bases of comparison. Ohio Bell serves the six SMSAs in Ohio which, besides Cincinnati, have populations of more than 100,000. Similarly, the major SMSAs served by the NYNEX operating companies areas surrounding SNET's service area include metropolitan New York City, Boston and Providence.

37 The regional companies and others also correctly assert that the GTE operating companies, CBI and SNET, at the time those carriers were relieved of structural separation, all were part of larger companies integrated with affiliates providing research and development and manufacturing, and with interexchange affiliates. Moreover, GTE's operating companies are affiliated at this time with a manufacturing organization and an interexchange network. Therefore, it is argued, the degree of integration is no basis for treating the regional companies' competitive operations differently from those of other carriers.

38. We never relied upon BOC integration with interLATA or manufacturing operations as a basis for structural separation. Instead we relied

[33] Structural separation originally applied to GTE Corp. (GTE) as well as AT&T. However, we later exempted GTE from those requirements. 84 FCC 2d at 72–74. We clarified that state regulators may impose structural constraints upon GTE and other independent carriers consistent with our actions in *Computer II. Further Reconsideration*, 88 FCC 2d at 542, *recon. denied*, FCC 84–190, (released May 4, 1984). We determined that we might impose structural separation for other carriers in the future. *Final Decision*, 77 FCC 2d at 470; *Further Reconsideration*, 88 FCC 2d at 541.

[34] Following the announcement of the divestiture agreement, we relieved Cincinnati Bell (CBI) and Southern New England Telephone (SNET) from structural separation. *In re Motion of Cincinnati Bell, Inc. for Declaratory Ruling to Remove Uncertainty of its Status (CBI/SNET Decision)*, FCC 83–74 (released February 25, 1983).

[35] In affirming our *Computer II* decisions, the Court affirmed our authority to apply structural separation conditions to the operations of a single carrier. Computer and Communications Industry Ass'n v. FCC, 693 F.2d at 218–19.

[36] Order at paras. 58, 59.

[37] *Id.* at para. 58.

[38] *Reconsideration*, 84 FCC 2d at 73.

[39] Joint Petition for Reconsideration of Indiana Bell Tel. Co., Michigan Bell Tel. Co., and the Ohio Bell Tel. Co. (Ameritech Petition) at 27 (February 10, 1984).

[40] Consolidated Application of AT&T and Specified Bell System Companies for Authorization for Transfers of Interstate Lines, Assignments of Radio Licenses, and Other Transactions, File No. W-P-C-4955, FCC 83–566, Appendix B *(Facilities Transfer Order)*, (released December 23, 1983), *recon. pending*.

[41] As a procedural matter, even were we inclined to impose structural separation on GTE, such a determination would require us to conduct a proceeding separate from this one to re-evaluate the costs and benefits of structural separation for GTE. Equally, as we learn more about the effects of the regionals' competitive offerings and of structural separation, we may find it appropriate to modify or remove the requirements we have placed upon the BOCs.

[42] *See* para. 17, *supra*.

in part upon their involvement with research and development activities. Order at para 36. As previously noted, the regionals control bottleneck facilities, in general, in geographically more concentrated areas than other carriers. This control increases their ability to favor their own CPE and enhanced services.[43] Furthermore, the regionals have failed to challenge the Order's findings that the regionals do not have the large disentanglement costs which independents would have in establishing structural separation. Moreover, the regionals have not shown that the costs of structural separation with respect to lost efficiencies and economies of scale outweigh the benefits to the public of the modified structural separation requirements. In any event, the sharing of certain services permitted by the Order will reduce some of the additional costs which may be caused by separate operations.[44]

39. One petition for reconsideration also appears to assert that only an organization with the same characteristics as the former Bell System requires separate structure for competitive operations. The joint petition of the U.S. West BOCs compares the aggregate net plant, operating revenues and access lines owned by the U.S. West BOCs with pre-divestiture AT&T, arguing that these great differences require this Commission to treat the divested companies differently from the integrated Bell System. These statistical differences do not sway our decision to apply structural separation to each regional company. We have consistently stated that we could, if necessary, require structural separation for carriers of less size and market power than the former Bell System. *E.g.*, Petitions for Reconsideration of Order on Further Reconsideration, Docket No. 20828, FCC 84-190 at para. 5 (released May 4, 1984). Moreover, the divested BOCs did not even exist at the time we addressed the separation issue in *Computer II*, and we could not have there resolved the separation question for these new companies. The balancing test we employed in *Computer II* requires us again to weigh the costs and benefits of separation when circumstances change.

40. Finally, several of the regional petitioners criticize us for basing our decision to apply structural separation upon potential rather than actual anticompetitive conduct. These parties assert that the Order contradicts our statement in the *CBI/SNET Decision* that we would not apply the *Computer II* requirement to CBI or SNET absent concrete evident of significant marketplace abuses.[45] They also assert that our Order is inconsistent with the statement in our *Amicus* brief submitted to the divestiture Court that upon divestiture each BOC would have no history of abuse,[46] and our statement in the MFJ proceeding that the *Computer II* separate subsidiary requirements would not appear applicable to divested companies without affirmative Commission action applying structural separation to them.[47]

41. Our statement to the Court does not indicate that we there intended to make findings of fact with respect to the actual circumstances of the regional companies after divestiture. Moreover, the Commission's support there of BOC entry into unregulated markets did not mean that we believed such entry necessarily should be on an unseparated basis. Indeed the regionals fail to quote the brief of the Commission submitted to the Court which states that we would apply separate structure if that alternative proved warranted.[48] Our Order found that the application of separate structure at this time is justified on the basis of preventing potential harm where costs do not exceed the benefits of such structure.

42. The absence of a finding of actual abuses in the case of the divested operating companies does not in any way make our application of structural separation to the BOCs improper. Language in the *CBI/SNET Decision* which suggested that there is a requirement of actual abuses in order to impose structural separation on a carrier is not inconsistent with imposing separate structure on the regional companies on the basis of significant potential harm. In the *CBI/SNET Decision*, we found that our assessment at that time of potential harm to competition was insufficient to justify structural separation for CBI or SNET in particular. This finding does not preclude us from finding that other differenty situated carriers could engage in significant anticompetitive conduct. Similarly, in the *Reconsideration* where we lifted the structural separation conditions from GTE, we stated that we would wait and see if marketplace abuses developed since the costs outweighed the benefits in imposing structural separation on GTE based on potential harm.[49] Indeed, the appellate Court affirmed the *Computer II* decisions which imposed structural separation on AT&T (and on its then-owned BOCs) on the basis of potential harm. See also *GTE Service Corp.* v. *FCC*, 474 F.2d 724, 731 (2d Cir. 1973) (affirming *Computer I* separation requirements based upon findings of potential abuse). In considering the overall cost-benefit analysis surrounding the application of structural separation to the regionals, we find at this time that the BOCs may have the potential to engage in a substantial level of conduct detrimental to the consumer. Therefore, it is within our discretion to determine that the benefits to consumers will be maximized by implementing separated operations from the outset. As we indicated in the Order, we will review the separation requirements two years after June 30, 1984. If conditions warrant, we will modify or remove entirely those requirements. In addition, as previously noted, there are currently pending waiver petitions concerning unseparated provision of protocol conversion.[50] Similarly, we may find it appropriate to remove or modify those exceptions to the *Computer II*

[43] In addition, we note that a pending GTE consent decree, while not imposing structural separation on the provision of CPE, would impose structural separation conditions on the provision of enhanced services by that company substantially similar to those applicable to the BOCs. *See* United States v. GTE Corp., 1983-2 Trade Cas. ¶50,833, at 56,812-13 (sections IV.A.6 & IV.D.2). *See also, Competitive Impact Statement filed by the U.S. Department of Justice at 34-39 (May 4, 1983) in United States v. GTE Corp., supra.*

[44] Order at paras. 53-55, 59. Admittedly, GTE, CBI and SNET might be able to operate viably through structural separation. However, simply because an independent telephone company might be capable of conducting some of its operations through a separate subsidiary does not mean that it would be in the public interest to require this. As we stated before, we have taken into account and weighed both the costs and the benefits of structural separation for each company before imposing such a requirement. We reject Pacific Bell's argument that if structural separation is less intrusive than accounting, all carriers providing competitive offerings should be subject to structural separation rather than separate accounting. We reiterate that structural separation and accounting are complementary safeguards, and that whatever costs there are in operating through separate structure are likely to become disproportionately greater for smaller carriers or carriers with geographically diffuse operations due to indivisibilities of various operations. *Computer II Reconsideration*, 84 FCC 2d at 74. In addition, structural separation does not eliminate accounting requirements, but rather obviates the necessary amount of review of such accounting systems.

[45] *CBI/SNET Decision*, at para. 33 n.29.

[46] Brief of FCC as *Amicus Curiae*, United States v. AT&T, Civ. Action No. 82-0192, (April 29, 1981).

[47] Brief of FCC as *Amicus Curiae* on Question No. 2, United States v. AT&T, Civ. Action 82-0192, at 9 n.3 (June 14, 1982).

[48] Our brief stated that "The Commission could amend [the *Computer II*] rules to extend the requirement to divested BOCs if it concluded that such a requirement would be appropriate." *Id.*

[49] *Reconsideration*, 84 FCC 2d at 72.

[50] *See* para. 2, *supra*.

restrictions we have permitted or require additional restrictions.[51]

III. Limitations on Separation Conditions

43. The petitions of ADAPSO, IDCMA and NATA, supported by other parties, object to the modifications we made to the structural separation conditions which apply to AT&T. They assert that the modifications effectively negate the benefits of structural separation and that we have fostered opportunities for the very cross-subsidization and competitive problems which structural separation is intended to reduce. We recognize that we have allowed the regional companies more latitude to commingle operations than we did with AT&T. As we have stated, however, such latitude is the result of a careful balancing of objectives herein, and is necessary to provide maximum benefits to consumers in light of the regional companies' unique post-divestiture circumstances. Both the public in general and ratepayers in particular will benefit if the regionals' reentry into CPE and enhanced services offerings is permitted to develop into fully competitive operations as long as our concerns are met.[52]

44. Moreover, the particular activities we permitted are either those which we permitted AT&T to engage in (*i.e.*, shared administrative services), or those which afford relatively minor opportunities for anticompetitive conduct or cost-shifting, *i.e.*, neutral customer referral ("dial tone referral"), joint installation and maintenance of residential and single-line business telephones, and, for four years, joint billing. In addition, we have received submissions from each RBOC entity for competitive services describing their planned operations and the manner of compliance with the separation conditions. Our thorough staff review of these plans should assist us in detecting and preventing competitive problems before they arise. We find that, with these modifications to *Computer II*, our ruling is carefully crafted so as to entail the least restrictive means of accomplishing our goals.[53]

A. Joint Billing

45. We have permitted the operating companies for four years after divestiture to bill customers for CPE provided by their separate organizations. We allowed joint billing to facilitate rapid reentry by the BOCs into CPE markets, and to alleviate customer confusion.[54] In the Order we recognized that joint billing could result in the misallocation of costs between regulated, as opposed to unregulated, products and services and in the improper transfer of customer proprietary information.[55] However, we limited the transfer of proprietary information by specifying that the CPE provider could only provide the regulated company computer tapes needed to produce a bill and could not access telephone company data bases containing customer proprietary information. We also prohibited regulated personnel from providing bill dispute resolution and bill collection activities.

46. We are not persuaded by the arguments of NATA, ADAPSO and IDCMA that joint billing will generate, rather than alleviate, customer confusion caused by divestiture, or that it will be more confusing to separate billing activities in four years than to require separate billing from the outset. At this time we believe customers are better served by receiving one bill as long as that bill distinguishes between the various entities providing products or services. During the four years in which joint billing is permitted, customers will be able to adjust to the changes stemming from divestitures and the fact that ATTIS-provided equipment will be billed separately;[56] therefore any confusion from terminating joint billing at that time should be substantially reduced. NATA also argues that the BOCs have an advantage over other CPE vendors from joint billing, because they can collect amounts owed more easily since joint billing carries an implied threat that local service may be terminated for failure to pay CPE charges. The safeguards we are requiring should substantially alleviate these concerns.

47 It is necessary to clarify the intent of the guidelines for joint billing that were specified in the Order. We required that partial payments be applied to local transmission services first and that local service could not be terminated for failure to pay CPE charges. Southwestern Bell, Pacific Bell and BellSouth represent that the Customer Records Information Systems (CRIS), through which they produce customer bills, cannot maintain separate balances for different service providers. If a customer remits payment of less than the total amount due in a particular month, the BOC generally cannot apply the partial payment to any particular provider's balance in the computerized billing system. Each petitioner asserts that modifying CRIS to mechanically segregate amounts owed each entity would be costly and could not be effectuated prior to the date set for complete structural separation. They assert that the cost of requiring such modifications is so high that, given the limited duration of the joint billing exception, it would cause them to abandon joint billing.

48. We hold to our view that local services should not be terminated for failure to pay CPE charges. Our primary concern is that customers understand that the operating company will not terminate local service or engage in collection activities for amounts owed for CPE. If a regional experiences

[51] In addition, we find unpersuasive arguments made by certain regional companies and parties which support them that we incorrectly placed the burden on the regionals to justify the removal from them of structural separation. The focus of this proceeding is whether the record adequately justifies the degree of separation we have prescribed in achieving our objectives. We have concluded that it does.

[52] ADAPSO, IDCMA and NATA also request that we reduce the six months allotted the divested companies to convert to unseparated operations, asserting that six months is longer than necessary to offset the purported competitive disadvantages the regionals face. We reject that request. The benefits of reducing that time period would be minimal and outweighed by the necessity of giving the regionals sufficent time to comply with our Rules.

[53] In contrast, the Court in the MFJ proceedings approved on outright prohibition against entry into lines of business other than CPE, Yellow Pages, exchange telecommunications, exchange access and information access. The Court of course has waiver procedures it can utilize to permit entry into those activities if warranted. Furthermore, the waiver provisions of *Computer II* remain in place to provide a vehicle to customize the separation conditions to meet individual circumstances, where warranted. For example, to protect the uninterrupted support of CPE for national security and emergency preparedness requirements of the federal government, we have waived the separation conditions on a temporary basis. American Telephone and Telegraph Company, Petition for Waiver of § 64.702 With Respect to the Department of Defense and Specified Government Agencies, File No. ENF 83-13, FCC 83-143 (released April 12, 1983). We are again considering the matter. NSEP Rulemaking, *supra* note 21. In addition, we have granted temporary waivers of the structural separation conditions to give individual enhanced service customers time to relocate equipment used to provide enhanced service to the public to their premises. *E.g.*, Letter from Chief, Common Carrier Bureau to W.G. Zanmiller dated March 2, 1983 (Michigan Bell permitted temporarily to provide Data Communications Management Service on unseparated basis); Letter from Chief, Common Carrier Bureau to William L. Leonard dated March 4, 1983 (permitting temporary use of Bell of Pennsylvania network equipment for Dial-It-Services).

[54] Order at para. 63.

[55] *Id.* at para. 62.

[56] BOC billing on behalf of ATTIS is required to be completed by June, 1985. Embedded CPE Detariffing Order at para. 116. NATA and others also question the basis for permitting the BOCs to engage in joint billing for three years following the termination of billing for ATTIS. The Order, however, is allowing joint billing, noted that customer confusion could persist even if a BOC did not bill on behalf at ATTIS. Order at para. 63. Therefore, the continuation of joint billing beyond the termination of billing for ATTIS will provide independent benefits.

difficulties in allocating partial payments to local service first it should inform us in writing by June 15, 1984 of alternative procedures which will satisfy our concerns.[57] We will promptly consider those procedures and inform the regional whether it may utilize those procedures. We anticipate ruling on those procedures by June 30, 1984.

49. Regardless of the system used, any BOC providing joint billing should require that its employees review customer records manually prior to submitting an order that service be terminated or suspended. In addition, each BOC further asserts that its procedures require that disputes regarding CPE charges be referred immediately to CPE vendors and those amounts be removed from the total balances due upon such referral. The BOCs should continue to use this procedure. We are not persuaded that allowing joint billing will negate the benefits of structural separation. Our pending review of operational and accounting plans for these services should enable us to curtail any problems caused by joint billing arrangements. We deny Pacific Bell's request that it be allowed to provide billing dispute resolution and collection services for its CPE affiliate.

50. The BOCs also propose that we rescind the requirement that CPE providers receiving joint billing services may only transfer computer tapes needed to process bills. They assert that this procedure would require costly modifications to their computer systems and they contend that, to avoid giving employees of the subsidiary access to sensitive customer proprietary data, their computers can mask such data. Our concern was that employees of the subsidiary not have on-line access to customer proprietary information in the possession of the operating company. We will not limit a BOC to transfer of computer tapes if it informs us by June 15 of its method to ensure that only non-proprietary information is transferred on-line between the subsidiary and the operating company's billing personnel and of the types of information which will be transferred. We anticipate ruling on its proposal to transfer on-line information by June 30, 1984.

51. U.S. West proposes that we permit it to utilize joint billing on a permanent basis if it also bills on behalf of third party CPE vendors as well as affiliates. We recognize that there may be benefits from permitting billing for third parties but conclude that it is appropriate to address proposals for permanent joint billing when we generally review the structural separation requirements in two years.

B. Dial Tone Referral

52. The Order created one exception to the proscription in the *Computer II* rules against the joint marketing of network services and CPE. We permitted customer contact personnel for BOC network services to inform customers in a neutral fashion that the operating company does not provide CPE but that CPE is provided both by other vendors and by the operating company's separate CPE organization. Order at paras. 67–68. Under this exception, the telephone contact person may transfer the call to the CPE affiliate if the customer permits. We required each BOC seeking to engage in this service to file an accounting and operational plan to ensure that costs are allocated correctly to the separate organization and that the referral is not used as a vehicle to market CPE actively or to derogate other vendors' products. We provided for this exception to permit the BOCs to explain to customers the impact of divestiture and our *Computer II* principles upon the BOCs' provision of CPE.

53. NATA, IDCMA and others question whether the Commission can effectively monitor neutral referrals without specifying permissible language or procedures. They also contend that the flow of information about customers' needs will unduly advantage regional company CPE providers. They also fear that dial tone referral gives the RBOCs unwarranted leverage to market CPE to captive monopoly service customers, an advantage that no other CPE vendor possesses. Parties opposed to this exception propose that if it is continued, operating company personnel be permitted to refer CPE customers only to general information sources such at the Yellow Pages and newspaper advertisements, that the actual referral be limited to providing the CPE vendor's telephone number, and that the BOC contact personnel maintain a list of CPE vendors to whom customers requiring CPE would be referred.

54. We find no justification for eliminating the dial tone referral exception or adopting the specific alternatives at this time. While the parties raise valid concerns, we believe that our procedures for reviewing the individual BOCs' conduct in this area, including the complaint process, are sufficient to prevent abuses.

C. Joint Installation and Maintenance

55. We have permitted the BOCs, subject to our approval of operational and accounting plans, to use the same personnel who perform network installation and maintenance to install and maintain residential and single-line business telephones, should they wish to do so. We found that there would be only a relatively small amount of common costs which would need to be allocated, and therefore, that these services need not be provided seperately.[58] NATA contends that the very simplicity of installing and maintaining this equipment increases the opportunity for misallocation of costs between network and unregulated operations, and that review of accounting and operational plans provides little safeguard against misreporting of time spent on different activities by network technicians. Although there may be some opportunity for abuse of this exception, we stand ready to correct such abuse where warranted. The efficiencies of joint operations in this area outweigh the limited opportunity for cross-subsidization or other anticompetitive behavior.

56. In addition, BellSouth requests that, until we have disposed of petitions for reconsideration in our proceeding to implement the detariffing of embedded CPE, we permit the BOCs to provide installation and maintenance of embedded CPE remaining with the BOCs on an unseparated basis from the maintenance of new CPE. This request is granted in view of the limited amounts of CPE remaining with the operating companies. *See* Embedded Base Detariffing Order at para. 5, n.9.

D. Shared Administrative Services

57. We have authorized the BOCs to share with their separated affiliates certain administrative services. These services include financial, accounting, legal, auditing, personnel recruitment and management, tax, insurance and pension services.[59] Certain parties, ADAPSO in particular, assert that we should have enumerated at the outset the range of services permitted to be shared, requiring each BOC which seeks to provide any particular shared service to demonstrate the need to share that service.

58. We conclude that the procedures we have adopted are satisfactory to ensure that there is no unjustified sharing of administrative services. We required the BOCs to file shared

[57] We expect that at a minimum each regional will state on the monthly bill that the customer's service may not be terminated for failure to pay CPE charges, and will contact a customer by telephone in order to determine that the late payments are unrelated to a CPE billing dispute prior to ordering the termination of exchange service.

[58] Order at para. 71.

[59] *Further Reconsideration*, 84 FCC 2d at 83.

administrative service plans in order to determine whether the sharing proposals are in compliance with the policies of *Computer II* and related decisions. Prior to approval of shared service accounting plans, however, we are permitting the BOCs, after June 30, 1984, to share those administrative services which AT&T has been permitted to share with ATTIS. Order at para. 78.[60] We delegate to the Chief of the Common Carrier Bureau authority to make modifications to the accounting procedures utilized to bill the *Computer II* organization for shared administrative services. The Bureau should report to us the results of its investigation with respect to shared administrative services by April 1, 1985.

IV Ordering Clauses

59. Accordingly, pursuant to sections 4(i), 4(j), 201–205, 214, 218, 403 and 405, of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and (j), 201–205,214, 218, 403, and 405) and §§ 1.106 and 64.702 of our Rules (47 CFR 1.106 and 64.602) it is ordered that the petitions for reconsideration, or in the alternative, for waiver, filed by Bell Atlantic; BellSouth; Mountain Bell, Northwestern Bell, and Pacific Northwest Bell; New England Telephone and New York Telephone; Indiana Bell, Michigan Bell and Ohio Bell; Nevada Bell; Pacific Bell; Southwestern Bell; Association of Data Processing Organizations, Inc., North American Telecommunications Association; and Independent Data Communications Manufacturers Association are denied except as described herein.

60. It is further ordered that the motion for stay filed by Illinois Bell and Wisconsin Bell is denied.

61. In view of the complexity of this proceeding, the public interest would be served by a grant of all motions herein to supplement pleadings, to accept late filed pleadings, and to accept pleadings exceeding page limitation. Accordingly, it is further ordered that these motions are granted.

62. It is further ordered that the Secretary shall cause a copy of this Order to be published in the Federal Register.

63. And is is further ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix—Parties Filing Pleadings in This Proceeding

Petitioners

Association of Data Processing Services Organizations (ADAPSO)
Bell Atlantic Telephone Companies
BellSouth Corporation
Independent Data Communications Manufacturers Association (IDCMA)
Indiana Bell Tel. Co./Michigan Bell Tel. Co./Ohio Bell Tel. Co. (Ameritech BOCs)
Mountain States Tel. and Tel. Co./Northwestern Bell Tel. Co./Pacific Northwest Bell Tel. Co. (US West BOCs)
Nevada Bell
New Vector Communications. Inc.
New York Tel. Co./New England Tel. Co. (NYNEX BOCs)
North American Telecommunications Association (NATA)
Pacific Bell
Southwestern Bell Corporation

Oppositions and Comments

American Telecom, Inc.
ADAPSO
Comdial Corporation
GTE Telenet Communications Corporation
Hayes Microcomputer, Inc.
International Business Machines Corporation
IDCMA
MCI Telecommunications Corporation
National Cable Television Association
National Telecommunications and Information Administration
NYNEX BOCs
NATA
RCA Cylix Communications Network, Inc.
Rolm Corporation
Southwestern Bell
Tandy Corporation
Telocator Network of America
Tymnet, Inc.
US West BOCS

Replies to Oppositions and Comments

Ameritech BOCS
ADAPSO
Bell Atlantic
Bell South
Comdial
IDCMA
NATA
NYNEX DOCs
Southwestern Bell
US West DOCs

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BILLING CODE 6712-01-M

[60] The U.S. West BOCs request that if we affirm the requirement of structural separation, we further limit the *Computer II* separation requirements. They request that a regional company's enhanced services provider be able to build and own its own basic transmission facilities or pay compensatory rates for the use of a regulated affiliate's central office facilities; that the enhanced service provider be permitted to resell exchange services provided by a regulated affiliate; that a separate subsidiary be permitted to sell transmission and network equipment to regulated affiliates on an arm's length basis; that operating companies be permitted to sell cetain services to unregulated affiliates on marketplace terms. U.S. West has not proffered the accounting systems which could adequately separate costs associated with the foregoing exceptions and has not identified the level of increased costs which result from retaining these separation conditions. The reasons for imposing each of these separation conditions were fully articulated in the *Computer II* decisions. We find that U.S. West has not at this time met its burden of justifying these modifications of the *Computer II* separation conditions. We do not, of course, conclude that we would not modify these conditions pursuant to a particularized showing of need and justification. For example, we are currently considering the modification of particular portions of these conditions for AT&T. *See* American Telephone and Telegraph Company Provision of Basic Services Via Reasle by Separate Subsidiary, CC Docket No. 83-1375, FCC 83-604, *49 FR 1248* (released January 5, 1984); Special Construction of Lines and Special Service Arrangements Provided by Common Carriers, Notice of Proposed Rulemaking, CC Docket No. 84-369, FCC 84-146, *49 FR 19528 (released April 30, 1984).*

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47 CFR Part 90

[Docket No. 20846; FCC 84-170]

Interconnection of Private Land Mobile Radio Systems With Public Switched Telephone Network in 806-821 and 851-866 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule; action on petitions for reconsideration and rulemaking.

SUMMARY: The Commission is adopting a *Memorandum Opinion and Order* in response to a Petition for Reconsideration and a Joint Petition for Reconsideration or Rule Making of the Commission's previous *Memorandum Opinion and Order*, Docket No. 20846, which amended the rules governing interconnection above 800 MHz. This *Memorandum Opinion and Order* affirms the rule changes made by the Commission's *Second Report and Order*, Docket No. 20846, and the previous *Memorandum Opinion and Order.*

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Nia Chingos Cresham, Private Radio Bureau, Land Mobile and Microwave Division, Rules Branch, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Radio.

Memorandum Opinion and Order

In the matter of amendment of Part 90 of the Commission's Rules to Prescribe Policies and Regulations to Govern the Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network in the 806-821 and 851-866 MHz Bands (Docket No. 20846).

Adopted: April 26, 1984.
Released: June 20, 1984.
By the Commission.

Background

1. In view of the length of the pendency of this docket, we feel it is useful to recapitulate the history of this proceeding here for ease of

understanding the issues now before us. The Commission initiated this proceeding in 1976 with a *Notice of Inquiry and Notice of Proposed Rule Making* "to better define and regulate interconnection of private land mobile systems with the public switched telephone network [PSTN]." [1] In general, we characterized interconnection as describing those situations "in which a PSTN telephone is interconnected to radio facilities licensed in the private services to permit communications in a radiotelephone mode," and noted that for many years licensees in the private land mobile services have used the wireline facilities of telephone companies in conjunction with the operations of their radio systems.[2] Transmitter control in the context of private land mobile stations was the ability of the licensee to turn the land station on and off, which traditionally involved a station operator and compliance with the control requirements.[3] We noted, however, the increasing use of the dial-up circuits as a substitute for leased lines to control transmitters, as well as the emergence of automatic interface equipment which obviated the need for a dispatcher manually to interface radio and telephone systems.[4] We stressed our concern that as modern equipment and techniques became available which permitted "connection to be made automatically at the transmitter site, or elsewhere," there was the risk that the licensee's control point operator would lose "effective control" of the transmitters.[5]

2. As an initial point we stated our predisposition to define the "key" to permissible interconnection arrangements as the maintenance of "proper control over the circuit" which was used to turn the transmitter off and on.[6] In order to accomplish this we stated we intended to require "all calls' from PSTN telephone positions to be received at the transmitter control position by the licensee's dispatcher and to be manually connected (patched), if interconnection is to be done at all." [7] While we indicated we would not require calls placed from mobile stations into the PSTN to be manually patched, we also stated that the licensee's control station operator must be able to (1) monitor the conversations; (2) interrupt the call; and (3) be able to override the mobile and close down the base station if required.[8] Having enunciated our objectives in this matter, we stated, "but we recognize that restrictions of this kind may go too far." [9] We therefore asked interested parties to address themselves to this subject in their comments as fully as possible.[10]

3. In response to this Notice, numerous comments were filed by associations of radio utilities, private land mobil user groups, local governmental entities, radio equipment manufacturers and emergency service providers. After reviewing these submissions, in 1978 we issued a *First Report and Order*. Interim provisions were applied to the 806–821 and 851–866 MHz bands (hereinafter 800 MHz), while varying conditions and restrictions were adopted to govern the other bands.[11]

4. More specifically, for the bands below 800 MHz, we adopted (1) geographic limitations on all interconnected systems within 75 miles of 25 of the nation's largest urban areas in the Automobile Emergency, Business, Special Emergency, Special Industrial and Taxicab Radio Services; [12] (2) special provisions covering the use of internal systems of communication in conjunction with the operation of private land mobile stations; (3) special provisions to govern the use of dial-up circuits for transmitter control; and (4) special requirements pertaining to the methods of interconnection, such as monitoring by the control operator, and time limitations on interconnected communications. A three second limitation was placed on initial access transmissions from the PSTN, at which time the transmitter would not shut down and further communications had to be initiated by the mobile operator. Moreover, the system had to be designed for the transmitter to shut down and all conversation cease after three minutes. In simplex operations, transmissions were limited to 30 seconds prior to shut down. Timers were required to be installed at all base station transmitters which would limit interconnected communications to three minutes, prior to system shut down. We also separated paging regulations from those relating to two-way voice and data communications.[13] Finally, we permitted licensees of existing interconnected systems to continue using them until January 1, 1984. On or prior to this date, however, all of these systems were to be brought into compliance with the rules we adopted in the *First Report and Order*.[14]

5. The *First Report and Order* concluded that the key to permissible interconnection of radio systems with the public switched telephone network was the ability of licensees to maintain "postive control" over "the radio facilities authorized for their use." [15] We also stated we favored the use of dial-up circuits to control private land stations because it was both economic and efficient and because the requirement that private land mobile licensees employ dedicated leased lines was "wasteful of telephone company resources." [16] We modified our rules, however, to limit the use of dial-up circuits to "link 'licensed transmitter control points'" and "transmitters being controlled." [17] Further we required system design features to preclude operation of the land station from any fixed position other than a licensed control point.[18] Lastly, we required licensees to employ special equipment to prevent a licensee's mobiles from reaching points in the public switched telephone network other than the authorized control points of the licensee.[19]

6. Upon review of the arrangements and equipment licensees could employ to interconnect their radio stations with the public switched telephone network, we recognized that possible configurations varied "in almost infinite detail." [20] We also noted that the patch or interconnection device was available from a variety of sources and in a wide selection of equipment for operations in both the automatic and manual mode. We further recognized that all types of special equipment were obtainable which (1) allowed automatic channel monitoring; (2) could restrict dialing to pre-determined numbers;[21] and (3) permitted full duplex, half duplex or simplex modes of operation.[22] We therefore concluded that access to the PSTN by licensees of private radio systems was not limited by available technology.[23]

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[1] *Notice of Inquiry and Notice of Proposed Rule Making*, Docket 20846, FCC 76-603 41 FR 28540 (July 12, 1976).

[2] *Id.* at paragraphs 2 and 7.

[3] *Id.* at paragraph 4.

[4] *Id.* at paragraph 6 and footnote 6.

[5] *Id.* at paragraph 8.

[6] *Id.* at paragraph 10.

[7] *Id.*

[8] *Id.* at paragraph 11.

[9] *Id.* at paragraph 12.

[10] *Id.* at paragraph 18.

[11] *First Report and Order*, Docket No. 20849, 69 FCC 2d 1831 (1978), 43 FR 38390 (August 23, 1978), at paragraph 3.

[12] *Id.* at paragraph 4.

[13] *Id.* at paragraph 5.

[14] *Id.*, Appendix B, § 89.951(f).

[15] *Id.* at paragraph 7.

[16] *Id.* at paragraph 8.

[17] *Id.* at paragraph 9.

[18] *Id.*

[19] *Id.* at paragraph 9.

[20] *Id.* at paragraph 16.

[21] *Id.* at paragraph 18.

[22] *Id.* at paragraph 19.

[23] *Id.* at paragraph 20.

7 We also determined that interconnection of private land mobile radio systems with the public switched telephone network was consistent with the purposes private radio systems were intended to serve.[24] We noted that as early as 1968, in the *Carterfone* case,[25] the Commission had concluded that private land mobile licensees had demonstrated significant needs and requirements for interconnected facilities, and these conclusions were again affirmed in 1978.[26] We also found that there was nothing intrinsic in the nature of private services to bar interconnected operation, and there was no inter-system compatibility argument to persuade us that dispatching types of operation could not continue in the private services merely because other licensees used interconnected circuits.[27] The record persuaded us that the two methods of operation (i.e., dispatching and interconnection) may and do work well and effectively together.[28] In sum, on the entire subject of spectrum impact and the issue of whether interconnection in the private services would achieve or impede efficient communications in the private land mobile radio services, we agreed that interconnection would improve operating efficiencies, particularly where modern automatic equipment was employed.[29] We did, however, adopt geographic restrictions on interconnection, as noted *infra*, in areas where frequency congestion was present, based on the conclusion that congestion follows population density patterns, and that if the right to interconnect in these radio services were limited to areas 75 miles or more from the centers of the most densely populated urbanized areas, the potential for adverse results would be eliminated.[30] We deferred action on the subject of common point interconnection pending resolution of the regulatory status of third party arrangements.[31]

8. Petitions were received to reconsider various aspects of our *First Report and Order* and in response to these petitions we revisited and modified several aspects of the earlier decision by a *Memorandum Opinion and Order* issued in 1979.[32] More specifically several parties had argued that the geographic and radio service restrictions on interconnection were too broad and should be relaxed.[33] We declined to modify our earlier decision, however, in light of the "high-intensity use services" involved.[34] We also declined to eliminate the rules adopted in the *First Report and Order* which required interconnected communications to be limited in length in automatically interconnected mobile systems. While we recognized such an automatic time out rule could be undesirable, we refused to eliminate it across the board. However, it was eliminated in the Police, Fire, Local Government, Special Emergency, Power, Petroleum and Railroad Radio Services, in recognition of and agreement with the particular arguments made for these exceptions. A *Further Notice of Proposed Rule Making* was also issued in 1979 to address interconnection at 800 MHz.[35]

9. In 1982, in response to the *Further Notice of Proposed Rule Making*, a *Second Report and Order* was released adopting final rules to govern the interconnection of 800 MHz stations. After reviewing the entire history of this proceeding, we reaffirmed the public interest in facilitating interconnection in the private land mobile services,[36] and we adopted rules which were less rigid than those adopted in the *First Report and Order*.[37] We concluded that eligibles in the private services should have "freedom to use state-of-the-art equipment and systems design"[38] and that their use of their radio systems in an interconnected mode should not be "fettered unnecessarily by artificial limitations and restrictions."[39] More specifically, we decided not to adopt any geographical, radio service or time limit restrictions for the bands above 800 MHz.[40] Also we amended our interim rule provisions which limited 800 MHz interconnection to a licensee's premises and prohibited common point interconnection by a group of licensees.[41] In so doing, we concluded the effect of this rule was "unnecessarily inefficient" and denied private radio licensees and users alternatives which "may be economically more desirable." Interconnection was permitted in a manual or automatic mode [42] and there were no time limits imposed on the length of communications.[43] Finally, there were no requirements placed on licensees to employ specially designed channel monitoring equipment.[44] However, we prohibited Specialized Mobile Radio System (SMRS) base station licensees from making arrangements for the telephone service. These changes in the Commission's regulatory structure were designed to increase the utility of private land mobile systems by facilitating the passage of information from a telephone user to a radio user and *vice versa*.[45] These changes were also found to serve the public interest by maximizing consumer choice.[46]

10. On reconsideration, the *Second Report and Order* was modified by a *Memorandum Opinion and Order*, which also addressed the effect of "The Communications Amendments Act of 1982" on the rules governing interconnection above 800 MHz.[47] The

[24] *Id.* at paragraph 21.

[25] *Carterfone*, 13 FCC 2d 420 (1968).

[26] *First Report and Order*, Docket No. 20846, at paragraph 22.

[27] *Id.* at paragraph 28.

[28] *Id.* at paragraph 30.

[29] *Id.* at paragraph 33.

[30] *Id.* at paragraph 31.

[31] *Id.* at paragraph 47.

[32] *Memorandum Opinion and Order*, Docket No. 20846, FCC 79-720, 44 FR 67119 (November 23, 1979).

[33] One party, Telocator Network of America, argued that the number of geographic areas in which the restriction should apply should be increased.

[34] *Memorandum Opinion and Order, supra*, at paragraph 12.

[35] *Further Notice of Proposed Rule Making*, Docket No. 20846, FCC 79-18, (1979).

[36] "Modern society could not function as it does without telephone communications, and information transmitted over private radio facilities often originates from a telephone and *vice versa*. Without interconnection, transfer of such information between radio and telephone facilities can only be accomplished orally through a third party, with the possibility of error. For this reason we concluded in *Carterfone*, 13 FCC 2d 420 (1968), that interconnection of private radio and telephone facilities is in the public interest, and it increases the utility both of radio facilities and the telephone facilities involved. Even parties opposing permissive interconnection herein do not deny this. Their main concern, rather, relates to the way in which interconnection of private systems to telephone facilities should be accomplished * * * In sum the need for interconnection at 800 MHz is clear." *Second Report and Order*, Docket No. 20846, 89 FCC 2d 741 (1982) at paragraph 42.

[37] *Second Report and Order, supra*, at paragraph 37.

[38] *Id.*

[39] *Id.*

[40] *Id.* at paragraph 50.

[41] *Id.* at paragraph 49.

[42] *Id.* at paragraph 50.

[43] *Id.*

[44] *Id.*

[45] *Id.* at paragraph 39.

[46] *Id.* at paragraph 43.

[47] *Memorandum Opinion and Order*, Docket No. 20846, released May 27, 1983, 48 FR 29512 (June 27, 1983). The *Memorandum Opinion and Order* addressed Petitions for Reconsideration filed by Telocator Network of America and the National Association of Regulatory Utility Commissioners. The *Memorandum Opinion and Order* has been appealed to the United States Court of Appeals, District of Columbia Circuit, *Telocator Network of America* v. *FCC & USA*, No. 83-1905, and *People of the State of California and the Public Utilities Commission of the State of California, et al.* v. *FCC & USA*, No. 83-1791. *See, also* "The Communications Amendments Act of 1982," Pub. L. 97-259, 96 Stat. 1087, September 13, 1982; see Section 120 (Section 331 of the Communications Act of 1934, as amended, is codified at 47 U.S.C. 332).

Memorandum Opinion and Order further amended the rules to allow private licensees and users authorized to operate transmitters in the private land mobile bands at 800 MHz to obtain telephone service from any duly authorized carrier either individually or jointly on a non-profit cooperative basis. Third parties, including SMRS base station licensees and equipment suppliers, were permitted to act as ordering agents in arranging for telephone services for licensees and users, in recognition that this could facilitate the process thereby benefitting the public generally. However, we required the telephone service to be secured on a non-profit, non-resale basis. The *Memorandum Opinion and Order* also addressed arguments that the interconnection device or patch is part of the telephone service and should be provided by an authorized carrier. We determined that the patch is simply an unlicensed piece of electronic gear broadly manufactured and available from many sources and there was no public interest reason for regulating the manner in which it was obtained.[48]

Petitions for Reconsideration

11. Two Petitions for Reconsideration of this *Memorandum Opinion and Order* have been filed. A "Joint Petition for Reconsideration or in the Alternative Petition for Further Rule Making Action" was filed by Communications Sales and Services, Inc., South Texas Radio Service, Inc., Auto Page, Inc. and Louis Systems, Inc. Another request for reconsideration was filed by the Telocator Network of America ("Telocator").[49]

12. The Joint Petition was filed by a group of small businesses engaged in the sale and servicing of radio equipment. They are licensees and users of private paging and two-way systems. The Joint Petition requests that the Commission reconsider its decision in the *Memorandum Opinion and Order*, or issue a further order amending Part 90 of the Commission's Rules to: (1) Eliminate the restriction on transmitter control from positions in the PSTN in the operation of paging stations and (2) eliminate the restriction against the interconnection with the PSTN of certain shared radio systems operating below 800 MHz.[50]

13. In support of its request to eliminate the restrictions on transmitter control from positions in the PSTN the Joint Petition points out that the practical effect of the Commission's Rules is to preclude the use of the telephone to control paging transmitters except to the extent the telephone is equipped as a control point. This restricts the flexibility of licensees and users in the operation of their paging transmitters while increasing their cost and reducing the effectiveness of their system.[51] In addition, the Joint Petition notes that there is currently no similar restriction prohibiting access from the PSTN on interconnecting two-way private radio systems. It contends there is no longer justification for the restriction on one-way paging systems and points to the "The Communications Amendments Act of 1982."

14. In discussion of its request to eliminate restrictions on the interconnection of private land mobile radio systems below 800 MHz with the PSTN, the Joint Petition points out that similar restrictions on interconnected shared radio facilities above 800 MHz were removed by the Commission in its *Second Report and Order* and its *Memorandum Opinion and Order*. The thrust of the Joint Petition is that the restriction below 800 MHz which prevents interconnection at a common point where radio equipment is provided by a third party is no longer necessary and is economically inefficient.[52] In addition, the Joint Petition argues that the Commission's deferral of a decision on interconnection at shared locations pending the resulution of the regulatory status of third party arrangements should no longer be an issue in light of the new legislation and the Commission's *Memorandum Opinion and Order*.[53]

15. Telocator, a representative of the radio common carrier industry, argues that the Commission's interpretation of the new legislation and the rule changes made in the *Memorandum Opinion and Order* which permit private licensees and users to interconnect freely, limited only by the prohibition against "resale" of telephone service or facilities, are incorrect and should have been subject to notice and comment. Telocator would interpret the legislation as prohibiting all interconnection of private land mobile radio services with the PSTN, except for certain very limited exceptions. Telocator also argues that by allowing private licensees and users to utilize the services of ordering agents in obtaining telephone service from a duly authorized carrier, the Commission is allowing "resale" of the telephone lines. A third argument made by Telocator refers to the amendment of 47 CFR 90.129(1). This section previously required that applicants proposing to operate interconnected stations include in their applications a complete description of the equipment, devices and techniques to be used to accomplish interconnection. Our amendment simplified this procedure by requiring only that applicants indicate on their applications that their stations will be interconnected, rather than sending detailed descriptions of the interconnection to the Commission. However, licensees were required to maintain detailed descriptions of the interconnection techniques in their station records. Telocator claims that the new rule impermissibly confines its application to the PSTN and that dedicated and non-switched lines should also be included. Finally, Telocator challenges the Commission's decision that the patch may be provided by any third party on a competitive basis, and argues that it must be obtained "directly from a duly authorized carrier."[54]

Oppositions

16. Oppositions to Telocator's Petition for Reconsideration were filed by: The National Mobile Radio Association (NMRA), a non-profit association of small businesses engaged in sales and maintenance of radio communications equipment and systems; the National Association of Business and Educational Radio (NABER), a recognized frequency advisory committee and a non-profit association of Business Radio Service licensees and vendors of private land mobile products and services; and the Central Committee on Telecommunications of the American Petroleum Institute (API), an association of representatives of petroleum and natural gas companies. In general, these parties support our conclusions in the *Second Report and Order* and the *Memorandum Opinion and Order*. They disagree with the points raised by Telocator, and argue that our interpretation of the new legislation is correct. In addition, NABER states that each of the arguments made by Telocator was raised in its Petition for Reconsideration of the *Second Report and Order* and has already been addressed in the *Memorandum Opinion and Order*.

[48] *Memorandum Opinion and Order*, at paragraph 16.

[49] Telocator was also one of the parties who petitioned for reconsideration of the *Second Report and Order*.

[50] These regulations are contained in 47 CFR 90.490(c), and 90.477(d) (1) and (2), respectively.

[51] Joint Petition, p. 4.

[52] 47 CFR 90.477(d)(1).

[53] *First Report and Order, supra*, p. 17.

[54] Petition for Reconsideration by Telocator, p. 16.

17 Telocator filed an Opposition to the Joint Petition for Reconsideration, arguing that the Commission should not act on the Joint Petition until it resolves Telocator's Petition for Reconsideration.[55]

Decision

18. We have reviewed the various points raised by the petitions for reconsideration and the responses thereto and we affirm our earlier conclusions. We also decline to expand in this document the applicability of this proceeding to private land mobile systems operating below 800 MHz.

19. Telocator has requested reconsideration of each of the issues discussed in our *Memorandum Opinion and Order*. These are essentially the same issues previously raised by Telocator in its Petition for Reconsideration of the *Second Report and Order*,[56] with the exception of our interpretation of the legislation, discussed *infra*.

20. Telocator appears to present two arguments for reconsideration of our interpretation of the new legislation. The first argument is a procedural one which claims that the Commission violated the due process rights of the parties by interpreting section 331 without issuing a *Notice of Proposed Rule Making*.[57] The second argument is a substantive one which claims that the Commission interpreted the legislation incorrectly. We fail to find merit in either of these arguments.

21. First, we will address Telocator's allegation that it was entitled to specific notice and an opportunity to comment prior to our considering the impact of the new legislation in the context of this proceeding. The new section 331(c), which contains specific provisions for private land mobile radio services, was enacted by Congress, signed by the President and became effective on September 13, 1982. Thus, no question exists that all interested parties had constructive, if not actual, notice of the passage of this legislation during the pendency of this proceeding. Accordingly, this is not a case where facts or ideas considered and relied upon during the rule making were available only to the agency. Compare *Portland Cement Ass'n* v. *Ruckelshaus*, 486 F.2d 375, 393 (D.C. Cir. 1973), *cert. denied*, 417 U.S. 921 (1974). More importantly, although the provisions of the statutory amendment influenced our policy determinations concerning interconnection, we were not required to solicit public comment before construing or considering the meaning of the legislation. The public had ample notice and opportunity to comment on all aspects of the policy issues under consideration in this docket; matters involving only statutory interpretation are uniquely within an agency's prerogative. *See* 5 U.S.C. 553(b)(3)(A), [interpretive rules are not subject to the notice and comment requirements of the APA]. Accordingly, we believe that no unfairness resulted merely because we acknowledged and considered the new law when reaching our decision.[58] Furthermore, Telocator stated in its Petition for Reconsideration in this proceeding, that, "the legislation is now the law of the land which the Commission is duty bound to execute and enforce." (Petition for Reconsideration, at page 3.) In fact, throughout its Petition, Telocator refers to the Commission's legal obligation and authority under the new legislation. Telocator apparently argues that the Commission has immediate authority to interpret and apply the legislation only if it is in conformance with Telocator's interpretation; otherwise, we must issuing a *Notice of Proposed Rule Making* prior to applying the legislation. As discussed above, however, we believe that we were fully empowered to consider the impact of the legislation on issues in this docket without issuing a *Further Notice of Proposed Rule Making*.

22. Telocator also disagrees with our interpretation of section 331(c), and argues that the new legislation prohibits all interconnection of private land mobile services with the PSTN, except for certain very limited exceptions. Telocator argues that the Commission's application of section 331(c) is too broad, and "improperly inverts the burden of proof" concerning interconnection, by allowing private licensees and users to interconnect freely, subject to the restriction on the resale of telephone services and facilities. Instead, Telocator would place the burden on the entrepreneurs involved with interconnected stations to prove that the interconnection falls within an "exception to the prohibition" as provided by the legislation. We have considered the argument made by Telocator, and do not find it to have merit. The intent of Congress in drafting this legislation was to clarify that private systems may be interconnected with the PSTN, and remain classified as private land mobile service.[59] This is evident by the accompanying legislative history, which states that "[o]nly if a private land mobile operator or licensee is reselling for profit interconnected common carrier services is the interconnection prohibited." [60] We have interpreted the statute as Congress indicated, by allowing interconnection of private land mobile radio services with the PSTN by eligible users on a commercial basis as long as the telephone services and facilities are provided on a non-resale basis.[61]

23. Although Telocator has not presented any further arguments which cause us to alter our previous conclusions, we will address briefly the other issues it has raised on reconsideration. Telocator argues that by allowing private licensees and users to utilize the services of ordering agents in obtaining telephone service from a duly authorized carrier, the Commission is allowing "resale" of telephone services and facilities. This issue was specifically addressed in the *Memorandum Opinion and Order*, where we stated that any joint arrangements must be for telephone service to be provided on a non-profit basis with costs apportioned among the participating user-licensees on a pro rata formula or paid by each participant to the carrier providing the telephone service.[62] We therefore have continued to prohibit the resale of telephone service or facilities in the private land mobile services. As stated earlier, Congress intended to prohibit interconnection only if the private land mobile operator or licensee is reselling for profit common carrier services or facilities. Our private land mobile rules do not permit resale of telephone services or facilities.[63] Another

[55] The Joint Petition filed a Reply to Telocator's Opposition, reiterating its position.

[56] Petition for Reconsideration and/or Clarification by Telocator, filed June 3, 1982.

[57] *Petition for Reconsideration*, p. 3. Section 331(c) of the Communications Amendments Act of 1982 is codified at 47 U.S.C. 332(c).

[58] Indeed, we note that Telocator recognized our authority and responsibility in this regard in a separate proceeding where it argued that as of September 13, 1982, " . the new test of common carriage in the land mobile services promulgated by that section became an integral part of the law which the Commission is duty bound to execute and enforce. 47 U.S.C. 151. While there may be a reasonable basis for instituting a rulemaking for the purpose of identifying and revising those already administratively final rules which are affected by the legislation, there is correspondingly no basis whatsoever for refusing to reexamine those rules which are not yet administratively final and which are in conflict with the legislation." Telocator's Reply to Oppositions, filed December 7, 1982, at page 2; *See Memorandum Opinion and Order*, Docket No. 80-183, released November 23, 1983, 48 FR 56229 (December 20, 1983).

[59] *See Conference Report*, No. 97-765, 97th Cong., 2d Sess., August 19, 1982, at 55.

[60] *Id.* at p. 56.

[61] 47 U.S.C. 332(c)(1).

[62] *Memorandum Opinion and Order*, at paragraph 14.

[63] 47 CFR 90.477.

argument made by Telocator is that the interconnection device or "patch" must be obtained directly from a duly authorized carrier. We received numerous comments on this issue prior to the release of our *Memorandum Opinion and Order*, and see no need to address this in detail at present, particularly since Telocator also argued this point in its Petition for Reconsideration of the *Second Report and Order*. We would only reiterate that the patch is simply an unlicensed piece of electronic gear, which is not part of the telephone facilities and which may be furnished by the provider of the base station equipment or any other third party on a competitive basis.[64]

24. Lastly, Telocator objects to our amendment of 47 CFR 90.129(l). On February 15, 1983, the Office of the Managing Director released an *Order* eliminating the requirement in § 90.129(l) that applications for interconnected stations in the private land mobile radio services include a complete description of the equipment, devices, and techniques to be used to accomplish interconnection. Instead, as a result of our amendment of § 90.129(l), applicants are now only required to indicate on their applications that their stations will be interconnected. They then must keep detailed descriptions of the interconnection as a part of their station records but need not file the information with the Commission unless requested to do so in particular instances. On April 4, 1983, Telocator filed a Petition for Reconsideration of the *Order*. However, we specifically addressed this issue in our *Memorandum Opinion and Order* at footnote 18. We concluded that it was unnecessary for this information to be considered on a routine basis, and by requiring licensees to keep descriptions in their station records, we could minimize administrative burdens and obtain the information if necessary to ensure compliance with our rules. Telocator has presented no persuasive argument why that decision should be reconsidered, and we are, therefore, dismissing its Petition for Reconsideration on this point in this proceeding.

25. The Joint Petition raises two requests. The first, elimination of the prohibition on the control of paging transmitters from telephone positions in the PSTN, has already been implemented by the Commission on a limited basis at 900 MHz.[65] As we stated in our reconsideration of our 900 MHz decision, we will not remove this restriction in other frequency bands until more experience is acquired, and we do not find any further action to be appropriate at this time.

26. The second request, for elimination of restrictions on interconnection below 800 MHz, is being addressed in a separate proceeding being initiated in a companion item which incorporates several of the suggestions made in the Joint Petition.[66] We decline, therefore, to address these issues further in this proceeding.

27 Accordingly, it is ordered that the petitions for reconsideration and rulemaking in this proceeding are granted to the extent indicated and denied in all other regards, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-16932 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

[64] *Memorandum Opinion and Order*, at paragraph 18.

[65] *See Memorandum Opinion and Order*, Docket No. 80-183, released November 23, 1983, 49 FR 50229 (December 20, 1983).

[66] *See Notice of Proposed Rule Making*, Docket 84-414, released June 12, 1984.

GENERAL SERVICES ADMINISTRATION

48 CFR Part 553

[APD 2800.12 CHGE 1]

Illustration of Forms

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to add revised and new illustration of forms in Part 553. The intended effect is to provide uniform guidance and procedures to the contracting activities.

EFFECTIVE DATE: June 13, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Sanders, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 535-4040.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) therefore, no regulatory flexibility analysis has been prepared. All forms which contain information collection requirements have been approved under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and the OMB Approval numbers are shown on each form.

List of Subjects in 48 CFR Part 553

Government procurement.

PART 553—FORMS

§ 553.370—[Amended]

The list of forms appearing in section 553.370 is amended by adding the following new entries:

Sec.

553.370-300 GSA Form 300, Order for Supplies or Services.

553.370-618-A GSA Form 618-A, Transmittal of Contract Award (Form Letter).

553.370-2166 GSA Form 2166, Service Contract Act of 1965 (As Amended).

553.370-2419 GSA Form 2419, Certificate of Payment to Subcontractors and Suppliers.

553.370-3503 GSA Form 3503, Representations and Certifications.

553.370-3504 GSA Form 3504, Service Contract Clauses.

553.370-3505 GSA Form 3505, Labor Standards (Construction Contract).

553.370-3506 GSA Form 3506, Construction Contract Clauses.

553.370-3507 GSA Form 3507, Supply Contract Clauses.

Authority: 40 U.S.C. 486(c).

Note.—GSAR forms are not published in the Federal Register or the Code of Federal Regulations. A copy of the forms are filed with the original document.

Dated: June 13, 1984.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84-16930 Filed 6-25-84; 8:45 am]

BILLING CODE 6820-61-M

Proposed Rules

Federal Register
Vol. 49, No. 124
Tuesday, June 26, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1872, 1951, and 1965

Servicing of Real Estate Security

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise and redesignate its regulations regarding servicing of loans secured by real estate. This action is being taken to comply with an overall restructuring of FmHA regulations, and to incorporate the provisions of enacted legislation affecting these regulations. The intended effect of this action is to provide more responsive and equitable credit service to farmers and other rural residents.

DATE: Comments must be received on or before August 27, 1984.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under Section 3504(b) of the Paperwork Reduction Act of 1980. Submit any comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Farmers Home Administration, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For Subpart A of Part 1965, Benjamin R. Beckham, Deputy Director, Farm Real Estate and Production Division, FmHA, USDA, Room 5320, South Agriculture Building, Washington, DC 20250, telephone (202) 447-4572. For Subpart C of Part 1965, Frances B. Calhoun, Chief, Property Management Branch, Single Family Housing Servicing and Property Managment Division, FmHA, USDA, Room 5309, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been determined to be "nonmajor." This proposed action has been determined "nonmajor" since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. FmHA proposes to revise and redesignate its regulations on servicing and liquidation of real estate security and certain note-only cases from Subpart A of Part 1872, to new Subparts A and C of Part 1965, Chapter XVIII, Title 7, Code of Federal Regulations.

Implementation of Subpart A of Part 1965 is imperative for present and future FmHA borrowers to fully utilize resources and maximize credit availability in times of economic stress. Many farmers must avail themselves of these authorities to continue in agriculture during this time of severe economic stress in the industry.

Many of the servicing actions permitted by Subpart A of Part 1872 can only be approved at the National Office level. The submission of individual cases to the National Office for review is a time consuming process. Upon implementation of this proposed Subpart A of Part 1965, approval authorities will be placed within various field offices and thereby expedite servicing actions. County and District Offices will be able to carry out actions which now require State or National Office concurrence. This will eliminate considerable time in documentation, correspondence, and mailing delay.

This proposed Subpart A of Part 1965 enables FmHA farmer program loans secured by real estate to be serviced in compliance with the applicable statutory authorities and administrative requirements implemented since the last major revisions to the regulation in 1975. In order for borrowers to be successful in their farming operations, they must be able to manage both real estate and debts secured by real estate. This proposed Subpart A of Part 1965 prescribes the authorities, policies, and routines for servicing loans secured by real estate. These proposed servicing authorities will provide borrowers with the opportunity to be successful and will allow FmHA to protect the government's interests. This proposed Subpart A of Part 1965 clarifies the servicing of loans to partnerships, cooperatives and corporations. It also specifically provides for the transfer and assumption of Emergency loss loans and Economic Emergency loans.

FmHA has reviewed the proposed changes and determined that they are cost-effective since they will afford both individual and entity type farm borrowers the additional opportunity to maintain their property serving as security for FmHA loans, utilize the property to obtain other essential credit or dispose of all or part of the property by means of partial sale or transfer to other parties subject to the FmHA security instruments. Borrowers are also afforded expanded opportunities to retire their debt under an accelerated repayment agreement under certain conditions.

Various sections of proposed Subpart A of Part 1965 are being revised to incorporate the provisions of the Agricultural Credit Act of 1978 and the Emergency Agricultural Credit Adjustment Act of 1978, Pub. L. 95-334, Title II.

The current Subpart A of Part 1872 needs to be rearranged and updated to include servicing of loans authorized by legislation, and in some instances clarified for easier understanding by the Servicing Office. In addition, certain changes in interest rates and terms available to eligible applicants in transfers and assumptions are included.

Other than the proposed action, the alternative would be to take no action. However, to do so would leave the current Subpart A of Part 1872 in a status which would not address the servicing of loan authorities enacted since its formulation and issuance.

The proposed Subpart C of Part 1965 reflects changes made necessary by the

Garn-St. Germain Depository Institutions Act of 1982, particularly as it affects the leasing of security by a borrower. The provisions relating to borrowers' leasing of security and expanded terms for accelerated repayment agreements will assist FmHA field personnel in more effectively servicing loans and will at the same time provide more flexibility to borrowers than the present regulation.

It also clarifies and simplifies the instructions for servicing Single Family Housing (SFH) loans by excluding a number of subjects now found in current Subpart A of Part 1872 and proposed Subpart A of Part 1965 which affect borrowers with agricultural-type credit only. Other than the proposed action, the alternatives are (1) to take no action, or (2) to include servicing of SFH loans in a revised regulation for servicing both SFH and farmer programs loans which are secured by real estate, as the current Subpart A of Part 1872 does. The proposed action was chosen because it will be simpler for loan servicing personnel to follow regulations if the instructions for loan servicing are contained in separate regulations by loan type.

In Subpart A of Part 1965, the major changes and additions are as follows:

1. Section 1951.8(a) has been revised to delete procedural reference to FmHA Instruction 465.1 and insert examples of normal income and to add paragraph (b)(8).

2. Section 1965.1 removes servicing for Multiple Family Housing loans and Rural Housing (RH) loans where the borrower is not indebted for a farmer program loan. All Multiple Family Housing loans are serviced in accordance with Subpart B of Part 1965. Single Family Housing loans to borrowers who are not indebted for farmer program type loans will be serviced in accordance with the proposed Subpart C of Part 1965.

3. Section 1965.3 includes, for easy reference and clarification, references to the regulations which explain the borrower's responsibility for paying real estate taxes and property insurance.

4. Section 1965.4 give the District Director servicing responsibilities, to be consistent with agency restructuring requirements. It also requires notice to the Finance Office of servicing actions affecting a borrower's account in order to assure appropriate application of proceeds or to suspend accounts pending a servicing action.

5. Section 1965.7 provides a list of definitions of terms used in the regulation for reader s ready reference and for clarification.

6. Section 1965.11 provides administrative changes to:

—Include guidance to field offices for handling cases to protect the Government's interest when borrowers continue to occupy but do not maintain security property; and
—Include guidance to field offices when borrowers abandon security property;
—Prescribe policy for servicing where third party actions affect security;
—Clarify actions of FmHA when sale by a prior lien foreclosure is contemplated or occurs and for handling foreclosure sales subject to an FmHA mortgage; and provide guidance for servicing divorce cases.

7 Section 1965.12 includes administrative changes to:

—Expand authority to subordinate farmer program real estate secured loans in order to carry out the Administration's policy of participating more actively with the private sector;
—Permit subordination for operating expenses to be approved by the State Director in certain cases; remove the $225,000 secured debt limitation because the limitation is no longer mandated by legislation; although this limitation is removed FmHA will not make loans which are not fully collateralized consistent with current policy.
—Limit subordinations involving the acquisition of land to not larger than family size operation, to be consistent with loan making eligibility requirements authorizing land purchase as a purpose;
—Permit subordinations involving a reduction of FmHA debt without prior approval of the National Office to facilitate handling of requests;
—Revise the conditions which warrant a new appraisal in view of current changes in land value;
—Coordinate subordination approval authority with loan approval authority for uniformity and include loan types not in prior regulations.

8. Section 1965.13 includes administrative changes to:

—Clarify that the sale of clear cut timber, mining products, removal of gravel, oil, gas, coal, or other minerals by unit or lump sum payments will be considered as disposition of a portion of the security and to revise the conditions which warrant a new appraisal;
—Clarify and expand authorities for use of proceeds, other than RH security, derived from sale of a portion of the security property including minerals to eliminate need for cases to be submitted to the Administrator;
—And set forth terms of sale for farmer program loan security and RH security when the borrower is also indebted for an RH loan.

9. Section 1965.16 provides policy permitting junior liens on security property and guidance in servicing to protect the Government's interest when consent is not requested or granted.

10. Section 1965.19 provides additional guidance in servicing requests for severance agreements and a list of determinations required before approval of requests. A borrower might request a severance agreement so that items to be acquired through other credit and subject to a chattel lien will not become a part of the real estate securing the FmHA debt. The approval of a severance agreement is delegated entirely to the County Supervisor.

11. Section 1965.26 provides guidance in handling liquidation action cases where a borrower might express interest in voluntary liquidation and procedural references when involuntary liquidation appears necessary. This will permit borrowers who wish to liquidate security the same consideration as borrowers who voluntarily transfer security to other parties or convey the property to the Government. It also provides guidance for servicing multiple types of loans and provides a method for handling loans to correct deficiencies when borrowers are in violation of FmHA security agreements. These actions will facilitate more expeditious handling of loan liquidations and help reduce the Government's inventory of acquired property. Provisions for accelerated repayment agreements are revised to permit terms up to 15 years with a balloon installment for real estate loans. This will provide alternatives for borrowers who are requested to refinance or cannot achieve objectives of the loan. This section also provides special conditions and guidance for the State Director to process requests for dwelling retention for farmer program loan borrowers in accordance with debt settlement authorities. It also provides for release of liability when the borrower has sold the security for its market value under certain conditions to provide uniformity with authority to release borrowers of liability when they transfer security to other parties or convey security to the Government.

12. Section 1965.27 makes explicit authorities for transfer of real estate security with assumption of FmHA indebtedness to include Emergency loan programs; eliminates the $225,000 secured indebtedness limitation against security as it is no longer mandated by legislation or justified by loan limits;

provides specific examples regarding transfer and assumption for emergency type loans, partnerships, corporations and cooperative loans not presently in regulations. Include provisions for other real estate (ORE) loans to be transfered to eligible or ineligible transferees. Present regulations do not address servicing of ORE loans. Costs, rates and terms for transfer and assumtion by ineligible RH and farmer program loans are set out with changes in the farmer program loans to provide for a minimum of 5 percent downpayment, terms up to 25 years with balloon installment and interest rate at regular FO rates plus 1 percent to facilitate borrowers exiting agriculture when they lack alternatives. The procedure for servicing loans when a borrower transfers security and FmHA cannot approve a transfer and assumption is provided.

13. Section 1965.34 includes servicing of ORE loans. A ORE borrower is not an eligible borrower. Present regulations do not provide guidance for servicing ORE loans. Guidance is provided, with exceptions listed for ORE borrowers.

14. Section 1965.35 provides direction to the State Director for submission to the FmHA National Office those proposed transactions which cannot be approved within these servicing regulations. Cases must be referred to OGC before submission to the National Office in cases where OGC advice is needed.

15. Section 1965.37 includes an administrative change for redelegation authority of the State Director.

Subpart C of Part 1965 sets forth policies and authorities for servicing real estate security for SFH loans. Primary differences between the provisions of this Subpart and the current Subpart A of Part 1872 are:

1. Section 1965.110 provides that consideration for security disposed of through partial release authority must be for cash or in exchange for another parcel of property with equal or greater value. Partial disposals on nonfarm tracts such as those which secure Single-family Housing loans normally involve relatively small sums of money in connection with sale of a right-of-way or easement and consideration for terms is not feasible.

2. Section 1965.112 removes the requirement that FmHA must consent to the borrower's leasing security. The Garn-St. Germain Depository Institutions Act of 1982 makes it possible for a person to lease property indefinitely and prohibits the lender from considering this a default unless a lease is for three years or more or contains an option to purchase. Therefore, it was deemed impractical to require FmHA consent.

3. Section 1965.113 sets forth provisions for consent to mineral leases and gives guidance on treatment of income from mineral leases.

4. Section 1965.116 incorporates detailed instructions for servicing deceased Rural Housing borrower cases which Subpart A of Part 1872 includes by reference to Subpart A of Part 1962 of this Chapter. This Section has been tailored to the Single-Family Housing borrower rather than all FmHA borrowers in general as Subpart A of Part 1962 does.

5. Section 1965.117 includes detailed instructions for servicing cases of SFH borrowers who declare bankruptcy which Subpart A of Part 1872 includes by reference to Subpart A of Part 1962 of this Chapter. This Section reflects provisions of the Bankruptcy Code and addresses this issue from the standpoint of a SFH borrower.

6. Section 1965.125 provides that in lieu of foreclosure FmHA may allow the borrower to enter into an Accelerated Repayment Agreement which will bear new rates and terms, relieve the borrower of the occupancy and graduation requirements, after which the loan will be reclassified as "Other Real Estate (ORE)" This will enable FmHA to have more flexibility in servicing loans and will preclude the necessity to liquidate loans where it was previously necessary to do so. At the same time the interest rate will be elevated to market rate as distinguished from the program rates.

7 Section 1965.126 provides that all loan assumptions will be at new rates and terms. In a few cases involving family members of deceased or divorced borrowers, the same interest rate may be retained. Also sets forth new policies on transfer or properties which are larger than a minimum-adequate site or have been improved so they are no longer modest. In the final rule, due to recent amendments to Title V of the Housing Act of 1949, it is anticipated that the term of assumption by persons who meet all eligibility requirements except their income is above moderate will be reduced to less than 33 years and be classified as "Other Real Estate" loans, not eligible for interest credits or moratoriums.

8. Section 1965.127 provides for satisfaction of all the transferor's FmHA accounts when the transferor is released from liability. At present it is necessary to process an additional debt settlement action to clear the books of accounts which the borrower has already been relieved of liability. The proposed represents more efficient handling of accounts in this category.

9. Section 1965.137 grants authority to the FmHA Administrator to make exception to provisions of this Subpart which are not inconsistent with the authorizing statute. It is impossible to address all situations which may arise to require loan servicing action. Such an exception paragraph provides flexibility for these cases to be handled individually at the National Office level.

Intergovernmental consultation in accordance with 7 CFR Part 3015 Subpart V "Intergovernmental Review of Department of Agriculture Programs and Activities" is not applicable.

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 the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

These proposed changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans
10.416—Soil and Water Loans
10.417—Very Low-Income Housing Repair Loans and Grants

List of Subjects

7 CFR Part 1872

Foreclosure, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Loan programs—Agriculture, Housing, Rural areas, Mortgages.

Therefore, as proposed, Chapter XVIII of Title 7, Code of Federal Regulations, is amended as follows:

PART 1872—[REMOVED AND RESERVED]

1. Part 1872 is removed and reserved.

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

2. In § 1951.8, paragraph (a) is revised and paragraph (b)(8) is added to read as follows:

§ 1951.8 Types of payments.

(a) *Regular payments.* Regular payments are all payments other than extra payments and refunds. Usually, regular payments are derived from normal farm or non-farm income, and do not include proceeds from the sale of basic chattel or real estate security. Regular payments also include payments derived from sources such as Agricultural Stabilization and Conservation Service payments (other than those referred to in paragraph (b) of this section), off-farm income, inheritances, life insurance, and income derived from the sale or use of property on a recurring basis, such as proceeds from crops, milk, livestock produced on the farm, selective timber harvest, annual rental, that is not of a depleting nature. Regular payments in the case of a Section 502 RH loan to an applicant involved in a mutual self-help project will include loan funds advanced for the payment of any part of the first and second installments. All payments to the Finance Office by direct payment borrowers are considered regular payments.

(b) * * *

(8) Any other transaction where a program regulation specifically requires application as an extra payment.

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PART 1965—REAL PROPERTY

3. Subpart A is added and reads as follows:

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

Sec.
1965.1 Purpose.
1965.2 General policies.
1965.3 Borrower's responsibility.
1965.4 FmHA's responsibility.
1965.5 Servicing insured Farm Ownership (FO) loans.
1965.6 Consent of lienholders.
1965.7 Definitions.
1965.8–1965.10 [Reserved]
1965.11 Preservation of security and protection of liens.
1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.
1965.13 Consent by partial release, or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.
1965.14 Subordination of FmHA real estate mortgages to easements to the U.S. Fish and Wildlife Service (formerly the Bureau of Sport Fisheries and Wildlife.)
1965.15 Subordination of FmHA's lien to the Commodity Credit Corporation's (CCC) security interest taken for loans made for farm storage and drying equipment.
1965.16 Consent to junior liens.
1965.17 Consent to borrower's granting lease of security.
1965.18 Transfer of upland cotton, peanut, or tobacco allotments.
1965.19 Severance agreement
1965.20 [Reserved]
1965.21 Assignment and release of Soil Bank or similar program payments.
1965.22 Deceased borrower.
1965.23 Bankruptcy and insolvency.
1965.24 Servicing note-only cases.
1965.25 Release of FmHA mortgage without monetary consideration on basis of additional security, because of mutual mistake, non-existence of evidence of indebtedness, or valueless liens.
1965.26 Liquidation action.
1965.27 Transfer of real estate security.
1965.28–1965.30 [Reserved]
1965.31 Taking liens on real estate as additional security in servicing FmHA loans.
1965.32 Assignment of promissory notes and security instruments outside the program.
1965.33 Cosigners)—RH Loans.
1965.34 Other Real Estate Loans (ORE).
1965.35 Exception Authority.
1965.36 State Supplements and reference to the OGC.
1965.37 Redelegation of Authority.
1965.38–1965.50 [Reserved]
Exhibit A—Memorandum of Understanding between Bureau of Sport Fisheries and Wildlife and the Farmers Home Administration

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

§ 1965.1 Purpose.

This Subpart delegates authority and prescribes policies and procedures for servicing real estate, leasehold interests and certain note-only security for Farmers Home Administration (FmHA) Farmer Program loans other than Shift-in-Land-Use (Grazing Association), Irrigation and Drainage (I&D) and Indian Tribes and tribal corporations. Servicing of Rural Housing (RH) loans to Farmer Program borrowers is also included. This Subpart does not apply to FmHA guaranteed loans, Rural Rental Housing (RRH) loans, Labor Housing (LH) loans, Business and Industrial (B&I) loans or to Community Programs (CP) loans. This Subpart does not apply to Section 502 or Section 504 RH loans when the borrower is not indebted for a Farmer Program type loans(s).

§ 1965.2 General policies.

Real estate security will be serviced in a manner which will best accomplish the loan objectives and protect the Government's financial interest. To accomplish this, the real estate security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications, provided the borrower—

(a) Has reasonable prospects of accomplishing the loan objectives,

(b) Properly maintains and accounts for the security, and

(c) Otherwise meets the loan obligation, including repayment of the loan(s), in a satisfactory manner.

When the above conditions are not satisfied or when it is determined that the loan(s) must be liquidated for other reasons, and sufficient legal grounds for liquidation exist, prompt action will be taken to liquidate the security to protect the Government's financial interest.

§ 1965.3 Borrowers's responsibility.

Each borrower is responsible for repaying principal and interest on a timely basis pursuant to the loan documents, paying real estate taxes in accordance with Part 1863 of this Chapter (FmHA Instruction 425.1), providing adequate property insurance in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), maintaining, protecting, and accounting to the FmHA for all real estate security, and complying with other loan requirements.

§ 1965.4 FmHA's responsibility.

The County Supervisor, District Director or other servicing official is responsible for informing borrowers of their responsibilities in connection with the loan, seeing that the security is being properly maintained and accounted for, and servicing the security in accordance with this Subpart. When a borrower fails to maintain, protect, or account for the security, as required by the loan documents, or makes unauthorized disposition or use of any security, prompt action will be instituted to protect FmHA's interests. The County Supervisor, District Director or other servicing official will obtain any needed legal advice from the Office of the General Counsel (OGC) through the State Director. Once a case has been referred to the OGC for legal action, no further action will be taken by the County Supervisor, District Director or other servicing official without prior clearance from OGC. If the case has been referred to the U.S. Attorney, clearance with the U.S. Attorney will be obtained through OGC. Actions taken to service a loan will be documented in the running case record in the borrower s FmHA file(s). When a servicing action affects a borrower account (e.g., a foreclosure action is pending), the Finance Office will be notified by the appropriate FmHA servicing official.

§ 1965.5 Servicing insured Farm Ownership (FO) loans.

(a) *Servicing actions.* When an insured FO mortgage running to the lender as mortgagee is not held by the FmHA under trust assignment, or declaration of trust, or in the insurance fund (called insured FO mortgage held by the lender in this Subpart) and a written subordination or partial release or other servicing document is requested, the document will be executed by the holder on a form prepared or approved by OGC. In those cases, execution of the document will constitute consent.

(b) *Execution of documents.* The County Supervisor is authorized to execute, on behalf of the Government, all necessary forms, satisfactions, releases, and other documents required to complete any transactions in this Subpart after the transaction has been approved by the appropriate approval official. The documents will be executed on behalf of the United States in the following form:

(1) "United States of America," when the mortgage names the United States as mortgagee, or when a mortgage running to the lender is not under a trust or declaration of trust and the note is held by the insurance fund.

(2) "United States of America, for Itself and as Trustee," when an FO mortgage is held by the FmHA under a trust assignment or declaration of trust, regardless of whether the note is held by a lender or by the insurance fund.

§ 1965.6 Consent of lienholders.

When this Subpart requires the consent of other lienholders, consent will be obtained and furnished in writing to the FmHA by the borrower before the FmHA enters into a transaction which affects its security or its lien. This consent will, unless otherwise provided in a State Supplement, include an agreement as to the disposition of any funds involved in the transaction.

§ 1965.7 Definitions.

(a) *County Supervisor* also includes Assistant County Supervisor who has written delegated authority to carry out purposes of this Subpart.

(b) *District Director* also includes Assistant District Director who has written delegated authority to carry out purposes of this Subpart.

(c) *FmHA loans, FmHA accounts, FmHA interest, FmHA security, FmHA debts* and similar terms apply to indebtedness owed to, or insured by, the United States of America acting through the FmHA, and to related security instruments.

(d) *Foreclosure sale.* The act of selling security either under the "Power of Sale" in the security instrument or through court proceedings.

(e) *Leasehold.* Possession by lease. Property held by lease. For purposes of this Subpart any lien on a leasehold is security.

(f) *Mortgage* includes deeds of trust and similar real estate security instruments and chattel security instruments, where appropriate.

(g) *Note* includes any note, bond, assumption agreement or other evidence of indebtedness.

(h) *Security.* Property of any kind subject to a real or personal property lien including, among other things, appurtenant rights of development, leasehold, grazing or other use privileges.

(i) *Servicing action* includes, among other things, the cash sale or transfer of real estate and chattel property and the assumption of loans.

§§ 1965.8—1965.10 [Reserved]

§ 1965.11 Preservation of security and protection of liens.

(a) *Inspection of security.* The County Supervisor will inspect farm real estate security a minimum of one time every three years for accounts that are current. If all or part of the security is located in another County Office area, the County Supervisor for that area may be requested to inspect the property. More frequent inspections will be made when a borrower is deliquent or otherwise in default or when problems exist involving the security. Security on nonfarm tracts will be inspected when:

(1) Liquidation action is likely to be taken;

(2) The property has been abandoned;

(3) Necessary to protect the interest of the Government; or

(4) Requested by the borrower.

(b) *Action by FmHA for account of borrower.* When necessary to protect the interest of the Government, actions will be taken by FmHA for the account of the borrower as provided below. Any protective advances made for these purposes will be paid by Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," or other approved voucher in accordance with FmHA Instruction 2075–A (available in any FmHA Office), and forwarded to the Finance Office for issuance of the Treasury Check and charged to the borrower's account.

(1) *Taxes and assessments.* Real estate taxes and assessments will be handled in accordance with Part 1863 of this Chapter (FmHA Instruction 425.1).

(2) *Insurance.* For FmHA loans secured by liens on real estate, property insurance will be obtained and serviced in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), and when appropriate, Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(3) *Maintenance.* Where the borrower continues to occupy the security property but is not adequately maintaining it, prior authorization from the National Office must be obtained before funds are advanced for necessary repairs. The State Director will submit the facts and his/her recommendation for continuing the loan to the Assistant Administrator, Farmer Programs. If there is a prior lien, expenditures for maintenance will not be made by the Government unless the prior lienholder refuses to make them. Evidence of the prior lienholder's unwillingness to do so will be fully documented.

(4) *Abandonment.* When a borrower removes personal property from the farm or home or takes other actions which lead the County Supervisor to believe real estate security has been abandoned by the borrower, an immediate check with neighbors, relatives in the area, the local post office, utilities offices, schools, and other appropriate sources will be made to determine if the borrower has moved from the area and, if so, whether a forwarding address can be determined. If the security is not being maintained, and available information indicates that it has been abandoned, the facts will be documented in the case file and the FmHA official having jurisdiction will taken action to protect the Government's interest in accordance with Subpart B of Part 1955 of this Chapter. Form FmHA 465–7, "Report on Real Estate Problem Case," will be prepared and submitted to the State Director.

(c) *Action by third parties which affect security.* (1) *General provisions.* When third parties being suit or take any other action which could affect property serving as security, borrowers are expected to protect their own interests in the property. A few examples of actions by third parties are: condemnation proceedings, foreclosure, trespass suits, and actions to quiet title.

(i) *County Supervisor's responsibility.* When the County Supervisor learns of a third party action which could jeopardize the Government's interest in the security or when the County Supervisor or the Government is made a party to a court proceeding, the County Supervisor will send the County Office case file, complete with information

concerning the action, and recommendations for FmHA servicing action to the State Director. The information sent to the State Director will include a copy of any petition or complaint, as soon as available; a current Form FmHA 451-11, "Statement of Account", or documented record of telephone conversation with the Finance Office verifying current balances; a current appraisal report; the name and address of the borrower's attorney, if any; and any other information which the County Supervisor believes important.

(ii) *State Director's responsibility.* The State Director will consult OGC about all lawsuits involving the property. The State Director will also consult OGC about any other third party actions when OGC's advice would be helpful. The State Director will then advise the County Supervisor of the actions to be taken to protect the Government's interest in the property. Protective advances will only be authorized to protect the Government's interest. Protective advances will not be authorized for protection of the borrower's interest. When foreclosure or any other action which would cause the borrower to lose possession of the property is imminent, the State Director may give consideration to making a subsequent loan or to approving a subordination to permit another lender to make a loan, provided:

(A) a subsequent loan or subordination is necessary to enable the borrower to retain the property,

(B) the borrower has the ability and resources necessary to overcome the problems that caused the foreclosure or other action, and

(C) the third party agrees to postpone further action pending the processing of a subsequent loan or subordination.

(iii) *Other actions.* The State Director may also approve a transfer and assumption under this Subpart provided the action will adequately protect the Government's interest and the third party agrees to delay further action pending processing of the transfer and assumption. The State Director will notify the County Supervisor of the actions to be taken to protect the Government's interest.

(2) *Sale by a prior lien foreclosure.* When FmHA learns that a prior lienholder is contemplating foreclosure, the prior lienholder will be contacted to determine the amount of the prior lien indebtedness and the estimated cost of a foreclosure sale. An insured note which is not held by the insurance fund will, whenever possible, be assigned to the insurance fund before a foreclosure sale. Otherwise, the assignment will be completed as soon as feasible after the foreclosure sale.

(i) *Paying off the prior lien.* When, under State law, it is necessary prior to foreclosure to acquire the prior lienholder's rights to protect the Government's junior lien interest, and in other situations when it is advantageous to the Government to pay the prior lien in full before the foreclosure sale, title evidence will be obtained. Information clearly supporting the action as being to the Government's financial advantage must be documented and made a part of the file. Payment of the prior lien and required costs may be made with the advice of OGC, provided:

(A) The Government will obtain a greater recovery of the secured debt (not an inventory profit) than it could by bidding at the foreclosure sale, and

(B) The FmHA account after acquisition of the prior lien will be liquidated as provided in § 1965.26 of this Subpart unless other appropriate actions will be taken, such as obtaining a new participating lender, or rescheduling or reamortizing the FmHA debt.

(C) Loans will not be reamortized to include protective advances unless authorized on an individual case basis by the National Office. When continuation with reamortization to include protective advances is recommended, the case file with documentation of all facts of the situation necessitating protective advances, efforts to obtain a new participating lender, and justification for reamortizing will be submitted to the National Office.

(ii) *Making a bid.* If a substantial net recovery on the Government's interest can be made by acquiring and reselling the security, title evidence will be obtained and the State Director will authorize a bid in accordance with Subpart A of Part 1955 of this Chapter. The prior lienholder, court clerk, sheriff or other sale official will be contacted to determine whether payment by Standard Form 1034 is acceptable if the Government is the successful bidder at the sale. If the prior lienholder requires a cash payment, Standard Form 1034 must be sent to the Finance Office in sufficient time for the County Supervisor to receive a U.S. Treasury check before the sale. Requesting the check, payment of the bid, and payment of any other costs by using Standard Form 1034 will be in accordance with the applicable paragraphs of § 1955.15 of Subpart A of Part 1955 of this Chapter. The costs will be charged to the borrower's account. Bidding will be completed in accordance with Subpart A of Part 1955 of this Chapter except that incremental bids will not be placed where borrowers have redemption rights unless, with prior assistance of OGC, a deficiency judgment will be obtained against the borrower(s). Information clearly supporting the bid as being to the Government's financial advantage must be documented and made a part of the file.

(iii) *Making no bid.* When the State Director determines that no bid will be entered by FmHA, the County Supervisor will nevertheless attend the sale and make a narrative report to the State Director outlining the results of the foreclosure sale and plans for future servicing of the account. If the Government is to rely on its redemption rights, that fact will be indicated in the report.

(iv) *Reporting.* When FmHA enters a bid or is the successful bidder at the foreclosure sale, reporting actions will be taken in accordance with Subpart A of Part 1955 of this Chapter.

(v) *Servicing Government redemption rights.* If the Government for any reason did not protect its interest at the time of the foreclosure sale and if the Government has any redemption rights, the State Director will determine whether to redeem the property. This determination will be made after considering all pertinent factors including the value of the property after the sale and any other related information. This decision will be made far enough in advance of expiration of the redemption period to permit exercise of the Government's rights. If redemption of the property is appropriate, complete information showing the basis for not acquiring the security at the sale and factors which justify redemption of the property will be documented in the case file and the State Director will proceed to redeem the property after obtaining any necessary assistance from OGC. If the State Director decides not to redeem the property, the right of redemption may be sold for its value. There is no authority to dispose of redemption rights without consideration.

(3) *Foreclosure sale subject to FmHA mortgage.* When a lien junior to the FmHA lien is foreclosed and the property is sold subject to the FmHA mortgage, the account will normally be transferred in accordance with § 1965.27 of this Subpart, if appropriate, or liquidated as provided in § 1965.26 of this Subpart. However, in an unusual case, the Administrator may authorize continuation of an account for a reasonable period of time to permit a junior lienholder to market the property provided:

(i) It is in the best interest of the Government,

(ii) The Government will obtain a greater recovery of the secured debt than it could by foreclosure proceedings,

(iii) The Government's right to foreclose will not be jeopardized,

(iv) The junior lienholder will agree to protect, preserve and market the property, and

(v) The State Director makes a request for the continuation and submits the account file with the junior lienholder proposal, a current market appraisal of the security and other pertinent facts and recommendations, including a statement regarding any adverse effects on the FmHA Program in the area, to the Administrator for consideration.

(d) *Divorce actions.* (1) When borrowers owing farmer program loans secured by real estate become divorced, the County Supervisor will submit the case to the District Director, with a copy of the final divorce decree, for advice or concurrence in servicing the account after the divorce is granted. A subsequent loan made as a result of a divorce action will be handled in accordance with § 1965.27(b)(11) of this Subpart.

(2) When a jointly liable former spouse of a divorced borrower is to be released from liability under court decree or otherwise, Form FmHA 1965-8, "Released From Personal Liability," will be used.

(3) Neither borrower will be released from liability when a divorce decree awards security property to one spouse and provides that the other spouse will be responsible for paying all or part of the mortgage payments.

§ 1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.

(a) *Conditions for subordination.* A subordination may be granted subject to the following conditions:

(1) The FmHA debt cannot be refinanced on terms which the borrower can reasonably be expected to meet;

(2) The transaction will further the objectives for which the FmHA loan or loans were made;

(3) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them, as well as all other debts;

(4) An assignment of the beneficial interest in any stock required in connection with a loan will be obtained as security, when possible and when needed;

(5) The FmHA indebtedness after the subordination will be adequately secured or will not be adversely affected by the transaction;

(6) The proposed use of the funds will improve the borrower's ability to repay the FmHA loan(s) or is necessary to place the borrower's operation on a sound basis;

(7) The use of the funds obtained as a result of the subordination will not conflict with loan purposes, restrictions or requirements of the type of loan(s) being subordinated;

(8) The amount ot any prior lien plus the balance of the FmHA debt will not exceed the market value of the security. When the FmHA indebtedness was not fully secured by the market value of the security before the transaction, a subordination may be granted only if the market value of the total security will be increased through improvement or acquisition by an amount at least equal to the additional advance. For Section 502 RH loans subject to recapture FmHA indebtedness will be determined in accordance with Subpart I of Part 1951; and

(9) See § 1965.34(e) for additional requirements concerning subordinations of Other Real Estate (ORE) loans.

(b) *Purposes of subordination.* A subordination may be granted for any of the following purposes:

(1) *Refinance, extend, or reamortize debts of other lenders.* Refinance, extend, or reamortize an existing prior lien provided the amount of the indebtedness secured by the prior lien, as of the date of the transaction, is not increased by more than reasonable costs incidental to loan closing plus funds for the purchase of any required stock.

(2) *Increase the amount of a prior lien or permit a new prior lien when another lender's funds will not be used to reduce the FmHA debt.* The requirements of § 1965.12(a) of this Subpart must also be met.

(i) Nonfarm tract. When a nonfarm tract secures an RH loan, the other lender's funds will only be used for the same purposes and with the same limitations that would be applicable if an RH loan were made.

(ii) Farm tract. (A) When a farm tract secures and FO loan only or an FO and any other type FmHA loan, the other lender's funds may be used for any purpose for which and FO loan can be made, regardless of the requirements in § 1965.12(a)(7) of this Subpart.

(B) When a farm tract secures other type(s) of FmHA loan(s) currently authorized, the other lender's funds may be used for any purpose for which that type loan is authorized.

(C) When a farm tract secures any loan which has annual operating credit as a loan purpose, and it is determined essential for the borrower to remain in farming, the State Director may approve a subordination for operating credit when no other alternative exists. The reasons and justification supporting the subordination for operating expenses will be fully documented in the case file by the County Supervisor prior to submission to the State Director.

(D) When additional land is to be acquired by use of proceeds from the subordiantion, Form FmHA 440-2, "County Committee Certification or Recommendation", will be completed before the subordination is approved. A subordination for purchase of additional land will not be approved without favorable recommendation of the County Committee.

(iii) Any proposed development will be planned and performed in accordance with Subpart A of Part 1924 of this Chapter or in a manner directed by the creditor which reasonably attains the objectives of Subpart A of Part 1924 of this Chapter and is agreed to by FmHA.

(iv) Funds used to develop or to acquire land will be handled as prescribed in Subpart A of Part 1902 of this Chapter. If the creditor will not permit the use of a supervised bank account, arrangements satisfactory to the FmHA which will assure that the funds will be spent for the planned purposes may be substituted.

(v) In cases of land purchase or exchange of property, the FmHA will obtain a valid mortgage on the acquired land. Title clearance and loan closing will be required as for an initial or subsequent FO loan, as appropriate. The mortgage will be recorded when the subordination is delivered to the other lender or immediately after the other lender records its mortgage.

(3) *Increase the amount of a prior lien or permit a new prior lien, when the other lender's funds will be used wholly or in part to reduce the FmHA debt.* Funds of another lender may be used to pay on an FO, SW, RL, OL, EE, or EM loan. Funds of another lender may also be used to pay the amount delinquent on a RH loan provided the RH borrower also owes an FO loan. FmHA may subordinate its lien to that of the other lender, even though the primary purpose of the new loan funds is to reduce the existing FmHA loan. A written justification for allowing the subordination must be prepared and made a part of the borrower's case file. The approval official will decide whether or not to allow the subordination based on the following

factors, which should be addressed in the written justification:

(i) The new loan funds must be needed to accomplish the objectives set out in § 1965.2 of this Subpart;

(ii) The new loan funds must be needed to establish the borrower's operation on a sound basis;

(iii) The conditions set out in § 1965.12(a) of this Subpart must be met; and

(iv) The restrictions set out in § 1965.12(b)(2) of this Subpart will apply to any part of the other lender's funds not applied on the FmHA indebtedness.

(c) *Request for subordination.* When a borrower request the FmHA to subordinate a mortgage, Form FmHA 465-1, "Application for Partial Release, Subordination, or Consent," will be prepared. If an agreement to give notice of foreclosure is required for approval of an initial FmHA loan, an agreement with a new prior lienholder will be obtained as required in § 1807.2(f)(5) of Part 1807 of this Chapter (FmHA Instruction 427.1, paragraph II F 5). In case of an insured FO mortgage held by the lender, the holder's consent will be obtained in accordance with § 1965.5 of this Subpart. Any other lienholder's consent to the transaction and use of the proceeds will be obtained as provided in § 1965.6 of this Subpart.

(d) *Appraisal.* A current appraisal report will be prepared in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1) when property is to be purchased or exchanged, or when the existing appraisal report is more than one year old or is inadequate to make the determination required in this paragraph. When an appraisal is required by FmHA in connection with a subordination being granted to the Federal Land Bank (FLB), the appraiser may recommend, or the loan approval official may find, the market value of the total security to be equal to the market value of the real estate plus the value of the FLB stock. This determination will be recorded on a separate sheet and attached to the appraisal report. When a subordination is granted in connection with any FmHA loan to permit a loan by another lender, the FmHA appraiser is authorized to use the appraisal report prepared for the other lender in determining the recommended market value of the property in accordance with FmHA Instruction 422.1, Exhibit A (available in any FmHA office).

(e) *Approval authority.* (1) *Nonfarm tracts.* County Supervisors and District Directors are authorized to approve subordinations under § 1965.12 which do not exceed their respective loan approval authorities, as outlined in Subpart A of Part 1901 (available in any FmHA Office). State Directors are authorized to approve any subordination which exceeds the approval authority for County Supervisors or District Directors.

(2) *Farm tracts.* County Supervisors and District Directors may approve subordinations for purposes authorized in this Subpart when the FmHA indebtedness does not exceed their approval authority for the type of loan or a combination of types of loans as outlined in Subpart A of Part 1901 (available in any FmHA Office). When more than one type of loan is involved in the subordination, the loan approval authority of County Supervisors and District Directors will be the highest amount, or combination, authorized in Subpart A of Part 1901 of this Chapter for any of the loan types involved, except for subordination of real estate security for operating credit, for which the authority is reserved to the State Director. State Directors are authorized to approve any subordinations, consistent with this Subpart, which exceed the approval authority of County Supervisors and District Directors.

(f) *Processing.* When the approval of the subordination by the State Director is required or when the County Supervisor or District Director desires advice before approval of the subordination, the borrower's case folder with current documents to support the applicable determinations, such as, where appropriate, Forms FmHA 431-2 "Farm and Home Plan," FmHA 431-1, "Long-Time Farm and Home Plan," FmHA 431-3, "Household Financial Statement and Budget," FmHA 422-1, "Appraisal Report (Farm Tract)," FmHA 1922-8, "Residential Appraisal Report," FmHA 440-2, other necessary forms, and Form FmHA 465-1 will be sent to the State Office. Form FmHA 440-2 will be completed when a subordination is granted for the purchase of additional land. After approval of the subordination, it will be closed in accordance with State Supplements to the maximum extent possible as provided in § 1965.30 of this Subpart. However, when legal advice on an individual case is necessary, Form FmHA 465-1, any subordination form furnished in connection therewith, the original or a copy of the FmHA mortgage, the refinancing mortgage or agreement, and related documents will be submitted to the OGC for review and preparation of the necessary instruments and closing instructions. The documents and closing instructions will be sent to the County Office. If the signature of the State Director is required on some of the instruments, the docket and closing instructions will be routed through the State Office. The subordination will be completed in accordance with the closing instructions.

(g) *Reamortizing existing FmHA debts other than Section 502 RH.* The County Supervisor, District Director or the State Director (as appropriate) may consent to a reamortization of an existing FmHA debt when a subordination is granted to the debt of another lender. The reamortization will be allowed only if the borrower cannot reasonably be expected to meet installments when due. Reamortizations of farmer program loans will be processed in accordance with Subpart A of Part of 1951 of this Chapter. Reamortization of RH loans will be processed in accordance with Subpart G of Part 1951 of this Chapter.

§ 1965.13 Consent by partial release, or otherwise to sale, exchange or other disposition of a portion of or interest in security, except leases.

(a) *Provisions of FmHA mortgages.* In all FmHA mortgages except RH loans mortgages prepared before October 1, 1950, and a few Operating Loans (OL), Emergency (EM), Special Livestock (SL), and Water Facilities (WF) loan mortgages, the borrower has agreed not to sell, transfer, assign, mortgage, or otherwise encumber the security or any portion of or interest in it without the prior written consent of the mortgagee. Furthermore, in the case of the few RH, OL, EM, SL, and WF loan mortgages not requiring FmHA consent, any property, or any part thereof or interest therein, which is subject to the FmHA mortgage and which is disposed of by the borrower without consent remains subject to the mortgage lien. In all FmHA mortgages the borrower expressly agrees not to engage, without prior consent, in certain specified transactions, including the cutting or removal of timber, or mining or removal of gravel, oil, gas, coal, or other minerals, except small amounts used by the borrower for ordinary domestic purposes. The sale of clear cut timber, mining products, removal of gravel, oil, gas, coal or other minerals by unit of lump sum payments will be considered as disposition of a portion of the security. This section explains how and under what circumstances FmHA will grant partial releases, and give its consent to certain transactions affecting the security. Subordinations, transfers, consents to junior liens, leases and severance agreements are discussed individually in other sections of this Subpart. Releases granted in connection with a final payment on real estate will

be handled in accordance with Part 1866 of this Chapter (FmHA Instruction 451.4).

(b) *Conditions of FmHA consent.* A State Supplement will be developed, with guidance of OGC, and issued to provide guidance for handling of easements or rights-of-way in connection with the development, extension, construction or modification of community based programs, such as rural water districts, drainage, and irrigation districts, without requiring monetary consideration or detailed appraisals. Otherwise, FmHA may consent to certain transactions affecting the security (for example, a sale or an exchange of security or granting a right-of-way across security and/or grant a partial release if:

(1) The consideration is adequate for the security being disposed of or the rights granted (see paragraph (c) of this section),

(2) Orderly repayment of the FmHA indebtedness will not be impaired (does not apply in condemnation cases after final judgment or award which is not appealed),

(3) The transaction will not interfere with successful operation of any farming or other enterprise providing the borrower with repayment ability (does not apply in condemnation cases after final judgment or award which is not appealed),

(4) The market value of the remaining security is adequate to secure the unpaid balance of the FmHA debts, or if the market of the security before the transaction was inadequate to fully secure the FmHA debts, the FmHA's security interest is not adversely affected,

(5) The requirements of §§ 1965.6 and 1965.13 of this Subpart are met, and

(6) The borrower cannot graduate to other credit.

(c) *Exchange of property.* When an exchange of property serving as security for an FmHA loan results in a balance owing to the FmHA borrower, the provisions of this section applicable to a sale of portion of the security will apply as to disposition of proceeds. When property is exchanged, the property acquired by the FmHA borrower must meet requirements of the program objectives, purposes and limitations outlined in this Subpart relating to the type of loan involved as well as respective requirements for appraisal, title clearance and security. Requests for exchange of property which cannot be approved under this section may be submitted to the National Office for consideration provided the request meets conditions set forth in § 1965.35 of this Subpart.

(d) *Appraisals.* When the official authorized to approve the transaction is uncertain whether the proposed consideration is adequate, or for any other reason considers an appraisal necessary to complete Form FmHA 465-1, or when the transaction involves more than $10,000, a new appraisal report will be obtained in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1). However, a new appraisal report need not be obtained if there is an appraisal report not over one year old in the case file which will permit the official authorized to approve the transaction to make the proper determination of the market value of the property being retained and the market value of the portion to be released. When a new appraisal is not required, the appraiser will indicate the estimation of values and basis for it in the comments section of the existing appraisal report. The notation will be initialed and dated. When a new appraisal report is required, it will be completed to show the present market value of the property being retained. Also, the present market value of the property being released will be shown under the comments section of the same appraisal report. Information regarding sales of comparable properties used in arriving at the present market value of the property being released will be shown in the comments section or on an attached sheet.

(1) *Stationary units.* If timber or minerals, including sand, gravel, and stone which appear to be worth more than $2,000 are to be sold on the basis of the timber stand or the mineral deposit rather then the units to be removed, the borrower will be encouraged to obtain the assistance of a qualified technician other than an FmHA employee to provide advice on the quality or value of the timber or minerals, and the manner in which they should be sold. Generally, assistance can be obtained from State or Federal employees who are located in the area, such as U.S. Department of Agriculture Forest Service employees.

(2) *Units removed.* When timber or minerals including sand, gravel, or stone, are to be sold on the basis of the units to be removed, or when an easement or a right-of-way is to be sold or granted, the employee authorized to make the appraisal may insert date, and initial a notation on the existing appraisal report instead of making a new appraisal report. The notation should show—

(i) The unit value of timber or minerals, or the value of the easement or right-of-way, based on the consideration being paid for similar items in the area; and

(ii) The manner in which the remaining property will be affected. If the market value of the remaining property is significantly decreased, a market value appraisal of the remaining property usually will be required.

(e) *Authority of the County Supervisor and District Director.* (1) *General.* County Supervisors and District Directors are authorized to approve transactions under this section, except for those transactions which are specifically reserved to the state Director.

(2) *Forest Products.* County Supervisors and District Directors can approve *most* applications for consent or release involving the harvest or sale of forest products. In the case of three precent loans for forestry purposes, applications for consent or release will be forwarded to the State Director for approval if:

(i) The harvest or sale is not in accordance with strict provisions of the initially approved forestry plan,

(ii) Future repayments on the three percent advance are scheduled on any basis other than equal annual installments,

(iii) There is a lien on the forest land prior to the lien of the FmHA, or

(iv) There is a delinquency on any FmHA real estate loan.

(3) *Terms of a sale.* County Supervisors and District Directors may approve sales made on the following terms.

(i) Sale of a portion of the security for its market value on the following terms:

(A) For RH loans, not less than ten percent down and payments not to exceed five annual installments of principal plus interest at not less than the current rate being charged on above moderate insured RH loans or the rate on the borrower's note(s), whichever is greater.

(B) For all other loans, not less than ten percent down and payments not to exceed ten annual installments of principal plus interest at not less than the current rate being charged on regular FO loans plus one percent or the rate on the borrower's note(s), whichever is greater.

(ii) In each case it must be determined that:

(A) The Government's security rights, including the right to foreclose on either the portion being sold or retained, are not impaired, and

(B) The downpayment and any subsequent payments are applied to the FmHA debt(s), prior lien(s), or otherwise used as authorized in this paragraph.

(iii) In each case the following conditions must be met:

(A) Any amount to be paid FmHA from the downpayment and subsequent payments must be assigned to FmHA,

(B) The property sold will not be released prior to either full payment of the borrower's account or receipt of full amount of sale proceeds with proper application or release of the proceeds, and

(C) The borrower must agree that the sale proceeds will not affect the borrower's primary and continued obligation for making payments under terms of the note or any reamortization or supplemental agreements approved by FmHA.

(f) *Use of proceeds.* County Supervisors or District Directors may approve transactions if the proceeds will be used in one of the following ways.

(1) Proceeds may be applied on liens in order of priority. Written consent of any prior or junior lienholder will be obtained by the borrower and delivered to the FmHA if any proceeds are not to be applied in accordance with lien priorities.

(2) The borrower may use a portion of any proceeds to pay customary incidental costs appropriate to the transaction and reasonable in amount which the borrower cannot arrange to pay from personal funds or cannot have the purchaser pay. The costs may, for example, include real estate taxes which must be paid to consummate the transaction; costs of title examination, surveys, abstracts, title insurance, reasonable attorney's fees; reasonable attorney's fees and court costs in condemnation cases; costs necessary to determine the reasonableness of an offer or asking price, such as fees for appraisal of minerals, land, or timber when the necessary appraisal cannot be obtained without costs; real estate broker's commissions when the FmHA approval official determines the expected proceeds will be increased by at least the amount of the broker's commission; and additional income tax which the borrower is required to pay for the year because of the capital gain or other payments from the transaction. The amount of the estimated tax on the particular transaction will be deposited in an interest bearing or supervised bank account, and any deposited funds not needed to pay the borrower's adjusted tax liability for the year of the transaction will immediately be applied on the account as an extra payment for RH loans and, for farmer program loans only to bring the account current if presently delinquent, pay the annual installment for the year if not paid, and any balance collected as an extra payment. In any State in which it is necessary to obtain the insured note from the lender to present to the recorder before a release of a portion of the land from the mortgage, the borrower must pay any costs for postage and insurance of the note while in transit. The County Supervisor will advise the borrower when requesting a partial release that the borrower must pay the costs. If the borrower is unable to pay the costs from personal funds, they may be deducted from the sale proceeds. The amount of the charge will be based on the statement of actual costs furnished by the lender.

(3) Proceeds may be used for development of land owned by the borrower or for enlargement, if development or enlargement is necessary to improve the borrower's debt-paying ability and to place the borrower's operation on a sound basis, or to otherwise further the objectives of the loan. The use of proceeds for these purposes will not conflict with the loan purposes, restrictions or requirements of the type loan(s) involved. Any proposed development work will be in accordance with Subpart A of Part 1924 of this Chapter. Funds to be used for development or enlargement will be handled in the manner prescribed in Subpart A of Part 1902 of this Chapter.

(4) When FmHA loans secured by a lien on real estate will be adequately secured after a transaction affecting the real estate takes place, proceeds may, with the consent of the State Director and other lienholders on the real estate, be used as follows:

(i) Applied on inadequately secured FmHA loans to reduce them to the extent that security will be adequate. Application can be to delinquent or unmatured installments when the borrower is otherwise unable to meet the installments.

(ii) For other than RH loans, applied on debts owed creditors other than FmHA to the extent needed to establish a basis for continuation of account.

(iii) Develop land not owned by the borrower which is essential to the borrower's operation in an amount not to exceed $10,000, provided: the improvements are needed to improve the borrower's repayment ability and the borrower has tenure arrangements which justify the use of the proceeds on the land not owned by the borrower. Development work performed will be in accordance with Subpart A of Part 1924 of this Chapter. Funds will be handled as prescribed in Subpart A of Part 1902 of this Chapter.

(iv) Any amounts not applied to any prior lien, inadequately secured FmHA loans, other creditor debts or used for development, must be applied to the FmHA lien with the highest priority.

(5) When liquidation action is pending in accordance with § 1965.26 of this Subpart, the County Supervisor or District Director is authorized to approve transactions only when all the proceeds (other than costs authorized in paragraph (f)(2) of this section) will be applied to the liens against the security in the order of their priority.

(g) *Authority of the State Director.* The State Director is authorized to approve transaction that exceed the approval authority granted in paragraph (e) of this section to the County Supervisor and District Director, or that involve an easement or fee title right-of-way granted or conveyed without monetary compensation or for a token consideration. When approving these transactions, the State Director must determine that the requirements of § 1965.13(b) of this Subpart are met.

(h) *Processing.* FmHA's consent will be given by approving a completed Form FmHA 465-1, if the transaction meets the conditions of § 1965.13(b). Also, when requested, the FmHA will give a written partial release on Form FmHA 460-1, "Partial Release," or other form approved by OGC on a case by case basis. A formal release may not be delivered for 15 days after the payment is received unless payment is made in the form of cash, money order, certified check, or check from a reputable lending agency. Releases not delivered will usually be voided 30 days after notification to the requesting party that the release is available. When an insured FO mortgage is held by the lender, the holder's consent will be obtained only if a written partial release or other written servicing document is requested by the borrower. When the approval of a transaction by the State Director is required, or when the County Supervisor or District Director desires advice in connection with approval of a transaction, the borrower's case folder, Form FmHA 465-1, and any other information pertinent to the transaction will be sent to the State Office.

§ 1965.14 Subordination of FmHA real estate mortgages to easements to the U.S. Fish and Wildlife Service, (formerly the Bureau of Sport Fisheries and Wildlife.)

Exhibit A (available in any FmHA office) of this Subpart, "Memorandum of Understanding between Bureau of Sport Fisheries and Wildlife (now the U.S. Fish and Wildlife Service) and the Farmers Home Administration," outlines the procedure to follow in processing a subordination of an FmHA mortgage on wetlands on which the Bureau of Sport

Fisheries and Wildlife requests an easement for waterfowl habitats. The County Supervisors will handle the request in accordance with the steps outlined in Exhibit A and applicable processing portions of § 1965.1 of this Subpart.

§ 1965.15 Subordination of FmHA's lien to the Commodity Credit Corporation's (CCC) security interest taken for loans made for farm storage and drying equipment.

The CCC makes loans under its Farm Storage and Drying Equipment Loan Program for the purchase, construction, erection, remodeling, or installation of either farm storage or drying equipment or both and requires that a loan of $25,000 or more, or any loan at the discretion of the approving committee, be secured by a lien on the real estate. When the CCC proposes to make a loan to an FmHA borrower and requests a subordination of the FmHA real estate lien, the request will be handled on an individual case basis in accordance with the authorizations and requirements of § 1965.12 of this Subpart. A borrower's requests for the FmHA's consent to a severance agreement or other similar instrument for an item or items to be acquired with a CCC loan will be handled in accordance with § 1965.19 of this Subpart.

§ 1965.16 Consent to junior liens.

As a general policy, FmHA borrowers will be discouraged from giving other creditors junior liens on real estate securing an FmHA loan.

(a) *Processing request.* When consent to a junior lien is requested by a borrower, the County Supervisor may consent by executing Form FmHA 465–1 or other form approved by OGC for use in the state provided:

(1) The terms of the junior lien debt are such that repayment is not likely to jeopardize payment of the FmHA loan;

(2) Operating plans made with the junior lienholder are consistent with plans made with FmHA;

(3) Total debt against the security will not exceed its market value;

(4) The junior lienholder agrees in writing not to foreclose the mortgage before a discussion with the County Supervisor and after giving a reasonable specified period of notice to FmHA;

(5) For a Section 502 RH loan subject to recapture of subsidy, the consent form shows the total RH debt, including principal reduction attributed to subsidy, the amount of subsidy granted to date and a statement that any future subsidy granted on the RH loan will have the same lien priority as the RH indebtedness; and

(6) For Sections 502 and 504 RH nonfarm security, the purposes are consistent with authorized Sections 502 and 504 loan purposes.

(b) *Consent not requested or granted.* When a junior lien is placed on any property without FmHA consent and consent cannot be granted in accordance with the policy indicated in this paragraph, the FmHA may continue with the loan as long as the borrower makes payments on FmHA loans as agreed, properly maintains the security, and meets all other conditions of the loan. The County Supervisor will continue to service the loan to protect the Government's security interest.

§ 1965.17 Consent to borrower's granting lease of security.

If consent to a lease is required by the security instruments, Form FmHA 465–1 will be prepared when a borrower requests FmHA's consent to lease all or a portion of the security, or when the County Supervisor discovers that a borrower is leasing the security without consent. This form will show the terms of the lease or the proposed lease and will specify the use of proposed rent proceeds, including any rent proceeds to be released to the borrower. When another lienholder's mortagage requires consent to lease, consent will be obtained as provided in § 1965.6 of this Subpart. FmHA consent to lease, and collections of proceeds derived therefrom, are subject to rights of any existing prior lienholders. In cases where the borrower leases property without consent and consent cannot be granted in accordance with the above provisions, or when further approval of a lease cannot be granted in accordance with the conditions of this paragraph, the case will be serviced promptly in accordance with § 1965.26 of this Subpart, unless the borrower corrects the violation.

(a) *General provisions.* When all of the security is leased, adequate rental income sufficient to make regular payments under terms of the note(s), pay taxes and insurance, and maintain the security must be assigned to FmHA for these purposes unless FmHA is reasonably sure that payment will be made. If foreclosure action has been approved, consent to lease and use of proceeds will be granted only under directions by the OGC. The following requirements must be met before FmHA consents to a lease:

(1) The lease or its terms will not adversely affect the repayment of, or security for, the loan or the Government's rights under the mortgage,

(2) leasing is not an alternative to, or means of delaying, liquidation action,

(3) The operation of the leased security will not adversely affect any applicable crop allotments, and

(4) The lease and use of any proceeds will further the objectives of the loan.

(b) *Leases of security for agricultural purposes.* The requirements set out in paragraph (a) of this section must be met. Leases of upland cotton, peanut or tobacco allotments will be handled in accordance with § 1965.18(d) of this Subpart.

(1) *County Supervisor's authority.* When liquidation in accordance with § 1965.26 of this Subpart is not pending, the County Supervisor is authorized to approve annual leases on all or a part of the security in connection with the following types of loans:

(i) All loan types other than FO, OL and RH. For the purposes of this paragraph, leases for an annual term with the option for the lessor to renew for a successive one year term or to cancel at the end of each year will be considered annual leases. FmHA will reserve the right to withdraw the consent at the end of any year should liquidation or other servicing action be required by FmHA.

(ii) FO, OL or RH loans, provided:

(A) Failure to personally operate the security to be leased is due to old age, poor health, or death in the family and the borrower or the borrower's immediate family will continue to occupy the security as a home, or

(B) The part of the security to be leased is insignificant to total farm acreage and is surplus to the borrower's need; for example, a surplus building, use of a building during idle periods, wasteland, or a few acres of land inconveniently located or otherwise unsuitable and unnecessary for the successful operation of the farm by the borrower. This will also include small allotment acreages that are not feasible for the borrower to operate because of special equipment needs, additional labor requirements, or other economical or management reasons. It must be determined that leasing these alloted acres will not reduce the borrower's operation to less than that of a family farm. This is not intended to cover substantial amounts of allotted crop acres that are an important part of the total farming operation. It must also be determined that the allotted acreage in question cannot be economically disposed of by the borrower in accordance with § 1965.13 and § 1965.18 (a) and (c) or (e) of this Subpart.

(2) *State Director's authority.* The State Director is authorized to approve leases when the following conditions exist:

(i) Failure to personally occupy the home or operate the security is due to conditions beyond the borrower's control and it is determined that the borrower will reoccupy and resume personal operation of the property within a reasonable period of time, generally not to exceed five years.

(ii) Liquidation in accordance with §1965.26 of this Subpart is pending and the lease is to protect the Government's interests. Form FmHA 465–2, "Lease of Real Property," will be used and the rental income will be applied to the FmHA secured debt or to prior lien(s). However, when the value of the property is adequate to cover the secured debt(s) and foreclosure action has not been approved, the rental proceeds may be applied on unsecured or undersecured FmHA debts.

(iii) Consent is not granted for a period in excess of one year unless a lease with longer terms is determined to be in the best interest of the borrower and the Government. Any lease for a term of more than five years will require prior consent by the National Office.

(3) *District Director's authority.* The District Director is authorized to approve leases on the same basis as the State Director provided consent is not given for more than four years without authorization from the State Office.

(c) *Leases of security under conditions other than specified in § 1965.17 (a), (b), (d), or (e) of this Subpart.* The State Director is authorized to grant consent to the lease of security provided:

(1) The requirements set out in paragraph (a) of this section are met.

(2) The lease will not adversely affect the borrower's personal operation of the farm securing any FmHA loan and the land or building to be leased is surplus to the borrower's needs.

(3) Consent for a lease is not granted for more than five years without prior approval of the National Office. In any case where a longer term is recommended by the State Director, the County Office case file, the justification for a lease for a longer period of time, and the reasons why a lease is preferable to disposition of the property will be sent to the National Office for consideration.

(d) *Mineral leases.* The requirements set out in paragraph (a) of this section must be met. The County Supervisor (unless restricted by a State Supplement or unless liquidation is pending) and the State Director are each authorized to consent to a lease and to execute recordable forms and any other forms as may be necessary, under the following conditions:

(1) *Compensation damages.* The lessee agrees in the lease or elsewhere, or is liable without any agreement, to pay adequate compensation for any damage to the real estate surface, improvements, and growing crops. When an oil and gas lease provides for payment of compensation for damage to growing crops and contains other provisios generally included in so-called "standard" lease forms used in the area, the State director may determine that it will not be necessary to obtain any additional agreement for payment of compensation for damages if the value of the security is not likely to be lessened. Damage compensation other than crop damage will always be assigned to the FmHA by the use of Form FmHA 443–16, "Assignment of Income from Real Estate Security," or to the prior lienholder. When FmHA is financing a crop, an assignment on crop damage compensation may be taken if the compensation would be needed for loan repayment. The crop damage payment liability requirement may be omitted or deleted from the lease on small nonfarm tract cases.

(2) *Assignments.* Payments for lease, damages, royalties or other compensation will be assigned on Form FmHA 443–16 when required to assure payment on the FmHA debt.

(3) *Lease amount.* The bonus and rentals are at least equal to any minimum amounts established by a State Supplement.

(4) *Lease forms.* The lease form is prepared by, or is acceptable to, the OGC.

(e) *Naval stores leases.* The requirements set out in paragraph (a) of this section must be met. The County Supervisor (unless liquidation is pending) and the State Director in any case, are authorized to execute Form FmHA 465–1 giving consent to the lease of naval stores and to execute any other forms on behalf of the FmHA as may be necessary. No lease may be consented to unless it requires operation consistent with approved naval stores' practices in the community and any State Supplement on this subject. When naval stores are not managed or operated by the borrower, an assignment of the rent proceeds will be taken on Form FmHA 443–16.

(f) *Use of proceeds.* All disposition of proceeds will be subject to right of lienholder priority. Proceeds from leases authorized in this paragraph (except lease proceeds referred to in § 1965.17 (b)(2)(ii) of this Subpart and royalty payments for oil, gas, coal, gravel, sand or other minerals referred to in § 1965.17 (d) of this Subpart), will be considered as normal income and may be used for the same purposes as normal income security as outlined in § 1962.17 (b) of Subpart A of Part 1962 of this Chapter. Proceeds from sale of minerals (oil, gas, coal, gravel, sand, etc.), will be considered as disposition of a portion of the security and will be used for the purpose outlined in § 1965.13 (f) of this Subpart.

§ 1965.18 Transfer of upland cotton, peanut, or tobacco allotments.

(a) *General.* Agriculture stabilization and Conservation Service (ASCS) regulations, pursuant to approved legislation, permit the transfer of upland cotton, peanut, or tobacco allotments by one or more of the following transactions: (1) sale, (2) lease, or (3) transfer by the owner to another farm owned or controlled by the owner. These regulations require, among other things, that no allotment be transferred from a farm which is subject to a mortgage or other lien, unless the transfer is agreed to by the lienholders. It is FmHA's policy to approve the transfer of any crop allotments permited by the ASCS regulations if the conditions and requirements of this Subpart can be met. FmHA personnel should familiarize themselves with the State ASCS policies and requirements concerning the sale, lease, or transfer of allotments to security.

(b) *Authorization.* County Supervisors are authorized to approve a transfer of upland cotton, peanut, or tobacco allotment by execution of a completed Form FmHA 465–1. County Supervisors are also authorized to execute the lienholder or mortgagee agreement on appropriate ASCS forms provided by ASCS for those cases in which a transfer is approved.

(c) *Transfer by sale.* Crop allotments enhance the value of a farm mortgaged to the FmHA and constitute basis security for the FmHA loan. Accordingly, when a borrower whose farm is mortgaged to the FmHA inquires about the sale of any of the allotted acres or requests the FmHA to sign the required lienholder of mortgagee agreement, the request will be treated the same as for a sale of a portion of the security and approval of the sale can be granted only in accordance with the applicable conditions and requirements of § 1965.13 of this Subpart. The sale proceeds may be used as authorized in § 1965.13(f) of this Subpart.

(d) *Transfer of allotment by lease.* Small allotment acreages leased in connection with the lease of land securing an FO or OL loan will be handled in accordance with § 1965.17(b) of this Supbart. The County Supervisor

has the authority to approve a lease of all or a portion of an allotment for a one-year period, contingent upon compliance with the provisions of § 1965.17(a) of this Subpart, except that item (3) will not be applicable. If a one-year lease is approved, the lease proceeds may be used as normal income as outlined in § 1962.17(b) or Subpart A of Part 1962 of this Chapter. Leases for a period of more than one year will be granted only with the concurrence of the District Director. When a lease is for more than one year, an assignment of the rental proceeds should be obtained for application on the appropriate FmHA debt in accordance with § 1951.9(a) of Subpart A of Part 1951 of this Chapter.

(e) *Transfer of allotment by owner to other land owned or controlled by the owner.* A transfer by an owner to other land owned or controlled by the owner is normally interpreted by the ASCS as a permanent transfer and can be avoided only by stipulating in the mortgagee approval that the transfer is to be considered as a lease for the appropriate number of years. This type of transfer will be approved only as a lease under conditions outlined in § 1965.18(d) of this Subpart to assure that the crop allotment on the security is not adversely affected.

§ 1965.19 Severance agreement.

Form FmHA 465–1 will be completed when a borrower requests FmHA's consent to a severance agreement, or other instrument of similar effect, so that items to be acquired by the borrower through other credit and subject to a chattel lien will not become a part of the real estate securing the FmHA debt. Some examples of items which may be acquired subject to a chattel lien are silos, storage bins, bulk milk tanks, irrigation or income producing facilities, non-farm enterprise facilities, and recreational equipment. County Supervisors are authorized to give FmHA consent by executing Form FmHA 465–1 and any necessary severance agreements, provided that the following determinations are made:

(a) The financing arrangements are sound and proper,

(b) The transaction will not adversely affect FmHA's security position and will be within the borrower's debt-paying ability, and

(c) The facility does not exceed the borrower's needs, is modest in cost and design, and is otherwise in line with FmHA financing polilcies. OGC will be requested to approve any severance agreement submitted by a borrower that is of a type not previously approved for use in the State and, when necessary, to issue closing instructions. The State Director may request the OGC to prepare a severance agreement instrument for use in the State.

§ 1965.20 [Reserved]

§ 1965.21 Assignment and release of Soil Bank or similar program payments.

The County Supervisor may take an assignment on income to be received under USDA Programs of similar contracts to protect the financial interest of the government or to facilitate loan servicing. The assignment of all or a portion of the income from the assignment may be released to the borrower by the County Supervisor when not to the financial detriment of the Government, and when payments due on all FmHA loans have been made from other income or the assigned income is urgently needed in an emergency.

§ 1965.22 Deceased borrower.

Deceased borrower cases will be handled in accordance with the policy outlined in § 1962.46 of Subpart A of Part 1962 of this Chapter.

§ 1965.23 Bankruptcy and insolvency.

Bankruptcy and insolvency cases will be handled in accordance with the policy outlined in § 1962.47 of Subpart A of Part 1962 of this Chapter. The handling of bankruptcy cases varies from State to State. Therefore, the State Director will issue, with assistance of OGC, a State Supplement for more specific guidance when it will expedite the handling of these cases.

§ 1965.24 Servicing note-only cases.

Each loan made on a note-only basis without real estate security will be serviced in a manner consistent with the best interests of the FmHA.

(a) *Sale of real property on which improvements were made with note-only FmHA funds.* Any loan evidenced only by an unsecured note will be collected by voluntary means at the time of the sale of the property, if possible. If collection is not possible, the loan may be assumed by the purchaser of the property on the terms of the note if the assumption is determined to be in the FmHA's best financial interest. If collection or assumption cannot be effected, consideration should be given to settling the account in accordance with Part 1864 of this Chapter (FmHA Instruction 456.1) if it is eligible, obtaining judgment, or classifying it as collection-only. In case of a judgment sale, the State Director, with the advice of OGC and the U.S. Attorney, will authorize an employee to attend the sale and if appropriate, enter a bid on behalf of the Government in accordance with Subpart A of Part 1955 of this Chapter.

(b) *Assumption of note-only when real property securing another FmHA loan is involved.* When a borrower has an FmHA secured by real estate and another FmHA loan evidenced only by a note and the real estate is to be transferred and the entire secured real estate debt is to be assumed, all or a part of the unsecured note up the present market value of the property in excess of existing liens must also be assumed.

§ 1965.25 Release of FmHA mortgage without monetary consideration on basis of additional security, because of mutual mistake, non-existence of evidence of indebtedness, or valueless liens.

(a) *Additional real estate, chattel, or miscellaneous security.* Real estate, chattels, or miscellaneous items which were taken as additional security for a loan secured by real estate may be released by the State Director without consideration before the loan is paid in full, if the market value of the remaining security for the loan is clearly adequate to secure the unpaid balance of the loan. For any loans made for operating purposes, a real estate lien may be released only if the real estate was considered "additional" security when the loan was made. For the purposes of this paragraph, real estate securing any loan made for real estate purposes is not considered "additional security." Additional security for an RH non-farm loan is real estate in addition to the tract on which the dwelling is located. Before a release can be granted there must be reasonable assurance that orderly payments can be made on the FmHA indebtedness, and:

(1) The release is needed in order for FmHA or other creditors to finance the borrower's operations; or

(2) The purpose for which the loan was made would be facilitated; or

(3) The borrower's ability to repay the loan will be improved.

(b) *Release of real estate from mortgage because of mutual mistake.* Land or buildings included in the mortgage through mutual mistake, when substantiated by the facts of the situation, may be released from the mortgage by the State Director. The release is contingent on a determination of the State Director, with the advice of the OGC, that a mutual error existed at the time such property was included in the Government's mortgage.

(c) *No evidence of indebtedness.* The FmHA mortgage may be released by the County Supervisor in situations where there is no evidence of an existing

indebtedness secured by the mortgage in the records of the FmHA County, State, and Finance Offices.

(d) *Release of valueless liens.* State Directors are authorized to release FmHA mortgages or other liens which have no present or prospective value or when their enforcement would likely be ineffectual or uneconomical. This authority does not extend to valueless judgment liens or valueless statutory redemption rights except with the consent of the OGC. The following information will be obtained in determining present or prospective value:

(1) *Appraisal report.* A market value appraisal report on the security prepared by an FmHA employee authorized to make appraisals in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(2) *Lienholders.* The names of the holders of prior liens on the property, the amount secured by each lien which is prior to the FmHA, the amount of taxes or assessments, and other items which might constitute a prior claim. This information will be recorded in the running case record of the borrower's County Office case folder and submitted to the State Director for review.

§ 1965.26 Liquidation action.

Problem cases and delinquent borrowers require special servicing actions (described in Subpart A of Part 1960 of this Chapter for Farmer Program borrowers) before liquidation action is considered. When the County Supervisor, with the advice of the District Director and the County Committee (except the County Committee will not be used for servicing RH loans), determines that continued servicing of the loan will not accomplish the objectives of the loan, or that, for other reasons, further servicing cannot be justified under the policy stated in § 1965.2 of this Subpart, liquidation of the account(s) will be accomplished as expeditiously as possible.

(a) *Voluntary liquidation.* Borrower will arrange for sale, transfer or conveyance.

(1) *General.* When the borrower has voluntarily agreed to liquidate the account, the County Supervisor may give the borrower 60 days (or such a longer time as the FmHA official servicing the loan determines is reasonable and justifiable) to take one of the following actions:

(i) Sell the property and pay the account in full.

(ii) Transfer the total security with an assumption of all or the appropriate portion of the debt under § 1965.27 of this Subpart.

(iii) Sell the property for not less than its present market value under § 1965.26(g) of this Subpart.

(iv) Convey the security to FmHA as outlined in § 1955.10 of Subpart A of Part 1955 of this Chapter.

(2) *Sale or transfer for less than secured debt.* If the property is to be sold or transferred for less than the total secured debts against it, the property will be appraised immediately to determine its present market value. The appraisal will be completed by an authorized FmHA employee in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1) and placed in the borrower's case file.

(3) *Voluntary liquidation after acceleration.* When a borrower requests permission to arrange for sale, transfer or conveyance *after* an account is accelerated, the request will be handled in accordance with Subpart A of Part 1955 of this Chapter.

(b) *Involuntary liquidation (foreclosure).* If the borrower is unwilling to take any of the actions specified in § 1965.26(a) of this Subpart, or if the borrower fails to carry out the actions within the set time, the procedures for foreclosure set out in § 1955.15 of Subpart A of Part 1955 of this Chapter will be followed. Subpart B of Part 1900 of this Chapter will be observed in providing appeal notice.

(c) *Multiple loans.* When a borrower is indebted to the FmHA for more than one type of FmHA loan, a detailed study should be made of each loan and of the effect liquidation of one or more of the loan(s) would have on any other loan(s). If liquidation of one or more FmHA loans secured by real estate is necessary but will jeopardize repayment or accomplishment of the loan objectives of the other FmHA loan(s), all FmHA loans should be liquidated. Liquidation of real estate and chattel security should be started simultaneously, and should be coordinated to the extent possible in accordance with Subpart A of Part 1962 of this Chapter and this Subpart or Subpart A of Part 1955 of this chapter as appropriate. When an account(s) will be transferred, transfer(s) will be accomplished in accordance with § 1965.27 of this Subpart. RH loans on nonfarm tracts should not be routinely liquidated just because the borrower could not be successful in the farming operation. When a borrower is indebted for both farmer program type loans and an RH loan for a dwelling on a nonfarm tract, consideration may be given to continuing with the RH loan when the farmer program loans are liquidated, provided the borrower:

(1) Has acted in good faith;

(2) Has satisfactorily accounted for all security property;

(3) Has paid in accordance with ability;

(4) Voluntarily liquidates all security for the loans other than the RH nonfarm security;

(5) Has repayment ability and agrees to continue to pay on the RH loan;

(6) Continues to comply with conditions of the RH loan; and

(7) Will further agree:

(i) Through a compromise or adjustment offer, to pay on the balance of any FmHA debt(s) other than the RH, an amount equal to the difference between balance owed on the RH loan and market value of the retained property at the time and any additional amount the borrower is able to pay; or

(ii) When the difference between balance owed on the RH loan and market value of property to be retained exceeds the balance owed on FmHA loans, to pay the balance, including accruing interest, over a reasonable period of time.

(d) *Correction of violations.* Borrowers who violate loan agreements by failure to occupy the property securing the loan and/or to operate the farm or other enterprise financed by FmHA, will be promptly contacted in person by the County Supervisor. The borrower will be advised of the violation and told that it will be necessary to pay the account in full, by completely refinancing or by using some other form of debt liquidation, unless definite arrangements are made to remove the violation. The borrower must remove the violation by reoccupying or resuming personal operation of the property as required by the loan documents, or FmHA must grant a consent for lease as authorized in § 1965.17 of this Subpart. If the borrower is not available for personal contact, the County Supervisor will write to the borrower's last known address, giving notice of the violation and advising that, because of the violation, it will be necessary to pay the account in full, a notice of acceleration such as that set forth as Exhibit C of Subpart A of Part 1955 will not be used for this purpose. The County Supervisor may give the borrower a reasonable period of time (60 to 90 days) to correct the violation. This time will not be extended. If during that period a borrower fails to remove the violation or pay the account in full, the case will be handled in accordance with § 1965.26(b) of this Subpart.

(e) *Accelerated repayment agreement.* When liquidation of an account is necessary because of failure to graduate to other credit or for other reasons, the State Director may, in lieu of foreclosure, permit the borrower to pay the account under an accelerated repayment agreement. When an understanding is reached with the borrower, Form FmHA 1965-11, "Accelerated Repayment Agreement," will be prepared and executed in accordance with the Forms Manual Insert for each note accelerated. Accounts rescheduled under Form FmHA 1965-11 will be reclassified by the Finance Office as ORE loans. The balance of the debt will be scheduled for repayment in annual or monthly amortized installments. If the borrower has monthly income, monthly payments will be scheduled. If annual payments are scheduled, the first installment may be less than a full amortized installment if it is due subtstantially less than a full year after the date the agreement is executed and the borrower will not be able to pay the first full amortized installment. If the borrower fails to meet any installment when due as provided in the agreement, foreclosure action will be initiated. Rates and terms authorized are:

(1) *Other than RH loans.* (i) For real estate purpose loans secured by real estate when the remaining repayment period exceeds 10 years, the term generally will not exceed 10 years. In justifiable cases, the term may be up to 15 years. In no case may the term exceed the final due date of the note. An amortization factor for 20 to 25 years may be used, with a balloon installment due on the final due date. The interest rate will be that in effect for regular FO loans on the date the agreement is executed plus 1 percent or the interest rate of the note, whichever is greater.

(ii) For loans for operating purposes secured by real estate when the remaining repayment period exceeds 2 years, the term may not exceed 5 years and in no case may the term exceed the final due date of the note. The interest rate will be that in effect for regular OL loans on the date the agreement is executed plus 1 percent or the interest rate of the note, whichever is greater.

(iii) For loans for either real estate or operating purposes when the remaining repayment period is less than 10 years or 2 years, respectively, the State Director may authorize a shorter term. For loans made for a combination of loan purposes, the State Director may authorize an accelerated repayment term of up to 10 years, not to exceed the final due date of the note. The interest rate will be as specified in paragraph (e)(1) (i) or (ii) of this section.

(2) *Single-family housing (SFH) RH loans.* For SFH loans, the term may not exceed ten years and the interest rate will be the Section 502 RH above-moderate rate in effect on the date the agreement is executed.

(f) *Dwelling retention.* This paragraph applies only to a situation where a farmer program borrower does not have an RH loan outstanding (see § 1965.26(c) of this Subpart for RH loans) and the borrower desires to retain an existing dwelling for personal residence.

(1) When an individual borrower is indebted to FmHA for a farmer program loan(s) and the borrower's personal dwelling is part of the security for the loan(s), FmHA may, in exceptional cases and with proper justification, permit a borrower to retain the dwelling for his/her personal residence after other security property is liquidated. The tract on which the dwelling is situated will be of minimum adequate size for the dwelling and residential related appurtenant facilities/structures. Before granting such permission it must be determined that the borrower:

(i) Has acted in good faith.

(ii) Satisfactorily accounted for all security.

(iii) Paid in accordance with ability.

(iv) Voluntarily liquidated all other security for the loan(s).

(v) Has repayment ability to meet any terms agreed upon and income sufficient to maintain the property, taxes, insurance and other related costs of ownership.

(vi) Will personally occupy the dwelling.

(vii) Will not be retaining a dwelling which is unreasonably larger or more valuable than similar dwellings in the area.

(viii) Will be able to obtain full market value of other security if the dwelling is retained.

(2) Requests for dwelling retention will be processed as part of a compromise or adjustment offer in accordance with Part 1864 of this Chapter (FmHA Instruction 456.1). The value of existing security (market value or market value less any prior liens) will be determined by a current appraisal completed by an authorized FmHA employee in accordance with Subpart A of Part 1809 (FmHA Instruction 422.1) or Subpart C of Part 1922 of this Chapter as appropriate. The borrower must agree, in a compromise or adjustment offer, to:

(i) Pay FmHA an amount equal to the value of existing security in the retained property plus any additional amount the borrower is able to pay; or

(ii) Pay the balance owed on FmHA loan(s), including accruing interest over a reasonable period of time when existing FmHA security interest exceeds balance on the FmHA debt.

(g) *Cash sale.* When a cash sale of mortagaged real estate will not result in the secured debts being paid in full, the County Supervisor is authorized to approve the sale for an amount not less that the present market value of the property and to release the Government's liens, provided:

(1) A substantial recovery can be made on the FmHA secured indebtedness based on the recent appraisal report required by § 1965.26(a)(2) of this Subpart;

(2) All the proceeds are applied on the mortgage debts in accordance with their respective priorities except authorized costs as specified in § 1965.13(f) of this Subpart; and

(3) The FmHA liens are not released by the County Supervisor until the appropriate sale proceeds for application on the Government's claim are received. The release will be made on forms approved or prepared by OGC. When the debt is not paid in full and a deficiency judgment is not to be obtained, a release of liability of the borrower can be processed under § 1965.27(f) of this Subpart in the same manner and with the same considerations as for a transfer and assumption; otherwise, the case will be reclassified as "collection-only," provided the debt cannot be settled under the provisions of Part 1864 of this Chapter (FmHA Instruction 456.1). The requirements of FmHA Instruction 1900-A, which is available in any FmHA office, must be met and Form FmHA 404-1, "Case Reclassification," must be sent to the Finance Office.

§ 1965.27 Transfer of real estate security.

When the mortgage requires the consent of the FmHA to any proposed sale or other transfer of real estate security, the borrower should be reminded that before firm agreements have been reached with a purchaser of all or a portion of the security, the borrower and purchaser should contact the County Supervisor. If a proposed sale would not result in the FmHA account being paid in full at the time of sale, the County Supervisor should explain thoroughly the requirements of this section and §§ 1965.13 or 1965.26 of this Subpart, as appropriate. When the transferor is receiving a substantial downpayment from the sale of the property, the purchaser must be required to contact other sources of credit in an actual effort to secure a loan for

repayment of the FmHA loan(s) in full. When real estate security, including water, access, development or other rights, is to be sold and the mortgage requires FmHA consent to the sale and the transaction cannot be approved under the appropriate sections of this Subpart, the account will be liquidated as required in § 1965.26 of this Subpart, or will be handled in accordance with § 1965.27(g) of this Subpart.

(a) *Authority.* County Supervisors, District Directors and State Directors are authorized to approve initial and subsequent transfers of real estate security to eligible or ineligible transferees, to approve assumptions, and to release borrowers and co-signers from liability, when applicable, in accordance with the approval authority outlined in § 1965.12(e) (1) and (2) of this Subpart. When a transfer is not within the County Supervisor or District Director's approval authority, the docket and the transferor's case file will be sent to the District Director or State Director, as appropriate, for approval or disapproval. State Directors are also authorized to approve transfers to ineligible transferees regardless of the amount of the outstanding FmHA debts or the amount of prior liens. Proposed transfers to, and assumptions by, eligible tranferees which will exceed the authorization of the State Director for an initial or subsequent loan of the same type will be submitted to the National Office for prior authorization before approval.

(b) *General policies.* The following general policies will be applicable when an FmHA borrower transfers, or proposes to transfer, real estate which is security for an FmHA loan(s) and the loan account(s) is to be assumed by use of Form FmHA 1960-5, "Assumption Agreement" for Farmer Progam loans or Form FmHA 1965-15, "Assumption Agreement (Single Family Housing Loan(s)" for RH loans. See §§ 1965.11(d) and 1965.27(b)(4)(iii) of this Subpart for divorced borrower cases.

(1) *Agreement.* Form FmHA 465-5, "Transfer of Real Estate Security," will be completed to reflect the agreement between the transferor and the transferee.

(2) *Assignment.* If an insured loan is involved, the Finance Office will have the note assigned to the insurance fund when the assumption agreement changes the terms of the note.

(3) *Amount assumed.* All transfers will be based on present market value. When the total secured FmHA debt(s) exceeds the present market value, the transferee will assume an amount equal to the present market value as determined in accordance with § 1965.26 (a)(2) of this Subpart, less prior liens. Otherwise, the transferee will assume the total FmHA secured debt(s).

(4) *Assumption on same terms.* In the following situations, the debt will be assumed on the same terms as in the original note (with certain exceptions listed below).

(i) For EM actual loss loans assumed by eligibles, the interest rate and terms of the assumption agreement will remain the same as in the original note(s), except that the number of years over which the loan was amortized can be extended to meet the repayment ability of the eligible transferee. Eligible transferees of real estate for EM loss loans are limited to those who were actually involved in the operation at time of the loss and meet one of the following requirements:

(A) If an individual received the actual loss loan, the only eligible transferee is an individual who is an immediate family member of the borrower. An entity is an eligible transferee if it is made up of only immediate family members of the borrower. Such a transferee can assume the entire amount of the actual loss loan on the same terms.

(B) If a partnership received the actual loss loan, an eligible transferee is a partner who was a partner in the partnership at the time the actual loss loan was made. An entity is also an eligible transferee if it is made up of only those who were partners in the partnership at the time the actual loss loan was made. Such transferees can assume the entire amount of the actual loss loan on the same terms.

(C) If a corporation/cooperative received the actual loss loan, the only eligible transferee is a stockholder/member who was a stockholder/member of the corporation/cooperative at the time the actual loss loan was made. An entity is an eligible transferee if it is made up of only stockholders/members who were stockholders/members of the corporation/cooperative at the time the actual loss loan was made. Such transferees can assume on the same terms only that portion of the actual loss loan equal to the transferee's percentage of ownership in the corporation/cooperative (or, in the case of an entity transferee, the combined percentages of the individual stockholders/members).

(ii) A deceased borrower's spouse who did not sign the note and wishes to assume the loan, regardless of loan type, will be allowed to do so by executing Form FmHA 1960-5. This is necessary because the spouse is not already liable for the debt. Form FmHA 1960-5 will be completed and retained in the County Office. Information on this form will be entered on Form FmHA 1960-6, "Assumption Agreement (Information)," and the original of this form will be sent to the Finance Office. The interest rate and terms of the Assumption Agreement will remain the same as they were in the note(s), except the number of years over which a note was amoritized may be extended to be within the repayment ability of the assuming spouse. The reamortization period cannot exceed the maximum repayment period applicable to the kind of loan being assumed. However, if the spouse qualifies as a limited resource borrower, FO and/or OL loan(s) may be assumed at the current interst rate in effect for a limited resource borrower for the type of loan involved. (See Exhibit B of FmHA Instruction 440.1, which is available in any FmHA office, for this rate.)

(iii) When one of the joint individual borrowers withdraws from the operation and conveys his or her interest in the security to the remaining borrower who will repay the total indebtedness, the repayment rates and terms will be the same as in the existing note(s). An assumption agreement is not required, unless an FO or OL loan is being assumed and the rate will be lowered to the current limited resource rate. FO and OL loans may be assumed at the current rate in effect for limited resource borrowers, if the tranferee is an eligible limited resource borrower. Form FmHA 450-10 "Advice of Borrower's Change of Address or Name", will be submitted to the Finance Office when the account will be continued with the remaining borrower(s) under a different name. The previous joint owner will be released from liability for the indebtedness by completing Parts 1 and 3 of Form 1965-8. The remaining borrower must consent to this release; this consent will be documented in the Running Case Record. If the remaining borrower objects to the release, OGC will be contacted for advice. When a divorce decree awards the security to one spouse and provides that the other spouse will be responsible for paying all or part of the mortgage payments, neither spouse will be released from liability. Partners in a partnership, stockholders in a corporation, or members of a cooperative who signed the note are not joint borrowers, but only cosigners; therefore, this paragraph does not apply to them.

(iv) When a family member of a borrower wants to assume a debt with the existing borrower(s), the assumption will be made on the same rates and terms as in the original note, provided the family member is eligible for the

type of loan involved. After the transfer, the assuming family member may own the property as an individual, jointly with the existing borrower(s), or subject to a life estate of the existing borrower.

(v) If there is only one stockholder/member/partner of a corporation/cooperative/partnership who is personally liable on the note and that stockholder/member/partner withdraws from the operation or dies, all of the remaining stockholders/members/partners will be required to assume personal liability on the loan. A transfer does not have to be processed unless title to the real estate is transferred.

(vi) If a stockholder/member/partner or a corporation/cooperative/partnership buys out the shares of the other stockholders/members/partners and continues to operate the farm, and if the remaining stockholder/member/partner is not personally liable on the note, that stockholder/member/partner will be required to assume personal liability on the loan. A transfer does not have to be processed unless title to the real estate is transferred.

(vii) New stockholders/members/partners entering the corporation/cooperative/partnership must assume the loan. A transfer does not have to be processed unless title to the real estate is transferred.

(5) *Loan type.* The type(s) of loan will remain the same for all loans except that loans which are transferred to ineligible applicants will be classified as ORE.

(6) *Conveyance of a portion of the security.* Generally, title to all FmHA real estate security, including any water, access, development or other rights, must be conveyed to the transferee not later than the date of closing of the assumption. However, a transfer of a portion of the FmHA real estate security with an assumption of the *total* indebtedness may be approved, provided:

(i) The portion of the FmHA security transferred has a present market value at least equal to the total indebtedness owed by the borrower or indebtedness is reduced by a cash payment to the present market value of the property,

(ii) the transaction is advantageous to the Government, and

(iii) in cases of RH loans, the portion of the property improved with RH funds is conveyed to the person assuming the RH loan. In such a transaction, the transferor will be released from personal liability for the debt. The security retained by the transferor will be released from the Government's lien.

(7) *Multiple sales and assumption.* When a request is made by a borrower to transfer the real estate security as parcels to two or more transferees with each assuming a portion of the debt, the County Supervisor may send the proposed action to the State Director for consideration if the County Supervisor recommends that the transaction would be advantageous to the Government. The total debt owed on all outstanding notes must be assumed by the transferees even though a portion of the security may be retained by the transferor. The County Supervisor will submit to the State Director the complete factual information concerning the transaction, including appraisal reports showing the present market value of each portion to be transferred; value of the total unit before subdivision; the amount of indebtedness to be assumed by each transferee; and the case file with other pertinent information outlining the reasons for the proposed actions. If approved by the State Director, new security instruments will be required for each transferee at closing and any security retained by the transferor will be released from the Government lien. This policy is to permit transfer to two or more transferees when the transferor owes more than one note evidencing indebtedness or the indebtedness on one note is to be divided between transferees. OGC guidance will be requested in these cases to assure enforceable liens are obtained.

(8) *Dual security.* When the account(s) is secured by both chattels and real estate, all the chattel security must be transferred, sold or liquidated by the time of the transfer of real estate, except that in cases of EM, EE, or SL security, the real estate security may be transferred without transfer or liquidation of the chattel security upon prior approval of the National Office.

(9) *Consent.* Written consent to a proposed transfer and assumption must be obtained if required by any other lienholder(s).

(10) *Junior liens.* When the full amount of the FmHA debt is assumed, there must be no liens, judgments, or other claims against the security which are junior to any FmHA liens being assumed unless the State Director determines that the liens, judgments, or claims will not adversely affect the Government's security interests and that the transferee's ability to pay the FmHA debt will not be impaired. When less than the full amount of the FmHA debt is being assumed, there must be no liens, judgments, or other claims against the security which are junior to any FmHA loans being assumed.

(11) *Loans.* A loan for which the transferee is eligible may be made in connection with a transfer, subject to the policies and procedures governing the type of loan being made. When the transfer is being made to an eligible FO applicant, FO loan funds may be used to pay for the equity in the property being transferred. When real estate security for an RH loan is transferred to a person eligible under Subpart A of Part 1944 of this Chapter for an RH loan to purchase the real estate, RH loan funds may be used to pay for the equity in the property being transferred other than income-producing land or buildings. In lieu of a subsequent loan of the kind involved, the Government's lien may be subordinated to enable the transferor to take a first mortgage, or permit another lender to take a first mortgage, in return for furnishing the funds needed in connection with the transfer. In these cases, the subordination will be processed in accordance with the applicable provisions of § 1965.12 of this Subpart. For other than RH loans, the transferor may convey title to the property by warranty deed or by purchase contract or similar instrument which meets the conditions of § 1943.16(a)(3) of Subpart A of Part 1943 of this Chapter. Prior lienholder's agreements will be obtained in accordance with § 1807.2(f)(5) of Part 1807 of this Chapter (paragraph II F 5 of FmHA Instruction 427.1). When necessary to settle a divorce action, a subsequent loan may be made, or a subordination may be granted to permit the remaining borrower to obtain a loan in an amount not to exceed the equity in the property provided the purchase of land is an authorized loan purpose or the subordination is in accordance with § 1965.12 of this Subpart. (Also see § 1965.11(d) of this Subpart.)

(12) *Payments.* When a payment is made to the transferor in connection with the transfer and assumption, and the full amount of the FmHA secured debt is not being assumed and other FmHA debts owed by the transferor are not adequately secured, the State Director may, as a condition of approving the transfer, require that all or a part of any payment be applied on the debts.

(13) *Downpayment.* An eligible transferee who is financially able, will be required to make a downpayment on the FmHA secured debts. When a downpayment is required it will be collected at closing.

(14) *Date.* The effective date of the assumption will be the date on which Form FmHA 1960-5 is signed. In connection with the use of this form, the unpaid principal balance and accrued interest will be shown in Table 1 and the accrued interest will be computed

from Form FmHA 451-26, "Transaction Record," or obtained, from the monthly payment account Status Report. The transferee will be informed of the amount of principal and interest owed, the total amount paid as of the closing date which has not been credited to the account, the amount that would be required to be paid to place the account on schedule as of the previous installment due date, and any accounts that must be paid to bring any monthly payments up to date.

(15) *Nondiscrimination Assurance.* When the property transferred will continue to be used for the same or a similar purpose and the assistance was subject to the Civil Rights Act of 1964 and other similarly worded Federal Statutes that prohibit discrimination on the basis of race, color, national origin, handicap, age, religion, marital status, or sex in programs or activities receiving Federal financial assistance, the transferee must agree to comply with requirements of these statutes. The transferee will be required to sign a Form 400-4, "Assurance Agreement."

(16) *Recapture of subsidy.* Recapture of subsidy in connection with assumptions will be as provided in Subpart I of Part 1951 of this Chapter.

(17) *County Committee.* The County Committee, except for RH loans, must find that the transferee will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan. (See § 1965.27 (g)(6) of this Subpart.)

(c) *Assumption of direct or insured loans by eligible transferees.* (1) *Eligibility.* A loan may be assumed on eligible rates and terms by an applicant (including an entity applicant) who meets all of the eligibility and loan purpose requirements for the type of loan being assumed or whose situation after the transfer of the real estate will satisfy the eligibility and loan purpose requirements. Eligibility and loan purpose requirements can be found in the loan making regulations appplicable to the type of loan being assumed. (See § 1965.27(b)(4) of this Subpart for a list of situations in which the debt can be assumed on the same rates and terms as in the existing note.) Indebted borrowers can assume loans so long as applicable loan limits are not exceeded. Loans may also be assumed on eligible rates and terms under the following conditions:

(i) *RH assumptions.* An RH low- or moderate-income loan may be assumed by a low-, moderate- or above-moderate income applicant provided he/she is otherwise eligible for an RH loan. An above-moderate income loan may be assume by a low-, moderate-income applicant. After the transfer, the loan will be classified as low- or moderate-income or above-moderate income according to the terms on which the transferee assumed it. Where a property securing an RH loan is located in an area which has been reclassified from rural to nonrural the loan may be transferred without regard to the nonrural designation.

(ii) *ORE loan.* An ORE loan may be assumed by an applicant who is determined eligible for an FO loan if the property is a suitable farm tract, or an applicant eligible for an RH loan if the property is a suitable dwelling on a farm or nonfarm tract. When closing the assumption, the loan will be reclassified as "FO" or "RH", as applicable.

(iii) *SL and other emergency type loans no longer being made.* SL and other emergency type loans no longer being made may be assumed in accordance with § 1965.27(d) of this Subpart. The loan(s) will be serviced in accordance with § 1965.34 of this Subpart.

(iv) *EM actual loss loans.* See § 1965.27(b)(4)(i) of this Subpart.

(v) *Other loan types currently being made.*

(A) *Individual transferees.* If real estate security is transferred to an individual who meets all of the eligibility requirements and loan purpose requirements for the type of loan being assumed, the loan may be assumed on eligible terms. This applies to transfers of real estate from individual borrowers and from entity borrowers, including entities in which the transferee had an interest.

(B) *Entity transferees.* If real estate security is transferred to an entity which meets all of the eligibility requirements and loan purpose requirements for the type of loan being assumed, the loan may be assumed on eligible terms.

(C) *EM non-actual loss loans.* These loans can be assumed on eligible terms. The loan making regulation requirement that an applicant must have suffered an actual loss in order to be eligible for a non-actual loss loan does *not* apply, for the purposes of this paragraph.

(2) *Repayment and reamortization terms.* Except as provided in § 1965.27 (b)(4) of this Subpart and as noted in this paragraph, all loans will be assumed by eligible applicants at the current interest rate in effect for the loan type involved at the time the approval official approves the assumption by executing and delivering a copy of Form FmHA 1940-1, "Request for Obligation of Funds," to the assuming party. Form FmHA 1960-5 will be used to complete the assumption. The repayment period will not exceed the repayment period for a new loan of the type involved; for example, FO—40 years, OL—7 years, EM—depends on loan purpose and RH—33 years. An ORE loan will be considered an FO or RH loan as appropriate, if the applicant and the property meet the requirements of § 1965.27 (c)(1) of this Subpart. Low- and moderate-income RH loans assumed by an eligible applicant having an above-moderate income will be assumed at the current rate for an above-moderate RH loan and above-moderate loans assumed by low- or moderate-income applicants will be assumed at the current low- or moderate-income RH interests rate. (See Exhibit C to Subpart A of Part 1944). FO and OL loans may be assumed at the current rate in effect for limited resources loans by those applicants eligible for a limited resource loan(s). See Subparts A of Parts 1941 and 1943 of this Chapter for the definition of a limited resource applicant and an explanation of limited resource eligibility criteria.

(d) *Assumption of direct or insured loans by ineligible transferees.* When a borrower sells or proposes to sell the real estate security to a person(s) or entity not eligible to assume the debt in accordance with § 1965.27 (b)(4) or (c) of this Supart and the mortgage requires the Government's consent for the transaction, it will be the policy to permit assumption of the account by an ineligible transferee if it is in the best interest of FmHA. Otherwise, the account will be liquidated as provided for in § 1965.26 of this Subpart except as outlined in § 1965.27 (e) or (h) of this Subpart. Ineligibles will be considered without regard to race, color, religion, sex, national origin, marital status, age or handicap. Types of loans for which there are no existing authorizations or eligibility requirements in FmHA regulations may be assumed under the requirements and conditions of this paragraph (see also § 1965.27 (c)(i)(iii) of this Subpart). Form FmHA 1960-5 will be completed and retained in the County Office. Information on this form will be entered on Form FmHA 1960-6 and the original of the completed form will be submitted to the Finance Office. If the approval official determines that it is in the best financial interest of FmHA to have the account assumed, the approval official may consent to the initial or subsequent assumption agreement provided that:

(1) *Downpayment.* Each assuming party is required to make as large a downpayment on the FmHA secured debt as the party is financially able to make under the circumstances.

However, no RH loan may be assumed by an ineligible applicant without at least a 10 percent down payment and no other type FmHA loan covered by this Subpart may be assumed without at least a 5 percent downpayment.

(2) *Terms—Other than RH.* The balance of the FmHA debt assumed will generally be scheduled for repayment over a period not to exceed 15 years with equal amortized monthly or annual installments. Interest on Farmer program loans will be at the current rate being charged for regular FO loans, plus 1 percent, or at the rate of interest specified in the note(s) being assumed, whichever is greater. If it is determined that the property cannot be transferred on terms of 15 years or less because of conditions in the area, the State Director may authorize a balloon installment or a longer repayment term not to exceed 25 years. In the case of real estate loan transfers originally made on repayment terms of not more than 15 years, an extension of the repayment period, not to exceed a total of 25 years from the date of the transfer, may be authorized when the borrower, because of crop failure, a natural disaster, or economic condition beyond the borrower's control, is unable to meet the scheduled installment(s). An extension may be granted only if the County Committee and the State Director determine that the extended repayment period is necessary to prevent foreclosure action and that the Government's interest will not be adversely affected. In these cases, the unpaid balance owed may be reamortized over the remainder of the 25 year period, and the borrower will execute a replacement assumption agreement evidencing the debt.

(3) *Terms—RH loans.* For RH loans, the balance of the RH debt assumed will be scheduled for repayment in not more than 10 years with amortized annual or monthly installments. Interest on the amount assumed will be charged at the rate currently applicable to above-moderate RH loans, including insurance charges.

(4) *Payment.* The transferee must have the ability to pay the FmHA debt in accordance with the assumption agreement and the legal capacity to enter into the contract.

(5) *ORE loan.* An ORE loan may be assumed by an applicant on ineligible rates and terms if it is in the best interests of FmHA.

(6) *County Committee.* The County Committee, except for RH loans, must find that the transferee will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan. (See § 1965.27(g)(6) of this Subpart.)

(7) *Condition.* The transfer must not adversely affect the FmHA program in the area.

(e) *Consent of FmHA not required to transfer.* When the FmHA mortgage(s) does not require the Government's consent to the sale of the security and the borrower conveys or proposes to convey the security to a person who is ineligible or unwilling to assume the FmHA debt in accordance with § 1965.27 (c) or (d) of this Subpart, the Government will not consent to the sale. In that case, the County Supervisor will advise the State Director of the sale. If the account is delinquent or the loan is otherwise in default, the County Supervisor will also advise the State Director of the nature of the default and any specific plans that may have been made to correct the default. If the State Director decides to continue with the account, it will be serviced in the name of the original FmHA borrower, in the usual manner.

(f) *Release of transferor from liability.* The borrower (and any cosigner for an RH loan) will be released from personal liability when all of the real estate security is transferred under § 1965.27 (c) or (d) of this Subpart and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed. Borrowers, however, may not be released from personal liability to the FmHA when real estate securing loans is transferred to an ineligible transferee under paragraph (d) of this Section unless the debt assumed by the transferee is scheduled for repayment in not to exceed 5 years from the date of the Assumption Agreement. When a portion of the real estate is transferred and the total RH debt is assumed, a release can be granted in accordance with § 1965.27(b)(6)(iii) of this Subpart. When only that portion of the debt equal to the market value of the security is assumed and the borrower is to be released from liability the following conditions must be met:

(1) *Required certification.* (i) *Certification by County Committee.* The County Committee must determine that the facts in each case support signing a memorandum containing the following statement:

(Name of transferor and any cosigner) in our opinion do not have reasonable ability to pay all or a substantial part of the balance of the debt not assumed after considering their assets and income at the time of transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of their ability. Therefore, we recommend that the transferor and any cosigner be released of personal liability upon the transferees' assumption of that portion of the indebtedness equal to the present market value of the security.

(ii) The official approving the transfer of RH loans must also execute a memorandum containing the above statement.

(2) *Release.* For an RH loan involving a cosigner, the transferor may be released from personal liability only if the cosigner also can be released (See § 1965.129 of Subpart C of this Part).

(g) *Processing transfers and assumptions of indebtedness.* Transfers and assumptions will be processed as follows:

(1) *Refund of unused funds, loan funds not advanced, transaction record.* Unexpended funds in the supervised bank account will be applied as a refund unless security is transferred to an eligible applicant and the funds are needed for completing planned development. (See paragraph (g)(10) of this section for directions on transferring these funds.) Any obligation of, or request for, loan funds not yet advanced will be canceled. Form FmHA 451-26, the monthly payment account Status Report, or information obtained from the Finance Office, will be used to compute the unpaid balance due on the effective date of the transfer. (See paragraph (g)(3) of this section for directions on handling collections made while a transfer is pending.)

(2) *Preparation and distribution of transfer docket.* Loan docket processing and forms required will be the same as for an initial or subsequent loan of the type(s) involved.

(i) *Checking docket forms.* When the transfer docket forms, including those applicable forms shown in § 1965.27(g)(2)(iv) of this Subpart, have been completed, the approval official will determine that the proposed transfer conforms to the applicable procedural requirements, each form is prepared correctly in accordance with the Forms Manual Insert or other appropriate instructions, and items such as names, addresses, and the amount of the indebtedness to be assumed are the same on all forms in which the items appear.

(ii) *Information on the availability of other credit.* An eligible transferee must meet the "no credit elsewhere" requirements for the type of loan being assumed. The County Supervisor will record in the running case record the pertinent information concerning the negotiations made by an eligible transferee and the discussion by FmHA

personnel with the applicant's creditors and other lenders. The investigation and availability of other credit for eligible transferees will be documented as required for the kind of loan being assumed. This must be sufficiently clear and adequate to establish that other credit is not available to pay the debt in full, which would make the transfer unnecessary. Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory credit elsewhere will be included in the loan docket.

(iii) *Transferor records.* The transferor's copies of notes, mortgages and other instruments in connection with the security are to be made available to the transferee.

(iv) *Distribution of transfer docket forms.* The following table will be used as a guide in distributing the necessary forms. Other forms will be distributed in accordance with the appropriate loan processing regulation and the FMI for the form.

FmHA form No.	Name of form	Total number of copies	Signed by transferee	Transfer docket	Copy for transferee
1940-1 [6]	Request for Obligation of Funds	[7]3	[8]2-O3C	2-O3C	1-C.
400-4*	Assurance Agreement	2	1-O	1-O	1-C.
410-1*	Application for FmHA Services (with attachments)	[8]1	1-O	1-O	
410-4*	Application for Rural Housing Assistance Non-Farm Tract)	[8]1		1	
410-5*	Request for Verification of Employment	1		1	
465-5 [5]	Transfer of Real Estate Security	3	1-O	1-O	1-C.
440-2*	County Committee Certification or Recommendation	1		1-O	
431-2* [1]	Farm and Home Plan	1	1-O	1-O	In record book.
431-1*	Long-Time Farm and Home Plan	2	2-O3C	1-O	1-C.
431-3* [1]	Household and Financial	2	1-O3C	1-O	1-C.
431-4* [1]	Business Analyses-Nonagricultural Enterprise	2	2-O3C	1-O	1-C.
422-1*	Appraisal Report (Farm Tract)	1		1-O	
422-3*	Map of Property	1		1-O	
1922-8*	Residential Appraisal Report			1-O	
426-1*	Valuation of Buildings	1		1-O	
440-9* [2]	Supplementary Payment Agreement	2	1-O	1-O	1-C.
424-1*	Development Plan	2	1-O	1-O	1-C.
1950-5* [2]	Assumption Agreement	4	1-O	1-O	1-C.
1935-8* [2]	Release from Personal Liability	2		1-C	1-C.
443-17*	Agreement to Sell Nonessential Real Estate	2	2-O3C	1-O	1-C.
1940-41* [3]	Truth in Lending disclosure Statement	2		1	1-O.
1940-43* [4]	Notice of Right to cancel	3	*1	1	2-O3C.
451-10*	Request for Statement of Account	[9]3		2-O3C (O to FO)	
451-25*	Status of Account	2		2-O3C	
1960-6*	Assumption Agreement (Information)	[9]2		1-C	

O—Original; C—Copy.
*—When applicable.
FO—Finance Office.

[1] In addition to plan for first full year, interim plan, if prepared, will be included in the docket.
[2] The original Form will not be executed until date of closing the assumption. Distribute other copies in accordance with FMI.
[3] In right to cancel cases, original and sufficient copies for each person who has right to cancel in accordance with Subpart I of Part 1940 of this Chapter.
[4] Original and one copy to transferee, two copies to each other person who has right to cancel in accordance with Subpart I of Part 1940 of this Chapter. If the person exercises the right to cancel, one copy of the Form will be signed and returned to the County Office.
[5] When requested, prepare an additional copy for delivery to transferor.
[6] Applicant must sign and date this form.
[7] For ineligible transferees, delete the first sentence referring to other credit in item 24 of the form. The deletion will be initialed by the applicant.
[8] For ineligible transferees, delete the first sentence in the applicant's certification (item 23 on the Form FmHA 410-1 or item 21 on the Form FmHA 410-4) which refers to other credit. The deletion will be initialed by the applicant.
[9] Original to Finance Office.

Other transfer docket items may include a mortgagee title policy, title evidence or report of lien search, foreclosure notice agreement, original or certified copy of deed to any property to be taken as additional security, purchase contract or other instrument of ownership, and information on prior mortgage(s) and contract(s). When the County Supervisor is the approval official, in lieu of including the document evidencing ownership, he or she may include a statement in the docket indicating that the document has been seen and reviewed. When less than the total amount of the indebtedness is assumed, the transferor's financial statement will be included. When an initial or subsequent loan is involved, include any additional forms required by the appropriate loan making regulation.

(3) *Collections and receipts.* During the period that a transfer is pending in the County Office, payments received by the Finance Office will continue to be applied to the transferor's account and Form FmHA 451-26 will be forwarded to the County Office. When the County Supervisor has received a payment on the account which is not included in the latest transaction record or monthly payment account Status Report, the amount will be deducted from the total amount of principal and interest (this figure will be based on the latest information available) before completing the assumption agreement and having it signed. The following will also be done:

(i) *Transaction record.* When the borrower has made a direct payment to the Finance Office and there is no record of the payment in the County Office, the account will be assumed on the basis of the latest record in the County Office. In those cases, the application of the direct payment will be reversed from the account and the assumption agreement will be processed in the Finance Office. The Finance Office will contact the County Supervisor to determine the disposition of the proceeds from the direct payment.

(ii) *Identification of payments.* For payments received on the date of transfer, Form FmHA 451-2, "Schedule of Remittances," will be prepared to show "Transfer in process for account owed by (borrower's name and case number) to be transferred to (name of tranferee and case number, if known)" If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and County portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the date of Form FmHA 451-2 and the amount paid.

(iii) *Payment.* When a payment is due on the assumption agreement shortly after the transfer is completed, the payment should, if possible, be collected at the time of transfer and remitted in the name of the transferee.

(4) *Farm and Home plans and financial statements.* When the transfer involves an ineligible transferee, Form FmHA 431-3 or Form FmHA 431-2 will be used with Tables A and J being completed in the same manner as for any other borrower but other tables and portions of the Form will be completed only to the extent necessary to determine the debtpaying ability of the transferee and to give sufficient information for completing Table J. When an assumption will be of less than

the amount of the indebtedness and a relase of liability is involved, a current financial and income statement of transferor will be obtained on Form FmHA 431-3 or Form FmHA 431-2.

(5) *Appraisal report.* Form FmHA 422-1, or Form FmHA 1922-8 as appropriate will be obtained when the amount to be assumed is less than the full amount of the indebtedness, when required in connection with an initial or subsequent loan to be processed with the transfer, or when the loan approval official requests a current appraisal.

(6) *County Committee certification and recommendation.* The complete transfer docket, except RH loans, will be presented to the County Committee for review.

(i) The transfer will be contingent upon the County Committee making its appropriate certification on Form FmHA 440-2 for an eligible applicant or, when the transfer is to an ineligible applicant, executing a memorandum containing the following statement:

In our opinion, the transferee, *(name of Transferee),* will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan.

(ii) When the County Committee recommends a release of the transferor and any cosigner from liability when real estate security is being transferred under § 1965.27(c) or (d) of this Subpart with an assumption of less than the total debt, the provisions of § 1965.27(f) of this Subpart will be followed.

(7) *Property insurance.* The Transferee will obtain property insurance in accordance with the property insurance requirement for the loan(s) involved. If insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of new coverage by the transferee. The insurance company will be notified by the County Supervisor immediately after completion of the transfer. When the full amount of the FmHA indebtedness is being assumed and an insurance premium has been advanced to the account, the transfer will not be completed until the amount of the premium has been charged to the transferor's account.

(8) *Title clearance and legal services.* Title clearance and legal services for closing transfers will be accomplished in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). Where the original repayment terms are altered, it may be necessary to obtain a new mortgage from the transferee to continue FmHA's lien on the transferred real estate. The advice of OGC will be obtained on a State-by-State basis and implemented through State Supplements to provide for new mortgages where required, and to further provide instructions on whether the original mortgage should be released. Title clearance and legal services for the above loans(s) are not required when a joint borrower's interest in the security is conveyed to the remaining borrower who assumes the total indebtedness on the same terms, provided a subsequent loan or subordination is not involved. For all other kinds of loans, title clearance and loan closing services will not be required unless the approval official, with the advice of OGC, determines that the services are needed to maintain FmHA's security position or for other reasons. If another mortgagee's mortgage requires the mortgagee's consent to the transfer, consent will be obtained.

(9) *Assumption agreements, releases from personal liability, receipts.* When the full amount of the debt is assumed or a release from personal liability is otherwise approved under this Subpart and all of the security is being transferred, Forms FmHA 1960-5, FmHA 1960-6, FmHA 451-1, "Acknowledgment of Cash Payment," and FmHA 1965-8, will be completed and executed simultaneously with the closing of the transaction. The original Form FmHA 1960-6 and, when applicable, Form FmHA 451-1 will be transmitted immediately to the Finance Office.

(10) *Transfer of unused development funds.* Any remaining funds not to be refunded that are in the transferor's supervised bank account will be transferred to the eligible tranferee's supervised bank account simultaneously with the closing of the transfer for use in completing planned development.

(h) *Transfer of security without FmHA consent or approval.* When a borrower transfer or proposes to transfer real estate security to another party and FmHA is unable or unwilling to approve the transferee as either an eligible or ineligible applicant and the County Supervisor determines it is not in the best interest of FmHA to liquidate the loan(s) in accordance with § 1965.26 of this Subpart, the following actions will be taken in order listed:

(1) The County Supervisor will advise the State Director of the transfer or proposed transfer of the security and reasons why FmHA cannot approve the transferee as eligible or ineligible. Complete details of the transfer conditions, terms and consideration will be submitted to the State Director with the borrower (transferor) file. Current information on status of the loan(s) owed FmHA and of any debts owed other lenders on the property will be included with a current appraisal of the FmHA security and security equity position. The appraisal will be completed in accordance with Subpart A of Part 1809 of of this Chapter (FmHA Instruction 422.1). Recommendations of the County Committee, County Supervisor and District Director will be included on the following:

(i) Reasons why continuation of the loan would be in the best interest of the Government.

(ii) The effect continuation of the account will have on the FmHA program in the area.

(iii) Comments and opinion on adequacy of security and ability of transferor to pay the FmHA debt.

(2) The State Director will review all information submitted and request any additional information he or she determines is necessary to reach a decision. This includes advice of OGC. After making a determination, the State Director will either:

(i) Return the file to the County Supervisor with instructions that the borrower be requested to correct the violation in accordance with § 1965.26(d) of this Subpart or proceed with liquidation of the account in accordance with § 1965.26(b) of this Subpart and state reasons for the determination; or

(ii) Return the file to the County Supervisor stating reasons for the determination and giving consent to continue the account as an ORE loan with instructions for obtaining liability of the transferee, maintaining security position and future servicing. If FmHA is adequately secured and the entire FmHA debt will be paid in 5 years or less from date of the transfer, the borrower-transferor can be released of liability in accordance with § 1965.27(f) of this Subpart and the account serviced in the name of the transferee. If the entire FmHA debt will not be paid within 5 years from date of the transfer, the borrower will not be released of liability, the account will continue to be serviced in the borrower's name and the borrower will remain liable for the debt in accordance with the terms of the security instruments. Advice of OGC will be obtained as needed or desired to determine the borrower's continued liability and adequacy of security.

§§ 1965.28-1965.30 [Reserved]

§ 1965.31 Taking liens on real estate as additional security in servicing FmHA loans.

(a) *Liens.* When taking real estate as additional security, the best lien

obtainable will be taken on any real estate owned by the borrower, including any real estate which already serves as security for another loan. Normally, the prior concurrence of the District Director will be obtained. Liens will be taken only when:

(1) Present security for the loan is not adequate to protect the interests of the FmHA, and

(2) The borrower has substantial equity in the real estate to be mortgaged and it is determined that the taking of the mortgage will not prevent the making of an FmHA real estate loan, which might be needed in the foreseeable future.

(b) *Real estate.* Before taking real estate as additional security for an FmHA loan the following items will be documented in the running record:

(1) The facts which justify taking the real estate lien;

(2) A conservative estimate of the present market value of the real estate to be mortgaged. (It will not be necessary to submit an appraisal of the property to be mortgaged.);

(3) A brief description of any existing liens on the property, and the repayment terms and the unpaid balance on the debts secured by existing liens, unless this is accurately reflected on a recent financial statement; and

(4) The name of the title holder and how title of the property is held. (Title evidence need not be required.)

(c) *Forms.* Each real estate lien taken as additional security for both FmHA direct and insured loans will be taken on Form FmHA 427-1 (State), "Real Estate Mortgage for (State)," unless a State Supplement requires the use of a form of mortgage comparable to that which secures the existing loan(s) to be additionally secured. The notes evidencing both FmHA direct and insured loans for which the additional security will be taken will be described in the same mortgage.

§ 1965.32 Assignment of promissory notes and security instruments outside the program

The policy described in § 1962.28 of Subpart A of Part 1962 of this Chapter, for assigning notes and security instruments to third parties will apply to all loans secured by real estate, when the State Director determines it is to the financial advantage of the Government or when the borrower has failed to refinance after an appropriate request (See Subpart F of Part 1951, which explains graduation policies and procedures). Payment of the FmHA debt in full will be collected and transmitted to the Finance Office at the time the assigned instruments are delivered. For insured loans, an assignment may be made on a non-insured basis after the note has been assigned to the insurance fund. The assignment will be effected on an assignment form furnished by the OGC which will include provisions to release the FmHA from liability as insurer, and nullify the provisions and covenants in the note and security instruments relating to the Government's rights and obligations as insurer and collection agent. The Government's endorsements of the promissory note will be made without recourse. The State Director will execute the assignment instruments unless authority is delegated to the County Supervisor in a State Supplement.

§ 1965.33 Cosigners—RH Loans.

See § 1965.129 of Subpart C of this Part for servicing RH loans with cosigners.

§ 1965.34 Other real estate loans (ORE).

ORE loans will be serviced as outlined in this Subpart except:

(a) An ORE borrower, other than those approved under § 1965.26(f) for dwelling retention, is not required to occupy the dwelling,

(b) An ORE borrower who assumes a loan does not have to occupy or operate the farm, and

(c) ORE borrowers are not subject to the graduation requirements as outlined in Subpart F of Part 1951 of this Chapter.

(d) ORE loans may be transferred pursuant to authorities in § 1965.27 of this Subpart.

(e) Subordination of ORE loans:

(1) ORE loans of ineligible transferees will not be subordinated unless it is clearly in the best interest of FmHA.

(2) ORE loans assumed by otherwise eligible transferees but coded ORE because the type of loan is no longer authorized (see § 1965.27 (c)(1)(iii) of this Subpart) may be subordinated for the same purposes and under the same conditions authorized for FO loans in § 1965.12 of this Subpart.

§ 1965.35 Exception authority.

The Administrator may, in individual cases, make an exception to any requirements of this Subpart not inconsistent with the authorizing statute if the Administrator finds that application of the requirement would adversely affect the interest of the Government. The Administrator will exercise this authority only at the request of the State Director.

(a) This paragraph is primarily intended to be used for those cases in which the use of proceeds is necessary for the borrower to retain the farm or rural residence. The State Director must submit a written recommendation to the National Office, along with the County Office case file. The recommendation will contain a summary of the facts and an explanation of the proposed transaction. If OGC's advice is needed as to whether or not a proposal can be accomplished legally, the State Director should ask for OGC's advice before sending the proposal to the National Office and a copy of OGC's memorandum should be sent to the National Office with the State Director's recommendation.

(1) The transaction and use of any proceeds will:

(i) Further the purposes for which the loan was made,

(ii) Improve the borrower's debt-paying ability, and

(iii) Permit payment of reasonable costs and expenses incidental to the transaction when the borrower is unable to pay costs and expenses from other sources.

(2) After the transaction is completed:

(i) The remaining FmHA debt will be adequately secured, or

(ii) The Government's security interest will not be adversely affected.

(b) In the National Office, the Administrator (or a delegate) will review the material submitted by the State Director, and will approve or disapprove the proposal. After National Office approval, if legal assistance is needed to accomplish the proposed transaction, the State Director will obtain such advice from OGC.

§ 1965.36 State Supplements and reference to the OGC.

State Supplements will be prepared, with the advice of the OGC, as necessary to carry out this Subpart and forwarded to the National Office for prior or post approval.

§ 1965.37 Redelegation of authority.

The State Director is authorized to redelegate in writing any authority delegated to the State Director in this Subpart to one or more of the following State Office employees: Chief, Farmer Programs; Farmer Programs Specialist.

§§ 1965.38–1965.50 [Reserved]

Exhibit A—Memorandum of Understanding Between Bureau of Sport Fisheries and Wildlife and the Farmers Home Administration

The purpose of this memorandum is to simplify and facilitate the obtaining by the Bureau of Sport Fisheries and Wildlife (Bureau) of subordination of mortgages held by the Farmers Home Administration (FmHA) on land with respect to which the Bureau obtains a "Conveyance of Easement for Waterfowl Management Rights" (3-1916

Rev. April 1970). In order to accomplish this purpose it is agreed that:

1. In each case in which the Bureau proposes to take an easement from a landowner whose land is subject to a mortgage held by FmHA and the Bureau's proposal is acceptable to the landowner, the Bureau will notify the local FmHA County Supervisor. The notification will show the amount of consideration to be offered for the easement and the legal description of the land to be affected by the easement. Where there are existing drainage facilities on the land, the affected wetland areas that are to be excluded from coverage by the easement will be outlined on a map and furnished to FmHA and the landowner.

2. Where a subordination agreement is required, the FmHA County Supervisor will advise the designated local official of the Bureau as to whether the consideration is adequate from the standpoint of FmHA as mortgagee.

3. Where a subordination is required and the County Supervisor advises that the consideration is adequate, said easement form will be amended by inserting at the end of the instrument the following:

"In consideration of payment which is determined to be adequate from the standpont of the FmHA as mortgagee, for the foregoing easement as provided in paragraph 5 thereof, the United States of America acting through FmHA hereby subordinates its mortgage dated ———, recorded in Book ——, page —— of the real estate records in ——— County, State of ——— to said easement.

"United States of America.

"Date ———

By FmHA County Supervisor" ———

4. Where a subordination is not required of FmHA, because of a waiver of the need for a subordination by the United States Attorney General, the Bureau nevertheless will send a copy of the agreement and the check for the easement consideration, which will include FmHA as a co-payee, to the FmHA County Supervisor.

5. In all cases where an FmHA mortgage is involved, the easement form will be amended by inserting at the end of paragraph 5 an additional sentence as follows:

"The check for the easement consideration will be made payable to the Farmers Home Administration (FmHA) and the landowner(s), as co-payees, and will be mailed to the FmHA to be applied to its mortgage unless applied on a prior mortgage debt or released for other use as permitted by FmHA regulations."

6. The Bureau and the FmHA will issue such procedures or directives to their respective field offices as may be necessary to effectuate this memorandum of understanding.

Acting Director, Bureau of Sport Fisheries and Wildlife
Date ———

Administrator, Farmers Home Administration
Date ———

4. Subpart C is added to Part 1965 and reads as follows:

Subpart C—Security Servicing for Single Family Rural Housing Loans

Sec.
1965.101 Purpose.
1965.102 Policy.
1965.103 Responsibilities.
1965.104 Preservation of security and protection of liens.
1965.105 Subordination of FmHA lien.
1965.106 1965.109 [Reserved]
1965.110 Release of security.
1965.111 Junior liens.
1965.112 Lease of security property.
1965.113 Mineral Leases.
1965.114–1965.115 [Reserved]
1965.116 Deceased borrower.
1965.117 Bankruptcy.
1965.118 Release of FmHA lien without monetary consideration.
1965.119–1965.124 [Reserved]
21965.125 Liquidation.
1965.126 Transfer of property with assumption of indebtedness.
1965.127 Release from liability.
1965.128 Assignment of promissory notes and security instruments.
1965.129 Co-signers.
1965.130–1965.135 [Reserved]
1965.136 Redelegation of authority.
1965.137 Exception authority.
1965.138–1965.150 [Reserved]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 7 CFR 2.23 and 7 CFR 2.70.

Subpart C—Security Servicing for Single-Family Rural Housing Loans

§ 1965.101 Purpose.

The purpose of this Subpart is to prescribe policies and procedures for servicing actions related to real estate which secures Section 502 and Section 504 Rural Housing (RH) loans on nonfarm tracts or on farms when the borrower is indebted to Farmers Home Administration (FmHA) for the RH loan *only*, herein referred to as Single-family Housing (SFH) loans. Security servicing for RH loans when the borrower is also indebted for Farmer Programs will be in accordance with Subpart A of this Part.

§ 1965.102 Policy.

Real estate security will be serviced in accordance with the provisions of the security instruments and related agreements, including authorized modifications, in a manner which will assist the borrower in accomplishing the loan objectives and protect the Government's financial interest.

§ 1965.103 Responsibilities.

(a) *Borrower.* The borrower is responsible for:

(1) Making loan payments as agreed;

(2) Paying real estate taxes and/or assessments when due;

(3) Keeping adequate property insurance in force; and

(4) Maintaining the property in good repair.

(b) *FmHA officials.* For purposes of this Subpart, "County Supervisor" includes an Assistant County Supervisor, GS-7 or above, who has written delegated authority to carry out the provisions of this Subpart; and "District Director" includes an Assistant District Director who has written delegated authority to carry out the provisions of this Subpart. Servicing actions will be documented in the running record of the case file. The County Supervisor is authorized to execute on behalf of the Government all forms and other documents necessary to complete transactions covered by this Subpart after the transaction has been approved by the appropriate approval official.

(1) The County Supervisor is responsible for servicing the loan account as outlined in Subpart G of Part 1951 of this Chapter, for seeing that the security property is properly maintained, and for taking appropriate action promptly when necessary to protect the Government's interest.

(2) The District Director will assist in unusual cases or when the County Supervisor requests assistance in servicing any case.

(3) The State Director will obtain legal advice from the Regional Attorney, Office of the General Counsel (OGC), as necessary on an individual-case basis or in issuing a State supplement where specifically authorized.

§ 1965.104 Preservation of security and protection of liens.

(a) *Inspection of security.* The County Supervisor will inspect real estate security as necessary to protect the Government's interest.

(b) *Action by FmHA for account of borrower.* When necessary to protect the interest of the Government, FmHA may make protective advances for purposes outlined below. Standard Form 1034, "Public Voucher for Purchases and Service Other Than Personal," Form FmHA 120-10, "Solicitation, Quotation, Purchase Order, Inspection, and Invoice," or other approved voucher, and Form FmHA 2024-1, "Miscellaneous Payment System," must be prepared and submitted according to the Forms Manual Insert (FMI) for payment to be charged to the borrower's account as recoverable costs.

(1) *Taxes and/or assessments.* Real estate taxes and assessments will be handled in accordance with Part 1863 of this Chapter (FmHA Instruction 425.1).

(2) *Insurance.* Property insurance will be handled in accordance with Subparts A and B of Part 1806 of this Chapter

(FmHA Instruction 426.1 and 426.2), if applicable.

(3) *Maintenance.* Where the borrower continues to occupy the security property but is not adequately maintaining it, prior authorization from the National Office must be obtained before funds are advanced for essential repairs. The State Director will submit the facts and reasons why the loan should not be liquidated to the Assistant Administrator, Housing. If there is a prior lien, expenditures for maintenance will not be made by the Goverment unless the prior lienholder refuses to make them. Evidence of the prior lienholder's refusal to do so must be fully documented.

(4) *Abandoment.* When the County Supervisor has reason to believe the borrower has abandoned security property, actions will be taken without delay in accordance with § 1955.55 of Subpart B of Part 1955 of this Chapter.

(c) *Actions by third parties which affect security property.* When a third party brings suit or takes any other action which affects FmHA security property, borrowers are expected to protect their own interests in the property. Examples of these actions are: condemnation proceedings, trespass suits, and actions to quiet title. When the County Supervisor learns of a third-party action which may jeopardize the Government's interest in the security or when the County Supervisor or the Government is made a party to a court proceeding, the County Supervisor will send the case file, complete with information concerning the action, and recommendations for FmHA servicing actions to the State Director. A copy of the petition or complaint, as soon as available; the account status; a current appraisal; the name and address of the borrower's attorney, if any; and any other information the County Supervisor believes important will be included. The State Director will consult OGC about all such lawsuits. The State Director will also consult OGC about other third-party actions when legal advice is needed. Protective advances will be authorized only to protect the Government's interest. When foreclosure or other action which would cause the borrower to lose possession of the property is imminent, the State Director may consider making a subsequent loan in accordance with § 1944.37 of Subpart A of Part 1944 of this Chapter provided the third party agrees to postpone further action pending the processing of a subsequent loan. The State Director will advise the County Supervisor of the actions to be taken to protect the Government's interest.

(1) *Prior lien foreclosure.* When FmHA learns that a prior lienholder is contemplating foreclosure, the prior lienholder will be contacted to determine the amount of the prior lien indebtedness, the estimated costs of the foreclosure sale, and whether or not SF-1034 would be accepted if the Government were the successful bidder at the sale.

(i) *Paying the prior lien debt.* When it is advantageous to the Goverment to pay the prior lienholder in full before the foreclosure sale, title evidence must be obtained. Information clearly supporting the action as being to the Government's financial advantage must be documented in the file. Payment of the prior lien and required costs may be made with the advice of OGC, provided:

(A) The Government will obtain a greater recovery on the secured debt than it could by bidding at the foreclosure sale; and

(B) The FmHA account, after payment of the prior lien, will be liquidated.

(ii) *Bidding at prior lien foreclosure sale.* When acceptable title evidence has been obtained and it is determined that a net recovery on the Government's investment can be made by acquiring the property, the State Director may authorize bidding at the foreclosure sale. Calculation of the bid amount, designation of bidder and reporting of sale will be in accordance with § 1955.15 of Subpart A of Part 1955 of this Chapter. If payment by voucher is not acceptable, SF-1034 and Form FmHA 2024-1 must be prepared and submitted according to the FMIs in time to receive a check before the sale date.

(2) *Junior lien foreclosure.* FmHA will not bid at a junior lien foreclosure sale. When a junior lienholder foreclosure does not result in payment in full of the FmHA debt but the property is sold subject to the FmHA lien, the account may be assumed by the purchaser if the requirements of § 1965.126(c) or (d) of this Subpart can be met; otherwise the FmHA loan will be liquidated.

(3) *Tax sale.* (i) *Authority.* The State Director may authorize bidding at a tax sale if it is determined to be in the best financial interest of the Government and all of the following conditions exist:

(A) OGC advised that under applicable State law, the tax sale will not extinguish the FmHA lien in case another party is the successful bidder at the tax sale or the borrower redeems the property before the tax deed is delivered.

(B) Under applicable State law, the purchaser will be able to obtain a deed to the property sooner than foreclosure could be completed.

(C) Taxes which will accrue during the time that foreclosure is expected to take will create or increase a loss to the Government.

(ii) *Limitations.* (A) When all of the conditions outlined in paragraph (c)(3)(i) of this section are met and the taxing authority schedules the security property to be sold for delinquent taxes (which are a prior lien), the State Director may designate an FmHA employee to bid at the tax sale provided a title search covering the period since the last title opinion in the file reveals no liens which cannot be settled in accordance with § 1955.10(c) of Subpart A of Part 1955 of this Chapter.

(B) When all of the conditions outlined in paragraph (c)(3)(i) of this section are *not* met, FmHA will pay the taxes to protect the Government's security interest as provided in Part 1863 of this Chapter (FmHA Instruction 425.1.) When taxes are paid by FmHA under these circumstances, the case will be considered a problem case and a decision made on whether liquidation will be required.

(iii) *Bid.* The gross investment will be determined in accordance with § 1955.15 (d)(9) and (10) of Subpart A of Part 1955 of this Chapter. The State Director will designate, in writing, an employee to bid at the tax sale. The designation will specify that incremental bidding will be used starting at the lowest level possible and that the maximum bid will not exceed the gross investment or the market value of the security property (less other liens which must be settled), whichever is less (stated in dollar amount).

(iv) *Credit to borrower.* When title to SFH security property is acquired by tax deed, the borrower's account will be credited as though the acquisition had been through foreclosure by FmHA.

(v) *State supplement.* The State Director with the assistance of OGC will issue a State supplement to this section setting forth the applicable provisions of State law and giving specific guidance pertinent to the particular state.

(4) *Bankruptcy sale.* With prior advice from OGC, the State Director may authorize bidding at a bankruptcy sale provided title to the security property can be acquired free of liens other than FmHA's lien(s). Bidding and credit to the borrower's account will be the same as outlined in paragraph (c)(3)(iii) and (iv) of this section.

§ 1965.105 Subordination of FmHA lien.

(a) *Conditions for subordination.* Subordination of FmHA's lien to another

lender may be granted subject to the following provisions:

(1) The funds obtained from the other lender will be used only for purposes for which an RH loan could be made and subject to the same limitations applicable to RH loan funds.

(2) The prior lien debt plus the FmHA debt will not exceed the market value of the security (For this purpose, the FmHA debt is the unpaid balance on the loan exclusive of recapture of subsidy.)

(3) The prior lien debt must be on terms and conditions which the borrower can reasonably be expected to meet without jeopardizing repayment of the FmHA indebtedness.

(4) Proposed development, if any, will be planned and performed in accordance with Subpart A of Part 1924 of this chapter or directed by the other lender in a manner which is consistent with that Subpart.

(5) The funds obtained from the other lender for development will be handled through a supervised bank account or under other arrangements approved by the County Supervisor which will assure that the funds are used for the planned purposes.

(6) An agreement must be obtained in writing from the prior lienholder providing that at least 30 days' advance notice will be given to FmHA before action to foreclose on their prior lien is initiated.

(b) *Approval authority.* An approval official may approve subordinations when the total indebtedness against the security including prior-lien debt(s) does not exceed his/her respective loan approval authority.

(c) *Request for subordination and processing.* When a borrower requests FmHA to subordinate its lien, Form FmHA 465–1, "Application for Partial Release, Subordination, or Consent," will be prepared. A new appraisal will be made when the latest appraisal report is more than one year old or if it does not reflect market value. When development work is planned, a new appraisal is required to reflect the development. The subordination will be completed in accordance with a State supplement approved by OGC.

§ 1965.108–§ 1965.109 [Reserved]

§ 1965.110 Release of security.

(a) *Release or partial release.* FmHA may consent to transactions affecting the security such as sale or exchange of security, granting of a right-of-way across the security, etc. and grant a release or partial release provided:

(1) The consideration is:

(i) In sale of property, cash in an amount equal to the value of the security being disposed of or rights granted;

(ii) In exchange of property, another parcel of property acquired in exchange with value equal to or greater than that being disposed of; or

(iii) In granting an easement or right-of-way, benefits derived which are equal to or greater than the value of the property being disposed of;

(2) The property after the transaction is completed will be an adequate but modest, decent, safe, and sanitary dwelling and related facilities.

(3) Repayment of the FmHA debt will not be jeopardized.

(b) *Approval authority.* An official who has loan approval authority may approve release or partial release transactions when the total indebtedness against the security does not exceed his/her respective loan approval authority.

(c) *Request for consent and processing.* When a borrower requests consent to sale or other disposition of a portion of the security, Form FmHA 465–1 will be prepared. If exchange of all or part of the security is involved, title clearance on the proposed new security and a new security instrument will be obtained in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) before release of existing security. A new appraisal will be made when the latest appraisal is more than one year old or if it does not reflect market value. When a new appraisal is required, it will be based on the property being retained with a notation on the value of the portion to be released entered on Form FmHA 1922–8, "Residential Appraisal Report," in the "Comments" section of the same appraisal report. Form FmHA 460–1, "Partial Release," or other form approved by OGC, will be used to release a portion of the security. When the entire security is being exchanged OGC will be requested to provide a form of release without satisfaction of debt. The release may be recorded simultaneously with the new security instrument. When full payment is received in the form of cash, money order, certified check, Cashier's check or security property, the release may be delivered.

(d) *Use of proceeds.* Proceeds from sale of a portion of the security, granting of an easement or right-of-way, damage compensation, and all similar transactions requiring FmHA consent, will be used in the following order:

(1) To pay customary and reasonable costs (as determined by FmHA) related to the transaction which must be paid by the borrower, such as real estate taxes which must be paid to conclude the transaction; cost of title examination, survey, abstract, and reasonable attorney's fees; costs necessary to determine a reasonable price, such as appraisal of minerals, when the necessary appraisal cannot be obtained without cost; and additional income tax the borrower will be required to pay;

(2) To be applied on a prior lien debt, if any; or

(3) To be applied to the FmHA indebtedness as an extra payment or used for improvements to the security property in keeping with purposes and subject to limitations applicable to use of RH loan funds. Proposed development will be planned and performed in accordance with Subpart A of Part 1924 of this Chapter and the proceeds handled through a supervised bank account to assure that the proceeds are used as planned.

§ 1965.111 Junior liens.

(a) *Consent to junior liens.* FmHA borrowers generally will be discouraged from giving junior liens on real estate which secures an FmHA loan. In considering requests for consent to a junior lien, the unpaid balance on the FmHA loan will be the *sum* of unpaid principal, interest, total subsidy granted, and principal reduction attributed to subsidy if the loan is subject to recapture. When consenting to a junior lien, the County Supervisor may enter into an agreement to notify the junior lienholder in the event FmHA initiates foreclosure if the junior lienholder requests. When consent to a junior lien is requested by a borower, the County Supervisor may consent by executing Form FmHA 465–1, or other form approved by OGC for use in a State, provided:

(1) Repayment of the FmHA loan will not be jeopardized;

(2) The total debt against the security will not exceed its market value; and

(3) The proposed loan is for purposes for which FmHA RH loan funds could be used.

(b) *Junior lien placed without FmHA's consent.* When a junior lien is placed on FmHA security property without consent, and consent cannot be granted in accordance with paragraph (a) of this section, FmHA will continue to service the loan in the usual manner as long as the borrower makes payments as scheduled, properly maintains the security, and meets other loan conditions. The loan may be liquidated if the junior lien hampers transfer with assumption of the FmHA debt, voluntary conveyance to the Government, or the making of a subsequent loan.

§ 1965.112 Lease of security property.

(a) When a borrower leases or proposes to lease, security property, consent of FmHA is not required, and no action to initiate liquidation may be taken unless:

(1) A lease is for a term of more than 3 years;

(2) A lease for any term contains an option to purchase; or

(3) The borrower is in default in loan obligations including:

(i) Keeping the account current;

(ii) Adequately maintaining the property;

(iii) Keeping the property insured; and

(iv) Paying real estate taxes when due.

(b) If a borrower leases, or proposes to lease security property for a term of more than 3 years, or with an option to purchase, FmHA should normally initiate liquidation action, preferably voluntary. However, if under unusual circumstances the servicing official believes FmHA should consent to such a lease arrangement, prior approval of the Assistant Administrator, Housing, is required. The State Director should forward such a request along with a justification to the National Office.

§ 1965.113 Mineral leases.

(a) *Authority.* When a borrower requests consent to lease the mineral rights to security property, the County Supervisor may consent provided the proposed use of the leased rights will not result in the property being made unsuitable as a nonfarm residence and the Government's security interest being adversely affected.

(b) *Income from lease of mineral rights.*

(1) The basic rental proceeds from lease of mineral rights will be treated as normal income.

(2) If the proposed activity is such that it will decrease the security value of the property (such as strip-mining or quarrying), consent may be given only if the borrower assigns the income from the lease (both damage compensation and royalty payments) to FmHA to be applied to the FmHA loans(s) as extra payments.

(3) If the proposed activity is not likely to decrease the security value of the property, damage compensation must be used to repair the damage or assigned to FmHA for application on the FmHA loan(s) as an extra payment; and royalty payments will be treated as normal income.

(c) *Processing.* Form FmHA 465-1, will be used to process requests under this section. The County Supervisor should carefully document the facts to support the determinations reached concerning the effects of a mineral lease on value. Assignment of income will be taken by use of Form FmHA 443-16, "Assignment of Income from Real Estate Security," or other form approved by OGC which is necessary to comply to comply with State law.

§§ 1965.114–1965.115 [Reserved]

§ 1965.116 Deceased borrower.

When the County Supervisor learns of the death of a SFH borrower, one of the actions outlined in Paragraphs (a), (b), or (c) of this Section may be taken provided title to the security property is not transferred. If title to the property is transferred, assumption of the FmHA indebtedness may be approved in accordance with § 1965.126(c) or (d), depending on whether the assuming party is eligible or ineligible for an RH loan.

(a) *Continue with jointly liable borrower.* If a jointly liable borrower will continue occupying the dwelling and repaying the loan, no action will be taken except to notify the Finance Office by use of Form FmHA 450-10, "Advice of Borrower's Change of Address or Name," to place the account in the name of the surviving borrower if the account is not presently in that name. An assumption agreement will not be used.

(b) *Continue with spouse of deceased borrower not liable for the FmHA debt.* A deceased borrower's spouse who is not liable for the FmHA debt may assume the loan in accordance with § 1965.126(c)(2)(i) of this Subpart.

(c) *Continue with person other than the spouse who is not liable for the FmHA debt.* A person other than the deceased borrower's spouse who wishes to assume the loan for the benefit of persons who were dependent on the deceased borrower at the time of death without receiving title to the property, may do so in accordance with § 1965.126(c)(2)(ii) of this Subpart provided:

(1) The dwelling will continue to be occupied by one or more persons who were dependent on the borrower at the time of death; and

(2) There is reasonable prospect for orderly repayment of the loan and other loan conditions will be met such as payment of taxes, insurance, maintenance, etc.

(d) *Report to State Director.* Prepare and submit Form FmHA 455-17, "Report On Deceased Borrower," along with the case file to the State Director if:

(1) The FmHA indebtedness is inadequately secured and the estate has other assets from which collection could likely be made; or

(2) The County Supervisor needs advice on servicing the case.

§ 1965.117 Bankruptcy.

This section applies to SFH borrowers who declare bankruptcy under Chapter 7 (liquidation) or Chapter 13 (adjustment of debts of an individual with regular income) of the Federal Bankruptcy Code. SFH borrowers who declare bankruptcy under Chapter 11 (reorganization) will be handled on a case-by-case basis in accordance with a State Supplement or as advised by OGC.

(a) *Meetings and hearings.* It is not necessary that FmHA be represented at most meetings and hearings during bankruptcy proceedings. If, however, the Regional Attorney advises that FmHA attend a meeting or hearing, the State Director will appoint an FmHA representative.

(b) *Initial notification of bankruptcy.* When an Order of First Meeting of Creditors is received or the County Supervisor is otherwise informed that a borrower has filed a petition in bankruptcy the County Supervisor shall:

(1) Continue to accept and remit payments made voluntarily by the borrower, but discontinue collection efforts.

(2) Flag the office management card to indicate that the borrower is in bankruptcy.

(3) Request a statement of account from the Finance Office if a Proof of Claim will be filed.

(4) Determine whether or not FmHA wishes to continue with the borrower and advise the State Director. If the decision is to continue, the actions outlined in paragraph (d)(1) of this section will be taken.

(5) Refer the case to the State Director who will consult OGC for advice. Form FmHA 1965-18, "Proof of Claim," or other form approved by OGC, is required in all Chapter 13 cases unless the Order of First Meeting of Creditors specifically states that a proof of claim is not required. Proofs of claim will be sent to OGC for filing. A proof of claim need not be filed in no-asset Chapter 7 cases, but otherwise it should be filed even if FmHA does not wish to continue with the borrower. The Order of First Meeting of Creditors and a copy of the proof of claim will be filed in position 4 of the borrowers case file. A proof of claim must be filed within 90 days after the date set for the first meeting of creditors, unless the bankruptcy court has granted an extension. The proof of claim will set forth the amount of unpaid principal and interest, as well as principal reduction attributed to subsidy

and the total amount of interest credits granted if the loan is subject to recapture. The proof of claim will cover all indebtedness to FmHA except judgments obtained by a U.S. Attorney and will indicate whether the indebtedness is secured or unsecured.

(c) *Continuation in Chapter 13 cases.* FmHA must continue with a borrower covered under a confirmed Chapter 13 plan while the plan is in effect. Prior to confirmation of the plan, the State Director or his delegate through OGC will contact the Trustee and request that the plan provide that all payments to FmHA, whether paid through the Trustee or directly to FmHA, will be made through the County Office. If a borrower defaults in payments during the plan, OGC may be requested to petition for relief from the automatic stay if liquidation of the loan is recommended. Upon completion of the chapter 13 plan, the borrower will not be discharged from the FmHA debt if the final due date on the loan is after expiration of the plan.

(d) *Continuation in Chapter 7 cases.* (1) If a decision is made to continue with the borrower, Form FmHA 460-10, "New Promise to Pay," will be completed and, with the advice of OGC, forwarded to the borrower or the borrower's attorney with instructions to execute prior to discharge and present the executed Form FmHA 460-10 to the Bankruptcy Court in accordance with section 524(d) of the Bankruptcy Code. The borrower's attorney should be advised to return the fully executed Form FmHA 460-10 to the County Supervisor after the Bankruptcy Court has granted the borrower's discharge and the reaffirmation hearing has been held. The New Promise to Pay should be executed prior to the borrower's discharge even if the Bankruptcy Court has previously advised that it will not review Form FmHA 460-10.

(2) If Form FmHA 460-10 is not executed prior to discharge, a letter in the form of Exhibit A (available in any FmHA office) of this Subpart (with changes approved by OGC) will be sent to the borrower after discharge. This guide letter will advise the borrower that FmHA acknowledges that he/she is not personally liable for the debt; the security property will be the only source to which FmHA may look for recovery of the debt, and in the event of foreclosure, FmHA will be barred from seeking a deficiency judgment. The letter will also indicate that as long as the scheduled payments are made and all other covenants contained in the promissory note(s) and security instrument(s) are complied with, FmHA will not foreclose, but will continue servicing in the usual manner.

(e) *Not continuing with borrower.* If a decision is made not to continue with a secured loan, liquidation action, either voluntary or foreclosure, may be initiated as soon as one of the following has occurred:

(1) The bankruptcy case is dismissed or closed; or

(2) An order lifting the automatic stay is received. This may be in connection with an order of abandonment or a separate order; however, an order of abandonment without specific language that the automatic stay is removed *does not* permit liquidation to be initiated. To petition for relief from the automatic stay, the State Director will forward a request to OGC along with the borrower's case file including a current appraisal and the account status.

(f) *Servicing prior to discharge or during a Chapter 13 plan.* A petition filed under Chapters 7 or 13 of the Bankruptcy Code operates as an automatic stay. This stay prohibits all collection efforts and foreclosure actions. The receipt of voluntary payments, granting of interest credits and moratoriums, and collection letters for a borrower under a confirmed Chapter 13 plan that are sent to the Trustee, however, are allowed. Any other servicing actions may not be initiated or approved without the prior consent of OGC.

(g) *Servicing discharged borrowers.* Discharge under Chapter 7 of the Bankruptcy Code operates as an injunction against any act to collect a debt which implies personal liability of the debtor. Chapter 13 debtors' discharges will not include the FmHA debt if the final due date is after expiration of the plan. For borrowers who have received discharges under Chapter 7, normal servicing procedures may be followed after the discharge provided the borrower has received the letter specified in paragraph (d)(2) of this Section or properly executed Form FmHA 460-10. For borrowers who filed under Chapter 13, normal servicing may be resumed when the confirmed plan has expired or been terminated. After discharge of an *unsecured* debt (for example, a note-only loan), the State Director will request the Finance Office to cancel the account balance. This will be done by memorandum with copy of the Order of Discharge attached.

(h) *State supplements.* The State Director with the assistance of OGC may issue a State supplement when it is needed to facilitate the handling of bankruptcy cases.

§ 1965.113 Release of FmHA lien without monetary consideration.

FmHA liens may be released without monetary consideration as follows:

(a) *Additional security.* The State Director may approve and authorize the release from FmHA's lien real estate which was taken as additional security before the loan is repaid provided the market value of the remaining security is clearly adequate to secure the loan balance. Property considered as "additional security" may not be any part of the tract bought with RH loan funds or part of the minimum-adequate site on which the dwelling is located.

(b) *Mutual mistake.* The State Director may approve and authorize the release of property included in the FmHA security instrument through mutual mistake when substantiated by facts and when he/she can determine with the advice of OGC that a mutual error existed at the time the property was included in the security instrument.

(c) *Valueless lien.* The State Director may approve and authorize release of an FmHA lien which is determined to have no present or prospective value or when enforcement would be ineffectual or uneconomical. This does not include judgment liens or statutory redemption rights except with the consent of OGC. When recommending release of an FmHA lien as valueless, the County Supervisor will forward to the State Director the case file and the following:

(1) Current appraisal report reflecting market value of the property;

(2) The name(s) of prior lienholder(s) and the amount secured by each lien which is prior to FmHA;

(3) Amount of real estate taxes and/or assessments which are or will become a prior lien on the property; and

(4) Facts which substantiate that the lien is valueless.

§§ 1965.119–1965.124 [Reserved]

§ 1965.125 Liquidation.

(a) *Voluntary liquidation.* (1) *Agreement.* When it is determined that liquidation is necessary, the County Supervisor will attempt to have the borrower agree to liquidate voluntarily and after reaching agreement may allow the borrower 60 days to arrange for one of the following:

(i) Selling the property outside the FmHA program.

(ii) Transferring the property to an individual who will assume the FmHA indebtedness in accordance with § 1965.126 of this Subpart.

(iii) Paying the FmHA indebtedness in full.

(iv) Conveying the property to the Government in accordance with § 1955.10 of Subpart A of Part 1955 of this Chapter.

At the borrower's request, an extension of time may be granted to enable the borrower to complete the transaction outlines in paragraph (a)(1)(i) of this section provided the borrower has the property listed for sale with a real estate broker for not more than the market value; paragraph (a)(1)(ii) of this section provided an assumption is being processed; or paragraph (a)(1)(iii) of this section provided the borrower has applied to a long-term lender for a refinancing loan. A borrower who has initiated bankruptcy proceedings should not be requested to liquidate voluntarily since such an act by FmHA personnel may violate the automatic stay provisions of the Bankruptcy Code.

(2) *Consent to sale for less than the FmHA debt.* If a borrower proposes to sell or transfer the property for an amount less than the FmHA debt (and prior lien(s), if any), the County Supervisor will appraise the property and may consent to the sale if the proposed sale price is not less than the market value. When consent in accordance with this paragraph is given and payment in an amount at least equal to the market value of the security property (less prior liens if paid separately) is received by FmHA in the form of cash, money order, certified check, or Cashier's Check, the County Supervisor is authorized to release the FmHA security instrument(s). When necessary to comply with State Law, a State supplement approved by OGC will prescribe procedures for releasing security instruments when the debt evidenced therein is not satisfied in full.

(3) *Distribution of proceeds.* In any case where the FmHA debt will not be paid in full, the entire sale proceeds must be applied to the FmHA debt (and prior lien(s), if any), less only costs which the seller customarily or legally must pay in order to convey title. These costs may include real estate taxes, preparation of the deed, abstracting fees, and deed or other revenues stamps but do not include a real estate broker's commission or points paid by the seller to enable the buyer to obtain credit.

(4) *Accelerated repayment agreement.* When liquidation is necessary for reasons other than failure to graduate to other credit, the State Director may, in lieu of foreclosure, permit the borrower to pay the account under an accelerated repayment agreement. When this type agreement has been reached with the borrower, Form FmHA 1965-11, "Accelerated Repayment Agreement," will be prepared and executed in accordance with the Forms Manual Insert. Accounts rescheduled by means of Form FmHA 1965-11 will be reclassified by the Finance Office to "Other Real Estate (ORE)" loans. The term for the rescheduled payments may not exceed 10 years or the final due date of the note being rescheduled, whichever is sooner. The interest rate will be the RH above-moderate income rate which is in effect on the date the agreement is executed or the note rate, whichever is greater.

(b) *Forced liquidation.* If the borrower will not agree to voluntary liquidation or fails to accomplish it within the time agreed to by FmHA, the County Supervisor will recommend foreclosure in accordance with § 1955.15 of Subpart A of Part 1955 of this Chapter.

§ 1965.126 Transfer of property with assumption of indebtedness.

When a borrower proposes to sell real estate security, assumption of the loan(s) may be approved on eligible or ineligible terms, as applicable, subject to the provisions of paragraphs (c) and (d) of this section. When security property is sold, whether by full conveyance or by land contract, contract-for-deed, or other similar instrument, and the FmHA account is not assumed by the purchaser, the loan must be liquidated.

(a) *Authority.* Subject to the prior concurrence of the State Director required by paragraph (b)(7) of this section, County Supervisors may approved transfers and assumptions on eligible or ineligible terms and release borrowers and co-signers from liability, when applicable, when the indebtedness involved does not exceed his/her loan approval authority.

(b) *General.* The following policies are applicable to all transfers and assumptions covered under this Subpart:

(1) *Forms.*

(i) Form FmHA 465-5, "Transfer of Real Estate Security," or an executed sales contract, will reflect the agreement between transferor and the party(ies) who will assume the FmHA debt.

(ii) Form FmHA 1940-1, "Request for Obligation of Funds," will be used for approval of the assumption and/or a subsequent loan, if any.

(iii) Form FmHA 1965-15, "Assumption Agreement Single Family Housing Loan(s)," will be executed by the assuming party(ies).

(iv) Form FmHA 1980-6, "Assumption Agreement (Information)," will be used to transmit information on the assumption to the Finance Office, except as provided in paragraph (c)(2) of this Section.

(2) *Dwelling situated on more than a minimum-adequate site.* If the property to be transferred with assumption consists of a dwelling on more than a minimum-adequate site as defined in § 1944.11 of Subpart A of Part 1944 of this Chapter, a determination must be made as to whether the excess land can serve as a minimum-adequate site for another dwelling. It is not intended to exclude an otherwise-suitable dwelling from being transferred to another program-eligible applicant simply because it is situated on more than a minimum adequate site. Consideration must be given to such things as local zoning requirements, road or street access, and marketability of portions separately if subdivided. If it is determined that the excess property cannot be sold separately as a minimum-adequate site for another dwelling, the facts must be documented and the property may be retained in the SFH program. When all of the security property is not being transferred to the part assuming the FmHA debt and the balance of the FmHA debt is not paid in full when the assumption is closed, the remaining debt of the transferor will be rescheduled through an accelerated repayment agreement in accordance with § 1965.125(a)(4) of this Subpart. OGC will be requested to advise how to retain the appropriate security interest on each portion of the security property. When the balance of the transferor's debt is paid and it is necessary to release the portion of the security property not transferred within the program, the Regional Attorney will be requested to prepare the release document.

(3) *Above-modest property.* When a previously modest property has been improved by the borrower to a point where it is no longer typical of other modest dwellings in the area, a transfer with assumption may be approved only for an applicant with an above-moderate income who meets all the other eligibility requirements of § 1944.9 of Subpart A of Part 1944 of this Chapter or on ineligible terms as set forth in paragraph (d) of this Section. It is not intended to exclude an otherwise-suitable dwelling from being transferred to another program-eligible applicant simply because it contains more than 1400 square feet of living area or design features which would not be permitted in a new dwelling as long as it is still typical of modest homes in the area.

(4) *Amount of assumption.* The transferee will assume the entire FmHA indebtedness unless the indebtedness plus prior liens exceeds the market value of the property, in which case the

transferee will assume an amount equal to the market value of the property, less the amount of prior liens, if any. When the buyer and seller have agreed upon transfer for "amount of debt," recapture of subsidy due based on market value of the security property must be calculated and included as part of the total indebtedness.

(5) *Recapture of subsidy.* Recapture of subsidy in connection with assumptions will be as provided in Subpart I of Part 1951 of this Chapter.

(6) *Consent of prior lienholder.* If there is a prior lien and if required by security instruments or other agreements, written consent of the prior lienholder will be obtained before approval of a transfer and assumption.

(7) *Junior liens.* When the full amount of the FmHA debt is assumed, there must be no liens, judgments, or other claims against the security which are junior to the FmHA lien(s) being assumed unless the State Director determines those liens will not adversely affect the Government's security interest and that the transferee's ability to repay the FmHA debt will not be impaired. When less than the full indebtedness is being assumed, there must be no liens against the security which are junior to the FmHA lien(s).

(8) *Loan in connection with assumption.* A loan for which the transferee is eligible may be made in accordance with Subpart A of Part 1944 of this Chapter in connection with transfer and assumption.

(9) *Withdrawal of jointly liable borrower.* When a jointly liable borrower withdraws, such as in a divorce case, it is not necessary to have the remaining borrower execute an assumption agreement. Form FmHA 450–10 should be prepared and submitted to the Finance Office if the account is not in the name of the person with whom the account will be continued.

(10) *Change in rural area designation.* Where security property is located in an area which has been redesignated from rural to nonrural, a loan may be assumed without considering the nonrural designation.

(c) *Assumption on eligible terms.* A loan may be assumed on eligible terms when the transferee meets eligibility requirements outlined in the loan making regulation for the type loan involved, except that a Section 504 transferee must have only an ownership interest in the property and occupy the dwelling as his/her residence after the assumption is closed. Interest rates and amortization periods will be as follows:

(1) Except as provided in paragraph (c)(2) of this Section, all assumptions will be at the interest rate in effect when the assumption is approved as determined from Exhibit B to FmHA Instruction 440.1 (available in any FmHA office) for the type loan and income category of the transferee. The repayment period may be up to 33 years for Section 502 loans or up to 20 years for Section 504 loans. Based on the transferee's income, a low- or moderate-income loan may be assumed at above-moderate interest rate, or an above-moderate-income loan may be assumed at the low- or moderate-income interest rate if the dwelling complies with the provisions of § 1944.16(b) of Subpart A of Part 1944 of this Chapter. An ORE loan may be assumed at the interest rate consistent with the transferee's income if the property is suitable for the RH program. After assumption, a loan will be classified according to the income category of the assuming party.

(2) In the situations outlined in this subparagraph only, the assuming party will execute an assumption agreement which will be placed in the case file. Form FmHA 1960–6 will not be submitted to the Finance Office. Form FmHA 450–10 will be used to inform the Finance Office when the name on the account is to be changed. The interest rate, final due date, payment date, and whether or not the loan is subject to recapture will not be changed by virtue of the assumption. Situations where these terms are authorized are:

(i) A deceased or divorced borrower's spouse or other relative who acquires title to the property who is not liable for the debt and wishes to assume the loan may do so, after which compliance with the loan conditions is required.

(ii) A person other than the deceased borrower's spouse who wishes to continue with the loan under conditions outlined in § 1965.116(c) of this Subpart may do so without considering the assuming party's eligibility. In this type situation, interest credits may be considered based on the income of only the occupants of the security property, whether or not the assuming party is one of the occupants, if the loan is otherwise eligible for interest credits.

(iii) A borrower's spouse or other family member who is not liable for the debt and wishes to assume the debt with an existing borrower may do so.

(d) *Assumption on ineligible terms.* When a borrower sells or proposes to sell security property and the purchaser does not meet the eligibility requirements for an RH loan, or the property is not suitable for retention in the program, the debt may be assumed on ineligible terms if the assuming party has repayment ability and it is advantageous to the Government to allow the assumption. Otherwise the account must be liquidated. After assumption on ineligible terms, the loan will be classified as an ORE loan. A payment on the debt of not less than 10 percent of the unpaid balance (including subsidy to be recaptured, if any) must be made and the balance of the debt will be scheduled for repayment in not more than 10 years at the above-moderate income interest rate in effect on the approval date. An ORE loan may be assumed by another ineligible party; however, each time there is an assumption on ineligible terms a payment on the account in the amount of 10 percent of the unpaid balance is required and the interest rate will be the above-moderate-income interest rate in effect when the assumption is approved. Suitable property transferred with assumption on ineligible terms will not be brought back into the SFH program for two (2) years from the date of the assumption unless it is determined and documented by the approval official to be in the best interest of the Government in servicing the loan account.

(e) *Processing and closing transfer with assumption.* (1) *Refund of unused funds and loan funds not advanced.* Funds remaining in a supervised bank account will be applied to the transferor's account unless the transfer is to an eligible applicant and the funds will be used to complete planned development. In this case the funds will be transferred to a supervised bank account in the transferee's name at closing. Obligation of funds not yet advanced, if any, will be cancelled.

(2) *Preparation and distribution of docket.* Loan docket preparation and forms required will be the same as outlined in Subpart A of Part 1944 of this Chapter for Section 502 loans or Subpart J of Pat 1944 of this Chapter for Section 504 loans, with the addition of the forms listed in Paragraph (b)(1) of this section. Forms will be prepared and distributed in accordance with the respective Forms Manual Inserts.

(3) *Title clearance and loan closing.* Title clearance and closing of the assumption and subsequent loan, if any, will be as provided in Part 1807 of this Chapter (FmHA Instruction 427.1), and Subpart A of Part 1944 of this Chapter for a Section 502 loan or Subpart J of Part 1944 of this Chapter for a Section 504 loan. A State supplement will be issued with the advice of OGC to provide instructions on:

(i) The type security instrument which is required to secure recapture of

subsidy when the loan being assumed is not subject to recapture and new loan is not being made simultaneously; and

(ii) Whether or not a new security instrument is required when the term of the assumption is extended beyond the final due date of the loan(s) being assumed.

(4) *Property insurance.* Property insurance will be required in accordance with Subparts A and B of Part 1806 of this Chapter (FmHA Instruction 426.1 and 426.2), as applicable.

(5) *Account balance.* The unpaid balance of the transferor's account will be obtained from the Inquiry Station of the Finance Office or account status report prepared by the Finance Office. If the loan being assumed is subject to recapture of subsidy, the account balances including total subsidy granted and principal reduction attributed to subsidy must be obtained from the Finance Office Inquiry Station. If the borrower has made a payment which has not been applied, the account will be assumed on the basis of the balance reflected by the Inquiry Station. If a payment pending results in overpayment of the transferor's account, the Finance Office will contact the County Supervisor to determine the disposition of the overpayment.

(f) *Release from liability.* Release from liability will be made in accordance with the provisions of § 1965.127 of this Subpart, as appropriate.

§ 1965.127 Release from liability.

(a) *Circumstances where release from liability is authorized.* Release from liability will be accomplished by preparing and distributing Form FmHA 1965–8, "Release From Personal Liability," in accordance with the Forms Manual Insert in the following instances:

(1) When the total debt is assumed on eligible terms, the borrower and co-signer, if any, will be released from liability by the County Supervisor.

(2) When the total debt is assumed on eneligible terms, upon recommendation of the County Committee the borrower and co-signer, if any, may be released only if the term of the assumption is not more than 5 years.

(3) A person who is jointly liable for a loan but has withdrawn may be released from liability by the County Supervisor provided:

(i) A divorce decree did not make the withdrawing party responsible for loan payments;

(ii) The value of the security property is at least equal to the debt;

(iii) The withdrawing party's interest in the security property is conveyed to the person with whom the loan will be continued; and

(iv) The person with whom the loan will be continued has repayment ability.

(4) When the value of the security property is less than the total debt and an amount equal to the market value of the security is assumed in accordance with § 1965.126(b)(4) of this Subpart, or sale outside the program for an amount not less than the market value is approved in accordance with § 1965.125(a)(2) of this Subpart, the transferor (and co-signer, if any) may be released from liability when the determination is made that the transferor (and cosigner, is any) does not have reasonable ability to repay the balance of the debt and the tranferor has acted in good faith, adequately maintained the security property and otherwise fulfilled the loan covenants to the best of the borrower's ability. If a cosigner is involved, the transferor will not be released unless the cosigner is also released. Authority to make the determination on release of liability is as follows:

(i) When assumption on eligible terms is approved, the approval official may make the determination and will document the determination in the case file.

(ii) When assumption on ineligible terms is approved, or when the property is sold outside the program, the County Committee must make the determination on release from liability, which will be documented on Form FmHA 440–2, "County Committee Certification or Recommendation."

(b) *Account balances.* When security property is sold for an amount not less than the market value as authorized in § 1965.125(a)(2) of this Subpart or assumption of an amount equal to the market value is approved as authorized in § 1965.126(b)(4) of this Subpart, *and* the transferor (and co-signor, if any) is released from liability, the Finance Office will satisfy the transferor's account when one of the following is received:

(1) In the case of sale outside the FmHA program, a memorandum from the County Supervisor requesting satisfaction of the transferor's account balance, with a copy of Form FmHA 1965–8 attached indicating release from liability.

(2) In the case of assumption, Form FmHA 1960–6 indicating the transferor is released from liability.

§ 1965.128 Assignment of promissory notes and security instruments.

When a borrower requests it or when the State Director determines that liquidation is necessary, with the advice of and instructions from OGC, the note(s) and security instrument(s) may be assigned on a non-recourse basis to a third party, who has paid the borrower's account in full. The assignment will be made by a form prepared and furnished by OGC on an individual-case basis. The State Director will execute the assignment instrument(s); this authority may not be redelegated.

§ 1965.129 Co-signers.

Although a co-signer is personally liable for repayment of the FmHA debt, he/she is not entitled to any interest in the security or the rights of the borrower under the loan or security instruments. If the security is transferred to the co-signer, he/she may assume the FmHA indebtedness on eligible or ineligible terms, as applicable.

(a) *Replacement of co-signer.* If it becomes necessary to replace a co-signer, a person determined by the County Supervisor to have repayment ability may be substituted. The new co-signer will execute an agreement prepared by OGC to guarantee payment of the balance owed on the RH debt. The original of the agreement will be attached to the original note and a copy of the agreement will be attached to each copy of the note.

(b) *Release of co-signer.* Upon satisfactory substitution of a new co-signer, a co-signer of a note may be released from personal liability by completion of Form FmHA 1965–8 prepared according to the FMI.

§§ 1965.130–1965.135 [Reserved]

§ 1965.136 Redelegation of authority.

The State Director may redelegate in writing any authority delegated to the State Director in this Subpart, except where specifically excluded, to one or more of the following State Office employees: Chief, Rural Housing, or Rural Housing Specialist.

§ 1965.137 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this Subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and on the recommendation of the Assistant Administrator, Housing. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the

Government's interest, propose alternative course of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§ 1965.138–§ 1965.150 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70)

Dated: June 12, 1984.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AWP-15]

Proposed Alteration of VOR Federal Airways; Arizona and California

Correction

In FR Doc. 84-16149 beginning on page 24896 in the issue of Monday, June 18, 1984, make the following correction:

On page 24897, column one, V-137 [Amended], line two, "feel MST" should read "feet MSL"

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Corporate Estimated Income Tax; Proposed Rulemaking

Correction

In FR Doc. 84-7770 beginning on page 11186 in the issue of Monday, March 26, 1984, make the following corrections:

1. On page 11188, third column, 15th line from the bottom, insert "date" after "last"
2. On page 11190, second column, 14th line, "+d" should read "−d"; and in the ninth line from the bottom, "+28" should read "−28"
3. On the same page, third column, ninth line from the bottom, "o" should read "of"
4. On page 11191, second column, 16th line, "he" should read "be"
5. On page 11192, first column, fifth line, "taxpayer" should read "taxable"; and in the 16th line from the bottom, "used" should read "uses"
6. On the same page, third column, in paragraph (a)(2)(ii), second line, "A)(z)(i)" should read "(a)(2)(i)"
7. On page 11193, third column, in paragraph (9) of the first computation, second line, "$480,000" should read "$840,000"; in paragraph (e), the fifth line should read "of section 6655(e)(2) and § 1.6655-3(a)(2)) for"; and in paragraph (9) of the second computation, second line, "$90,000" should read "$900,000"
8. On page 11194, first column, in paragraph (5) of the computation, first line, "divided" should read "divide"

BILLING CODE 1505-01-M

26 CFR Part 1

[LR-26-81]

Taxable Years to Which the Net Operating Loss of a Real Estate Investment Trust May Be Carried; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 172 (b)(1)(E). These amendments are being proposed to conform the regulations to the changes made by the Act of December 24, 1980 (Pub. L. 96-595), the Economic Recovery Tax Act of 1981, and the Technical Corrections Act of 1982. These proposed regulations provide the public with information concerning the taxable years to which a net operating loss of a real estate investment trust (hereinafter REIT) may be carried.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 27, 1984. These regulations are generally proposed to be effective for net operating losses in taxable years ending after December 31, 1975; however, the regulations conforming to section 207(a)(2)(B)(i) of the Economic Recovery Tax Act of 1981 (§ 1.172-10(a)(3)) shall apply to the determination of the net operating loss deduction for taxable years ending after October 4, 1976, for net operating losses sustained in taxable years ending after December 31, 1972.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-26-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3829).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 172 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to the amendments made by section 1606 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1755), section 1 of the Act of December 24, 1980 (Pub. L. 96-595, 94 Stat. 3464) and by section 207 (a) and (c) (1) and (3) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 225, 226) (as amended by section 102(d) (1) and (2) of the Technical Corrections Act of 1982 (Pub. L. 97-448, 96 Stat. 2370)) 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). This document also contains proposed amendments that would update the existing regulations under section 172 and delete provisions that are no longer applicable.

Explanation of Provisions

Section 172 provides rules with respect to the treatment of net operating losses including the years to which such losses may be carried. In general, a net operating loss shall first be carried to the earliest of the several taxable years for which such loss is allowable as a carryback or a carryover, and shall then be carried to the next earliest of such several taxable years, etc.

Section 172(b)(1)(E) provides that a net operating loss sustained by a qualified REIT in a qualified taxable year ending after October 4, 1976, shall not be carried back to a preceding taxable year. A net operating loss sustained by a qualified REIT in a qualified taxable year ending before October 5, 1976, shall be a net operating loss carryback to each of the 3 preceding taxable years (but note that § 1.857-2(a)(5) does not allow the net operating loss deduction in computing REIT taxable income for taxable years ending prior to October 5, 1976).

Section 172(b)(1)(E) permits a REIT to carry forward a net operating loss to succeeding taxable years including those for which the taxpayer is a qualified REIT; the number of succeeding taxable years to which a net operating loss may be carried depends in part on the year in which the loss was sustained. A net operating loss sustained by a qualified REIT in a taxable year ending December 31, 1972, shall be a net operating loss carryover to each of the 15 succeeding taxable years. A net operating loss sustained by

a qualified REIT in a taxable year ending before January 1, 1973, shall be a net operating loss carryover to each of the 8 succeeding taxable years. Although the above-stated rules permit a net operating loss incurred in a qualified REIT year to be carried over to succeeding taxable years, such net operating loss deduction may not be allowed in computing real estate investment trust taxable income under § 1.857-2(a)(5) (which provides that, for taxable years ending before October 5, 1976, the net operating loss deduction is not allowed in computing the REIT taxable income of a qualified REIT).

The proposed regulations provide that a net operating loss sustained in a taxable year for which the taxpayer is not a qualified REIT shall be a net operating loss carryback to each of the 3 preceding taxable years. However, see § 1.857-2 with respect to a net operating loss sustained in a taxable year ending before January 1, 1976. In addition, a net operating loss sustained in a taxable year ending after December 31, 1975, shall not be carried back to any qualified taxable year.

A net operating loss sustained in a taxable year ending after December 31, 1975, for which the taxpayer is not a qualified real estate investment trust, in general, shall be a net operating loss carryover to each of the 15 succeeding taxable years. A net operating loss sustained in a taxable year ending before January 1, 1976, for which the taxpayer is not a qualified REIT, in general, shall be a net operating loss carryover to each of the 5 succeeding taxable years; however, where the net operating loss was a net operating loss carryover to one or more qualified taxable years then the net operating loss shall be a net operating loss carryover to each of the 15 succeeding taxable years if the loss could be a net operating loss carryover to a taxable year ending in 1981 by reason of the law in effect on August 12, 1981. If such a loss could not be a net operating loss carryover to a taxable year ending in 1981 under the law in effect on August 12, 1981, then the 15-year carryover period shall not apply, and the applicable carryover period shall be the period determined under the law in effect on August 12, 1981. For purposes of determining whether the loss could be a net operating loss carryover to a taxable year ending in 1981 or, where it could not, for determining the applicable carryover period, the law in effect on August 12, 1981, is that the net operating loss shall have a carryover period of 5 years and such period shall be increased (to a number not greater than 8) by the number of REIT years to which such loss was a net operating loss carryback; however, where the taxpayer acted so as to cease to qualify as a REIT and the principal purpose of such action was to secure the benefit of the allowance of a net operating loss carryover under section 172(b)(1)(B), the net operating loss carryover period shall be limited to 5 years.

This document also contains proposed amendments that would update certain existing regulations under section 172 and delete provisions that are no longer applicable. These changes are of a non-substantive nature. Paragraph (b) of § 1.172-5, with respect to taxable years subject to the 1939 Code, has been removed and reserved; this paragraph has been reserved for administrative convenience and there is no intent to add new regulations under the 1939 Code.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Michell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.61-1—1.231-4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.851-1—1.860-1

Income taxes, Investment companies, Real estate investment trusts.

26 CFR 1.6411-1—1.6425-3

Income taxes, Administration and procedure, Abatements, Credits, Refunds.

PART 1—[AMENDED]

Proposed amendments to the regulations.

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.172-1 is amended by removing paragraph (f), by redesignating paragraphs (g) and (h) as paragraphs (f) and (g) respectively, and by revising paragraph (e) to read as follows:

§ 1.172-1 Net operating loss deduction.

* * * * *

(e) *Law applicable to computations.* (1) In determining the amount of any net operating loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

(2) The net operating loss for any taxable year shall be determined under the law applicable to that year without regard to the year to which it is to be carried and in which, in effect, it is to be deducted as part of the net operating loss deduction.

(3) The amount of the net operating loss deduction which shall be allowed for any taxable year shall be determined under the law applicable to that year.

* * * * *

Par. 2. Section 1.172-2 is revised to read as follows:

§ 1.172-2 Net operating loss in case of a corporation.

(a) *Modification of deductions.* A net operating loss is sustained by a corporation in any taxable year if and to the extent that, for such year, there is an excess of deductions allowed by chapter 1 of the Code over gross income computed thereunder. In determining the

excess of deductions over gross income for such purpose—

(1) *Items not deductible.* No deduction shall be allowed under—

(i) Section 172 for the net operating loss deduction, and

(ii) Section 922 in respect of Western Hemisphere trade corporations;

(2) *Dividends received.* The 85-percent limitation provided by section 246(b) shall not apply to the deductions otherwise allowed under—

(i) Section 243(a) in respect of dividends received from domestic corporations,

(ii) Section 244 in respect of dividends received on preferred stock of public utilities, and

(iii) Section 245 in respect of dividends received from foreign corporations; and

(3) *Dividends paid.* The deduction granted by section 247 in respect of dividends paid on the preferred stock of public utilities shall be computed without regard to subsection (a)(1)(B) of Section 247

(b) *Example.* The following example illustrates the application of paragraph (a):

Example. For the calendar year 1981 the X corporation has gross income of $400,000 and total deductions allowed by chapter 1 of the Code of $375,000, exclusive of any net operating loss deduction and exclusive of any deduction for dividends received or paid. Corporation X in 1981 received $100,000 of dividends entitled to the benefits of section 243(a). These dividends are included in Corporation X's $400,000 gross income. Corporation X has no other deductions to which section 172(d) applies. On the basis of these facts, Corporation X has a net operating loss for the year 1981 of $60,000, computed as follows:

Deductions for 1981	$375,000
Plus: Deduction for dividends received, computed without regard to the limitation provided in section 246(b) (85% of $100,000)	85,000
Total	460,000
Less: Gross income for 1981 (including $100,000 dividends)	400,000
Net operating loss for 1981	60,000

(c) *Qualified real estate investment trusts.* For taxable years ending after October 4, 1976, the net operating loss of a qualified real estate investment trust (as defined in § 1.172–10(b)) is computed by taking into account the adjustments described in section 857(b)(2) (other than the deduction for dividends paid, as defined in section 561), as well as the modifications required by paragraph (a)(1) of this section. Thus, for example, the special deductions for dividends received, etc., provided in part VIII of subchapter B (other than section 248), as well as the net operating loss deduction under section 172, are not allowed in computing the net operating loss of a qualified real estate investment trust.

§ 1.172–3 [Amended]

Par. 3. Section 1.172–3 is amended as follows:

1. Paragraph (a) is amended by removing the phrase "beginning after December 31, 1953,", by removing "of 1954", and by removing the clause"; this rule shall apply even though the loss year is otherwise subject to the Internal Revenue Code of 1939." and by adding a period after the word "thereunder";

2. Paragraph (b) is amended by removing the phrase "in case of a taxable year beginning after December 31, 1963,";

3. Paragraph (e) is removed; and

4. Paragraph (f) is redesignated as paragraph (e).

Par. 4. Section 1.172–4 is amended as follows:

1. Paragraph (a) (5) is removed;

2. Existing paragraph (a) (6), (7), and (8) are redesignated as paragraph (a) (5), (6), and (7), respectively;

3. Newly redesignated paragraph (a) (7) is amended by removing "1371" and adding "1361" in lieu thereof and by removing "(g)" and adding "(f)" in lieu thereof; and

4. Paragraphs (a) (1) and (b) are revised to read as follows:

§ 1.172–4 Net operating loss carrybacks and net operating loss carryovers.

(a) *General provisions*—(1) *Years to which loss may be carried*—(i) *In general.* In order to compute the net operating loss deduction the taxpayer must first determine the part of any net operating losses for any preceding or succeeding taxable years which are carrybacks or carryovers to the taxable year in issue.

(ii) *General rule for carrybacks and carryovers.* Except as provided in section 172 (b) (1) (C), (D), (E), (F), (G), (H), (I), and (J), paragraphs (a)(1)(iii), (iv), (v), and (vi) of this section, and § 1.172–10(a), a net operating loss shall be carried back to the 3 preceding taxable years and carried over to the 15 succeeding taxable years (5 succeeding taxable years for a loss sustained in a taxable year ending before January 1, 1976).

(iii) *Loss of a regulated transportation corporation.* Except as provided in subdivision (iv) of this subparagraph and § 1.172–10(a), a net operating loss sustained by a taxpayer which is a regulated transportation corporation (as defined in section 172(g)(1)) in a taxable year ending before January 1, 1976, shall, subject to the provisions of section 172(g) and § 1.172–8, be carried back to the taxable years specified in paragraph (a)(1)(ii) of this section and shall be carried over to the 7 succeeding taxable years.

(iv) *Loss attributable to foreign expropriation.* If the provisions of section 172(b)(3)(A) and § 1.172–9 are satisfied, the portion of a net operating loss attributable to a foreign expropriation loss (as defined in section 172(h)) shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss.

(v) *Loss of a financial institution.* A net operating loss sustained in a taxable year beginning after December 31, 1975, by a taxpayer to which section 585, 586, or 593 applies shall be carried back (except as provided in § 1.172–10(a)) to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

(vi) *Loss of a Bank for Cooperatives.* A new operating loss sustained by a taxpayer which is a Bank for Cooperatives (organized and chartered pursuant to section 2 of the Farm Credit Act of 1933 (12 U.S.C. 1134)) shall be carried back (except as provided in § 1.172–10(a)) to the 10 preceding taxable years and shall be carried over to the 5 succeeding taxable years.

* * * * *

(b) *Portion of net operating loss which is a carryback or a carryover to the taxable year in issue.* (1) A net operating loss shall first be carried to the earliest of the several taxable years for which such loss is allowable as a carryback or a carryover, and shall then be carried to the next earliest of such several taxable years, etc. Except as provided in § 1.172–9, the entire net operating loss shall be carried back to such earliest year.

(2) The portion of the loss which shall be carried to any of such several taxable years subsequent to the earliest taxable year is the excess of such net operating loss over the sum of the taxable incomes (computed as provided in § 1.172–5) for all of such several taxable years preceding such subsequent taxable year.

(3) If a portion of the net operating loss for a taxable year is attributable to a foreign expropriation loss (as defined in section 172(h)) and if an election under paragraph (c) of § 1.172–9 is made with respect to such portion of the net operating loss, then see § 1.172–9 for the separate treatment of such portion of the net operating loss.

* * * * *

§ 1.172-5 [Amended]

Par. 5. Section 1.172-5 is amended as follows:

1. Paragraph (a)(1) is removed;

2. Paragraph (a) (2), (3), (4), and (5) are redesignated as paragraph (a) (1), (2), (3), and (4), respectively;

3. Newly redesignated (a)(3) is amended by removing "1371" and adding "1361" in lieu thereof and by removing "paragraph (g)" and adding "paragraph (f)" in lieu thereof;

4. Newly redesignated (a)(4) is amended by removing "§ 1.172-12(b)" and adding "§ 1.172-10(b)" in both places that "§ 1.172-12(b)" appears and by removing "paragraph (a)(3)" and "paragraph (a)(3)(i)" and adding "paragraph (a)(2)" and "paragraph (a)(2)(i)", respectively, in lieu thereof; and

5. Paragraph (b) is removed and reserved.

§1.172-7 [Amended]

Par. 6. Paragraph (a) of § 1.172-7 is amended by removing the last sentence thereof.

§ 1.172-8 [Removed]

Par. 7. Section 1.172-8 is removed.

§ 1.172-9 [Removed]

Par. 8. Section 1.172-9 is removed.

Par. 9. Section 1.172-10 is redesignated as § 1.172-8 and amended as follows:

1. Paragraph (d) is removed;

2. Paragraph (e) is redesignated as paragraph (d); and

3. Paragraph (a) is revised to read as follows:

§ 1.172-8 Net operating loss carryovers for regulated transportation corporations.

(a) *In general.* A net operating loss sustained in a taxable year ending before January 1, 1976, shall be a carryover to the 7 succeeding taxable years if the taxpayer is a regulated transportation corporation (as defined in paragraph (b) of this section) for the loss year and for the 6th and 7th succeeding taxable years. If, however, the taxpayer is a regulated transportation corporation for the loss year and for the 6th succeeding taxable year, but not for the 7th succeeding taxable year, then the loss shall be a carryover to the the 6 succeeding taxable years. If the taxpayer is not a regulated transportation corporation for the 6th succeeding taxable year then this section shall not apply. A net operating loss sustained in a taxable year ending after December 31, 1975, shall be a carryover to the 15 succeeding taxable years.

* * * * *

§ 1.172-9 [Redesignated from § 1.172-11]

Par. 10. Section 1.172-11 is redesignated as § 1.172-9 and amended as follows:

1. Paragraph (c)(2) is removed;

2. Paragraph (c)(3) is redesignated as paragraph (c)(2) and is amended by removing "subparagraphs (1) and (2)" and adding "subparagraph (1)" in lieu thereof, by removing "172 (b)(3)(C) (ii)" and adding "172 (b)(3)(A)(ii)" in lieu thereof, and by removing the flush material under subdivision (iv);

3. Paragraph (d) is removed;

4. Paragraphs (e) and (f) are redesignated respectively as paragraphs (d) and (e) and are amended by removing "paragraph (a)(1)(v)" and adding "paragraph (a)(1)(iv)" in each place it appears; and

5. Newly redesignated paragraph (d) is further amended by removing "paragraph (c)" and adding "paragraph (a)" in lieu thereof and by removing "paragraph (c) (2)" and adding "paragraph (a)" in lieu thereof.

Par. 11. Section 1.172-12 is redesignated as § 1.172-10 and amended as follows:

1. Paragraph (a)(2) is redesignated as paragraph (a)(8);

2. Paragraph (c) is redesignated as paragraph (d);

3. Newly redesignated (d) is amended by removing "§§ 1.172-2(e)" and adding "§§ 1.172-2(c)" in lieu thereof; and

4. New paragraphs (a) (1) through (7) and (c) are added to read as follows:

§ 1.172-10 Net operating losses of real estate investment trusts.

(a) *Taxable years to which a loss may be carried.* (1) A net operating loss sustained by a qualified real estate investment trust (as defined in paragraph (b)(1) of this section) in a qualified taxable year (as defined in paragraph (b)(2) of this section) ending after October 4, 1976, shall not be carried back to a preceding taxable year.

(2) A net operating loss sustained by a qualified real estate investment trust in a qualified taxable year ending before October 5, 1976, shall be carried back to the 3 preceding taxable years. However, see § 1.857-2(a)(5), which does not allow the net operating loss deduction in computing real estate investment trust taxable income for taxable years ending before October 5, 1976.

(3) A net operating loss sustained by a qualified real estate investment trust in a qualified taxable year ending after December 31, 1972, shall be carried over to the 15 succeeding taxable years. However, see § 1.857-2(a)(5).

(4) A net operating loss sustained by a qualified real estate investment trust in a qualified taxable year ending before January 1, 1973, shall be carried over to the 8 succeeding taxable years. However, see § 1.857-2(a)(5).

(5) A net operating loss sustained in a taxable year for which the taxpayer is not a qualified real estate investment trust generally may be carried back to the 3 preceding taxable years; however, a net operating loss sustained in a taxable year ending after December 31, 1975, shall not be carried back to any qualified taxable year. However, see § 1.857-2(a)(5) with respect to a net operating loss sustained in a taxable year ending before January 1, 1976.

(6) A net operating loss sustained in a taxable year ending after December 31, 1975, for which the taxpayer is not a qualified real estate investment trust generally may be carried over to the 15 succeeding taxable years.

(7)(i) A net operating loss sustained in a taxable year ending before January 1, 1976, for which the taxpayer is not a qualified real estate investment trust generally may be a net operating loss carryover to each of the 5 succeeding taxable years. However, where the loss was a net operating loss carryback to one or more qualified taxable years, the net operating loss, in accordance with paragraph (a)(7)(ii) of this section, shall be—

(A) Carried over to the 15 succeeding taxable years if the loss could be a net operating loss carryover to a taxable year ending in 1981, or

(B) Carried over to the 5, 6, 7, or 8 succeeding taxable years if paragraph (a)(7)(i)(A) of this section does not apply.

(ii) For purposes of determining whether a net operating loss could be a carryover to a taxable year ending in 1981 under paragraph (a)(7)(i)(A) of this section or, where paragraph (a)(7)(i)(A) of this section does not apply, to determine the actual carryover period under paragraph (a)(7)(i)(B) of this section, the net operating loss shall have a carryover period of 5 years, and such period shall be increased (to a number not greater than 8) by the number of qualified taxable years to which such loss was a net operating loss carryback; however, where the taxpayer acted so as to cause itself to cease to be a qualified real estate investment trust and the principal purpose for such action was to secure the benefit of the allowance of a net operating loss carryover under section 172(b)(1)(B), the net operating loss carryover period shall be limited to 5 years. However, see § 1.857-2(a)(5).

* * * * *

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1)—(i) *Facts.* X was a qualified real estate investment trust for the taxable years ending on December 31, 1972, and December 31, 1973. X was not a qualified real estate investment trust for the taxable years ending on December 31, 1971, and December 31, 1974. X sustained a net operating loss for the taxable year ending on December 31, 1974.

(ii) *Applicable carryback and carryover periods.* The net operating loss must be carried back to the 3 preceding taxable years. Under § 1.857-2 (a)(5) the net operating loss deduction shall not be allowed in computing real estate investment trust taxable income for the years ending December 31, 1972, and December 31, 1973. Where a net operating loss is sustained in a taxable year ending before January 1, 1976, for which the taxpayer is not a qualified real estate investment trust and the loss is a net operating loss carryback to one or more qualified taxable years, the carryover period is determined under § 1.172-10 (a)(7); the carryover period is determined by first applying the rule provided in paragraph (a)(7) (ii) of this section to obtain the carryover period for purposes of determining whether the net operating loss could have been a net operating loss carryover to a taxable year ending in 1981. Under these facts, of paragraph (a)(7) (ii) of this section provides for a 7-year carryover period (5 years increased by the 2 qualified taxable years to which the loss was a net operating loss carryback); therefore, since the carryover period provided for by of paragraph (a)(7) (ii) of this section would allow the net operating loss to be a net operating loss carryover to a taxable year ending in 1981, under of paragraph (a)(7) (i)(A) of this section the applicable carryover period is 15 years (provided that X did not act so as to cause itself to cease to qualify as a real estate investment trust for the principal purpose of securing the benefit of a net operating loss carryover under section 172 (b)(1)(B)).

Example (2)—(i) Facts. The facts are the same as in example (1) except that the taxable year ending December 31, 1973, was not a qualified taxable year for X.

(ii) *Applicable carryback and carryover periods.* The net operating loss must be carried back to the 3 preceding taxable years. Section 1.857-2 (a)(5) provides that the net operating loss deduction shall not be allowed in computing real estate investment trust taxable income for the year ending December 31, 1972. Under these facts the carryover period is determined under § 1.172-10 (a)(7). Paragraph (a)(7) (ii) of this section provides for a 6 year carryover period (5 years increased by the 1 qualified taxable year to which the loss was a net operating loss carryback); therefore, since a 6 year carryover period would not allow the net operating loss to be a net operating loss carryover to a taxable year ending in 1981, paragraph (a)(7) (i)(A) of this section does not apply. Where the rule stated in of paragraph (a)(7) (i)(A) of this section does not apply, of paragraph (a)(7) (i)(B) of this section provides that the applicable carryover period is the carryover period determined under paragraph (a)(7) (ii) of this section, which, in this case, is 6 years (provided that the principal purpose for X acting so as to cause itself to cease to qualify as a real estate investment trust was not to secure the benefit of the allowance of a net operating loss carryover under section 172 (b)(1)(B)).

* * * * *

§ 1.857-6 [Amended]

Par. 12. Paragraph (e)(1)(ii) of § 1.857-6 is amended by removing "§ 1.172-5(a)(5)" and by adding "§ 1.172-5(a)(4)" in lieu thereof.

§ 1.6411-1 [Amended]

Par. 13. Paragraph (d) of § 1.6411-1 is removed.

These amendments are proposed 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).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue

[FR Doc. 84-16876 Filed 6-25-84; 8:45 am]
BILLING CODE 4830-01-M

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26 CFR Parts 1 and 301

[LR-228-82]

Corporate Estimated Income Tax; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to proposed rule.

SUMMARY: This document contains corrections to the Federal Register publication beginning at 49 FR 11186 (published March 26, 1984) of the notice of proposed rulemaking relating to corporate estimated income tax.

DATES: Generally, the proposed regulations that are the subject of these corrections would be effective for taxable years beginning after December 31, 1982. The proposed rules that would provide guidance to "large corporations" would be effective for taxable years beginning after December 31, 1980. The correction that relates to "section 351" would be effective for taxable years beginning after December 31, 1980, and the correction of the example caption would be effective for taxable years beginning after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Cynthia Grigsby of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1984, the Federal Register published proposed regulations (49 FR 11186) relating to corporate estimated income tax. These proposed amendments were issued under the authority contained in section 7805 of the Internal Revenue Code (68 Stat. 917, 26 U.S.C. 7805).

Need for a Correction

As published in the proposed regulations, the right-hand column of page 11187 incorrectly included the language "section 351 or" in the last two lines of the first full paragraph immediately following the language "where a transaction described in" and preceding the language "section 381 (a) occurs."

A second correction is required in the left-hand column of page 11193. The second paragraph from the bottom of that page that is captioned *"Example."* should read *"Example.* (a)"

Correction of Publication

Paragraph 1. On page 11187 in the right-hand column, the language "where a transaction described in section 351 or section 381 (a) occurs." is removed from the last two lines of the first full paragraph, and the language "where a transaction described in section 381 (a) occurs." is added in its place.

Paragraph 2. On page 11193 in the left-hand column, the language *"Example."* is removed from the first line of the second paragraph from the bottom of that column, and the language *"Example.* (a)" is added in its place.

George H. Jelly,
Director, Legislation and Regulations Division.

[FR Doc. 84-17027 Filed 6-25-84; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Permanent State Regulatory Program of Indiana

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a proposed program amendment to the Indiana

Permanent Regulatory Program (hereinafter referred to as the Indiana program) received by OSM pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendment submitted by the State on May 31, 1984, consists of regulations which would set forth procedures to be followed in conducting administrative hearings pursuant to the Indiana Adjudication Act, IC 4-22-1.

This document sets forth the times and locations that the Indiana program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and information pertinent to the public hearing.

DATE: Written comments relating to Indiana's proposed modification of its program not received on or before 4:00 p.m. on July 26, 1984, will not necessarily be considered in the Director's decision to approve or disapprove the proposed program modifications.

If requested, a public hearing will be held on July 23, 1984; beginning at 10:00 a.m. at the location shown below under "ADDRESSES."

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

If a public hearing is held, its location will be at: OSM Indianapolis Field Office, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana; Telephone: (317) 269-2600.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. McNabb, Director, Indianapolis Field Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204; Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Indiana program, the proposed amendment, and a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5124, 1100 L Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana.

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Indianapolis, Indiana, will not necessarily be considered and include in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by the close of business July 16, 1984. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard followings those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in "ADDRESSES" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each pubic meeting will be made a part of the Administrative Record.

II. Discussion of the Proposed Amendment

Information regarding the general background on the Indiana State Program, including the Secretary s Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, Federal Register (47 FR 32071-32103).

On May 31, 1984, the Director, Indiana Department of Natural Resources, submitted to OSM pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The proposed amendment establishes procedures for administrative hearings conducted pursuant to IC 4-22-1. In various provisions of indiana's approved program, reference is made to hearings conducted pursuant to IC 4-22-1.

Pursuant to 30 CFR 732.17 and 732.15, the Director requests public coment on the adequacy of the above modifications. If the Director determines that the proposed modifications are in accordance with SMCRA and consistent with the Federal regulations, the amendment will be incorporated as part of the approved Indiana program.

Procedural Matters

1. Compliance with the National Environmental Policy Act.

The Secreatry has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act.

This rule does not contain information collection requirements which require

approval by the Office of Management and Budget under 44 U.S.C. 3507

List of Subject in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Undergound mining.

(Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1202 *et seq.*))

Dated: June 21, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

[FR Doc. 84-16955 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 935

Reopening and Extension of Public Comment Period on Proposed Amendment to the Ohio Permanent Regulatory Program

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

ACTION: Reopening and extension of public comment period.

SUMMARY: On March 5, 1984, the Ohio Division of Reclamation (the Division) submitted to OSM a proposed program amendment to establish a program for blaster training, examination and certification. OSM published a notice in the Federal Register on March 27, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 11687). The public comment period ended April 26, 1984.

By letter dated May 25, 1984, the Division submitted an additional modification to its proposed amendment to provide that a person who has failed the blaster's examination may not retake the examination until at least ninety days have passed. OSM also met with the State on May 22, 1984, to review the State's current blaster examination. The Division agreed to revise its current blaster examination to include certain topics required by the Federal rules.

Accordingly, OSM is reopening and extending the comment period of Ohio's March 5, 1984 proposed amendment as modified on May 25, 1984. This action is being taken to provide the public an opportunity to reconsider the adequacy of the proposed amendment.

DATE: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. July 11, 1984 will not necessarily be considered in the Director's decision.

ADDRESSES: Written comments should be mailed or hand delivered to: Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227

Copies of the Ohio program, the proposed modifications to the program, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters office and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, N.W., Washington, D.C. 20240.

Ohio Division of Reclamation, Building B-3, Fountain Square, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: The Ohio State program was approved effective August 16, 1982, by notice published in the August 10, 1982, Federal Register (47 FR 34688). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 Federal Register.

By letter dated March 5, 1984, Ohio submitted proposed regulations which would establish requirements for the training and certification of blasters working in surface coal mining operations. The new requirements are set forth in OAC 1501:13-14-05—*Training, Examination, and Certification of Blasters.* OSM announced receipt of the amendment and initiated a public comment period on March 27, 1984 (49 FR 11687). The comment period ended April 26, 1984.

OSM met with the State on May 22, 1984, to review the State's current blaster examination. OSM identified several topics required by 30 CFR 850.13(b) that should be included in the State's examination. By letter dated May 25, 1984, the Division agreed to revise its current blaster examination to include the topics identified by OSM. The Division also submitted an additional modification to its proposed amendment to provide that a person who has failed the examination may not retake the examination until at least ninety days have passed. The full text of the proposed program amendment and of the subsequent modification is available for review at the locations listed above under "ADDRESSES" Accordingly, OSM is now seeking public comment on the adequacy of Ohio's March 5, 1984 amendment in light of the State's May 25, 1984 modification.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

Dated: June 19, 1984.

Arthur W. Abbs,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 84-16907 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6122]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed Rule; Revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Burleigh County of Bismarck, North Dakota.

Due to recent engineering analysis, this proposed rule would revise the proposed determinations of base (100-year) flood elevations published in 46 FR 39625 on August 4, 1981 and in the *Bismarck Tribune,* published on or about July 3, 1981, and July 10, 1981, and hence would supersede those previously published rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newpaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at County Engineering Department, Sixth and Bismarck, Bismarck, North Dakota.

Send comments to: Honorable Deanna Hill, Burleigh County Courthouse, 514 E. Thayer, Bismarck, North Dakota 58501.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Burleigh County, North Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri River	Confluence with Burnt Creek	*1,639
Burnt Creek	400 feet upstream from center of Old F.A.S. 1804.	*1,647
	1000 feet downstream from center of U.S. Highway 83.	*1,774
Apple Creek	300 feet upstream from center of Bismarck Avenue.	*1,658

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: June 19, 1984.

Jeffrey S. Bragg,

Federal Insurance Administrator, Federal Insurance Administration.

[FR Doc. 84-16909 Filed 6-25-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81-893; FCC 84-238]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The notice proposes a framework for the acquisition of customer premises equipment (CPE) by federal agencies for national security and emergency preparedness (NSEP) communications functions, and also proposes a mechanism for the detariffing of installed CPE currently owned by Independent telephone companies and tariffed at the federal level. The proposed action is necessary because, in the case of CPE used for NSEP communications purposes, there is a need to reconcile requirements established by the Commission regarding the manner in which carriers may provide CPE with the needs of certain federal agencies for the provision and maintenance of CPE on a coordinated and expedited basis to maintain the effective operation of NSEP communications systems. In the case of CPE owned by the Independents and tariffed at the federal level, the proposed action is necessary in order to implement further deregulatory decisions made by the Commission regarding the provision of CPE by carriers. The intended effects of the proposed action are (1) to facilitate the operation of NSEP communications systems while also continuing to foster the growth of competition in the CPE industry; and (2) to provide that Independents' CPE tariffed at the federal level will be removed from tariff regulation, subject to certain conditions, on January 1, 1985.

DATES: Comments regarding the notice are due July 20, 1984, and replies are due August 9, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Cimko, Jr., (202) 632-9342.

Second Further Notice of Proposed Rulemaking

In the Matter of Procedures for Implementing The Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry) CC Docket No. 81-893.

Adopted: May 24, 1984.

Released: June 20, 1984.

By the Commission.

I. Introduction

1. This Notice addresses two issues regarding Commission policies relating to the provision of customer premises equipment (CPE). First, this Notice proposes several options for a framework under which certain federal agencies [1] may obtain CPE needed for national security and emergency preparedness (NSEP) functions, and may arrange for maintenance and servicing of this CPE, in a manner which is consistent with the principles and goals we have established in *Second Computer Inquiry.* [2] Second, this Notice

[1] The federal agencies involved are the Department of Defense (DoD), the Department of Energy, the Department of the Interior, the Department of Transportation (including the Federal Aviation Administration and the Coast Guard), the General Services Administration, the Central Intelligence Agency, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, the United States Information Agency, and the Nuclear Regulatory Commission. These agencies are hereinafter referred to as the "specified federal agencies."

[2] Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384, *reconsideration,* 84 FCC 2d 50 (1980), *further reconsideration,* 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer & Communications Industry Ass'n v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied sub nom.* Louisiana Pub. Serv. Comm'n v. FCC, 103 S.Ct. 2109 (1983).

proposes and seeks comment with regard to a structure for the detariffing of embedded CPE which is owned by independent telephone companies and is tariffed at the federal level.

II. Background

2. The rules we established in *Second Computer Inquiry* [3] require the American Telephone and Telegraph Company (AT&T) to provide CPE through a fully separated subsidiary which is not subject to any state or federal tariff regulation. Regulated entities of AT&T, such as AT&T Communications (AT&T–C), are prohibited from engaging in CPE offerings. Equipment previously provided by the Bell Operating Companies (BOCs) was transferred to AT&T in the course of the divestiture of the Bell System, and the newly divested BOCs are authorized to engage in the retail marketing of new CPE through separate organizational structures.[4]

3. We adopted a circumscribed waiver of the Computer II Rules in 1983 to permit the BOCs and AT&T–C to furnish new CPE federal agencies to meet critical NSEP communications needs.[5] The Department of Defense (DoD) and other specified federal agencies were authorized to obtain new CPE from AT&T–C and the BOCs in emergencies declared by the President and in certain other emergenices.[6] We also authorized DoD and other specified federal agencies to obtain service from AT&T–C and the BOCs in other situations in which sole source procurement is permitted under federal regualtions, but we required the identification of at least one other CPE supplier. AT&T–C and the BOCs then would either directly supply the CPE (if they were selected by the government agency involved) or would obtain the CPE from the supplier selected by the agency. *CPE Waiver Order* at para. 16. New CPE furnished under the waiver could not be provided under tariff or added to the embedded rate base. The waiver was to expire on the date of divestiture. *Id.* at para. 18.

4. The treatment of embedded CPE used in NSEP communications systems was not specifically addressed in the *Notice of Proposed Rulemaking* in this docket.[7] In commenting on the *Notice*, Federal Executive Agencies (FEA) argued that embedded CPE associated with certain systems and circuits[8] should not be detariffed and transferred to AT&T Information Systems (ATTIS), but rather should be transferred to AT&T–C so that end-to-end service to DoD and other specified federal agencies could be maintained.

5. In the *CPE Detariffing Order*, we concluded that CPE associated with the systems and circuits designated by FEA would be detariffed and transferred to ATTIS together with other CPE in AT&T's embedded base. *CPE Detariffing Order* at para. 172. We provided, however, that this detariffing of CPE used with NSEP systems would not occur until June 1, 1984, in order to give interested parties an opportunity to comment on the issues raised by FEA and to request waivers of the detariffing requirements as made applicable to the special systems and circuits identified by FEA. *Id.*

6. AT&T, at the request and on behalf of DoD and other specified federal agencies, submitted a petition for such a waiver and for related waivers.[9] The AT&T request for waivers contained four elements: (1) Permit embedded CPE associated with the designated NSEP systems and circuits to be transferred to ATTIS as of January 1, 1984; (2) waive the Computer II Rules, as of January 1, 1984, to the limited extent necessary to permit AT&T–C to be responsible for this embedded CPE as part of its end-to-end service, even though ATTIS would own the CPE; (3) permit AT&T–C to continue obtaining new CPE for these designated systems and circuits; and (4) authorize AT&T–C to continue serving as a single point of contact for the provision of CPE associated with emergency communications service.

7 On December 29, 1983, the Chief, Common Carrier Bureau, adopted on *Order* in this docket granting the waiver requests subject to certain terms and conditions.[10] The *Bureau Waiver Order*

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[3] Section 64.702 of the Commission's Rules and Regulations, 47 CFR 64.702 (hereinafter Computer II Rules).

[4] The CPE retail marketing authority of the BOCs is established in the Modification of Final Judgment (MFJ) approved by the United States District Court for the District of Columbia (hereinafter District Court). *See* United States v. American Tel. & Tel. Co., 552 F.Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S.Ct. 1240 (1983) (hereinafter United States v. AT&T). We have required the BOCs to establish separate organizational structures to market new CPE. Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services, CC Docket No. 83–115, Report and Order, FCC 83–552, 49 Fed. Reg. 1190 (released Dec. 30, 1983), *reconsideration*, FCC 84–252 (released June 1, 1984) (hereinafter BOC Structure Order).

Under the MFJ, most embedded CPE owned by the Bell System was transferred to AT&T on January 1, 1984, the date of divestiture. We have acted in this docket to permit this embedded CPE to be detariffed and transfered to AT&T Information System (ATTIS) as of the divestiture date, subject to certain requirements and procedures. CC Docket No. 81–893, Report and Order, FCC 83–551, 48 FR 57168 (released Dec. 15, 1983), *reconsideration petitions pending*, Public Notice No. 1445, 49 FR 5672 (released Feb. 6, 1984) (hereinafter CPE Detariffing Order).

[5] American Telephone and Telegraph Company, Petition for Waiver of Section 64.702 of the Commission's Rules and Regulations with Respect to the Department of Defense and Specified Government Agencies, ENF 83–13, Memorandum Opinion and Order, FCC 83–143 (released Apr. 12, 1983) (hereinafter CPE Waiver Order). The terms and conditions of the CPE Waiver Order may be summarized as follows: (1) In presidentially declared emergencies and other emergencies (as defined in DCA Circular 310–130–1), DoD and other specified federal agencies may obtain service, including new CPE, from AT&T–C or regulated BOC entities. (2) In other situations in which sole source procurement is permitted under applicable federal regualtions, DoD and other specified federal agencies may obtain new CPE from AT&T–C or regulated BOC entities. (3) In this latter case, however, AT&T–C or the BOC involved must (a) indicate whether the CPE is available from embedded inventory and, if it is not, identify the CPE which is unavailable; (b) identify at least one unaffiliated supplier which can supply the CPE (unless they have no knowledge of such a supplier); and (c) obtain the CPE from the supplier selected by the federal agency. (4) CPE obtained under the waiver may not be provided under tariff or added to the rate base. (5) Title to any new CPE may be held by the federal agency, AT&T–C, the BOC, or the third party CPE supplier. *See* CPE Waiver Order at paras. 15–17.

[6] Defense Communications Agency Circular 310–130–1, ch. II, para. 2 (Feb. 1982) defines these other emergency situations. *See* CPE Waiver Order at para. 7 n.6.

[7] Docket No. 81–893, Notice of Proposed Rulemaking, 94 FCC 2d 76 (1983) hereinafter Notice).

[8] FEA listed the following systems and circuits as being covered by its request that CPE associated with NSEP functions not be detariffed and transferred to ATTIS: (1) The following Department of Defense systems: Automatic Secure Voice Communications Network (AUTOSEVOCOM); Joint Chiefs of Staff systems (JCS Alerting Network and Minuteman); Strategic Air Command systems (SAC Primary Alerting System; SAC Operations Conference System; and SAC Command Post Command and Control Consoles); North American Air Defense Command (NORAD) Alerting System; Tactical Air Command systems (TAC Command and Control Alerting System and TAC Force Control Management System); Military Airlift Command (MAC) Operational Phone System; Air Force Digital Graphics System (AFDIGS); Air Force Command Post Alerting Network (COPAN); and Air Force Command Post Record Capability (COPREC). (2) The U.S. National Airspace System in the Federal Aviation Administration. (3) The following Federal Emergency Management Agency systems: a classified FEMA system provided under AT&T Tariff FCC No. 260; Emergency Broadcast System; FEMA National Voice System; and FEMA National Warning System. (4) The NRC Emergency Notification System in the Nuclear Regulatory Commission. (5) The following White House Communications Agency systems and equipment: transportable electric consoles; Echo Fox Radio System. FEA Direct Comments at 12–13. The Central Command systems in the Department of Defense (CENTCOM Army Alert Hotline, CENTCOM Air Force Alert Hotline, and CENTCOM Navy/Marine Corps Alert Hotline) were originally listed by FEA but later were deleted because AT&T–C currently is not responsible for CPE for these systems. *See* CPE Detariffing Order at para. 171 & n. 146.

[9] AT&T Petition, ENF 83–13 (filed Dec. 14, 1983).

[10] CC Docket No. 81–893, Order, Mimeo No. 1703 (released Jan. 10, 1984) (hereinafter Bureau Waiver Order).

waived the provisions of the *CPE Detariffing Order* which required that embedded CPE associated with NSEP systems must be tariffed at the federal level until June 1, 1984, waived the Computer II Rules in the manner sought by AT&T, and extended all the provisions of the *CPE Waiver Order* (but narrowed the waiver to apply only to the 21 systems and circuits designated by FEA). *See Bureau Waiver Order* at paras. 13–17. As part of this extension, AT&T was required to continue submitting quarterly reports as required in the *CPE Waiver Order*, and the *Bureau Waiver Order* provided that "costs related to the ownership, installation, and maintenance of [the covered] CPE shall not be borne by AT&T Communications and shall be segregated and charged separately from costs incurred by AT&T Communications in connection with its tariffed services." *Id.* at para. 18.

8. The *Bureau Waiver Order* established waivers on a temporary basis, providing that the waivers would expire on May 31, 1984. *Id.* at para. 21. The Bureau also noted that it would recommend the issuance of a proposed rulemaking in this docket "in order to solicit comments from all interested parties regarding an appropriate framework for meeting the NSEP communications needs of DoD and the specified federal agencies in a manner which gives due consideration to Second Computer Inquiry requirements and principles." *Id.* at para. 1 n. 4. The purpose of this Notice is to provide a forum in which FEA's concerns can be addressed and we can initiate our efforts to establish a permanent structure for accommodating the critical NSEP communications needs of DoD and other specified federal agencies.[11]

III. Provision of CPE for NSEP Functions

9. We are proposing four options for the establishment of a framework for the provision of CPE to meet national defense and emergency communications needs. Under the first option, with regard to the provision of new CPE by AT&T and the BOCs [12] for NSEP communications functions, we propose as a long-term solution an amendment to the Computer II Rules, or a permanent waiver of the Computer II Rules, which would permit AT&T–C (and regulated BOC entities) to maintain end-to-end responsibility for servicing a limited class of critical NSEP systems and circuits. This approach consists of the following elements. First, both AT&T–C and the BOCs would be permitted to be responsible for the acquisition of limited amounts of new CPE (to augment or replace embedded CPE) on behalf of DoD and other specified federal agencies in accordance with the terms of the *CPE Waiver Order*.[13] We invite interested parties to propose and discuss additional terms and conditions which may be necessary to ensure that the arrangements proposed here do not result in unreasonably preferential treatment for AT&T–C or the BOCs. We also request interested parties to comment on whether, and if so, how, we might establish mechanisms which would require carriers and vendors to furnish CPE to AT&T–C or the BOCs (or any other entity established as a single point of contact as a result of this proceeding or otherwise functioning as a single point of contact) on a priority basis to ensure that the government's NSEP needs are met. Second, the terms of the *CPE Waiver Order* (as these terms relate to national security communications systems and circuits) would be narrowed so that AT&T–C and the BOCs would be able to obtain new CPE under the waiver only with regard to the NSEP systems and circuits identified by FEA.[14]

10. Third, we propose that the waiver would continue to apply to the provision of new CPE for emergency communications services, as described in the *CPE Waiver Order*. Fourth, new CPE which is not needed to augment or replace embedded CPE associated with the systems and circuits identified by FEA (or associated with emergency communications services) would not be covered by this proposed amendment or waiver of the Computer II Rules. AT&T and the BOCs would be required to provide this new CPE consistent with the Computer II Rules, or would have to seek specific waivers of the Computer II Rules with respect to this new CPE. Fifth, in cases in which AT&T–C personnel make premises visits when the source of a trouble report is CPE obtained by DoD or the other specified federal agency involved from ATTIS and used for NSEP communications functions, AT&T–C would be required to bill a maintenance of service charge to DoD or the other specified federal agency in accordance with any applicable tariffs.[15] Sixth, the quarterly reporting requirements which were extended in the *Bureau Waiver Order* would remain in place. *See Bureau Waiver Order* at para. 18. Seventh, AT&T–C or the regulated BOC entity involved would in effect function as a general contractor in providing communications services to DoD and other specified federal agencies. AT&T–C or the BOC would arrange for the procurement of new CPE in conjunction with providing these services, and would be authorized (but not required) to take title to the CPE. Further, the new CPE would not be tariffed and would not be added to the regulatory revenue requirements, and expenses incurred by AT&T–C or the BOC in connection with making such procurement arrangements would be recorded as "below-the-line" expenses. We request parties to comment regarding whether we should establish requirements, under this option and the following options, governing the holding of title to the CPE, or whether this should be left to the discretion of the parties to the transactions involved. It is our tentative view that the approach suggested in this option sufficiently accommodates the needs and concerns of DoD and other specified federal agencies while also minimizing any variance from the general goals of the *Second Computer Inquiry*.

11. With regard to embedded CPE used in connection with the 21 systems and circuits identified by FEA and in connection with emergency communications services, the long-term solution proposed in this first option would provide that all this embedded equipment currently owned by AT&T shall be detariffed and transferred to ATTIS. As we have noted, this action already has been taken on an interim basis in the *Bureau Waiver Order*. We propose that this detariffing and transfer would be carried out in accordance with the conditions and requirements established in the *CPE Detariffing Order*. For example, ATTIS would be

[11] On February 9, 1984, the Bell Atlantic Companies submitted to the Chief, Common Carrier Bureau, a Petition for Partial Reconsideration of the Bureau Waiver Order seeking certain clarifications of the Bureau's action. On February 23, 1984, DoD and certain member agencies of the National Communications System filed an opposition to the Bell Atlantic petition. GTE Service Corporation submitted comments regarding the Bell Atlantic petition on March 5, 1984, and AT&T filed an opposition to the petition on March 12, 1984. These filings have been referred to the Commission by the Bureau and will be held in abeyance until we take further action based on this Notice.

[12] Under our BOC Structure Order, the BOCs have been required to market new CPE through a separate organizational structure. We here are also seeking comment on whether we should waive that requirement with regard to NSEP communications functions, in order to enable the regulated BOC entities to offer end-to-end services to DoD and other specified federal agencies.

[13] For a summary of the terms and conditions of the CPE Waiver Order, see para. 3 n. 5, *supra*.

[14] See para. 4 n. 8, *supra*.

[15] *See, e.g.*, American Tel. & Tel. Co., Maintenance of Service Charges Associated with Private Line Service and Dataphone Digital Service, FCC Tariffs No. 260 and 267, Declaratory Ruling by the Chief, Common Carrier Bureau, Mimeo No. 7649 (released Jan. 5, 1984).

required to establish sale prices and lease rates for the embedded CPE during a transition period in accordance with the terms of the *CPE Detariffing Order*. Further, we request parties to comment regarding the valuation standard which should be used for this embedded equipment, and regarding whether (for purposes of valuation and the establishment of sale prices) the rules of the *CPE Detariffing Order* should apply and this CPE should be aggregated together with all other multi-line CPE transferred to ATTIS. We also propose that the transition period for this transferred equipment should begin no earlier than the effective date of the Order we adopt in this proceeding. We further propose, under this option, to amend the Computer II Rules, or grant a permanent waiver of the Computer II Rules, to enable AT&T–C to be responsible for this embedded CPE and to serve as a single point of contact for DoD and other specified federal agencies. Under this approach, the terms and conditions of the *Bureau Waiver Order* would continue to apply. In the case of any embedded CPE retained by the BOCs and used in connection with NSEP functions, such as circuit switching units and network channel terminating equipment, we propose the same arrangement as we are proposing for AT&T. We have tentatively concluded that this approach achieves the greatest degree of consistency with *Second Computer Inquiry* principles while also fulfilling our mandate under Section 1 of the Communications Act of 1934, 47 U.S.C. § 151, to assist the Nation's defense and protect the safety and property of its inhabitants. Implementation of *Second Computer Inquiry* policies is achieved, under this first option, by applying price predictability and other transitional requirements to the transferred embedded equipment, and by continuing in place the requirement that AT&T–C identify non-affiliated CPE vendors who are capable of meeting particular federal agency equipment needs. National defense concerns are accommodated by easing the application of *Second Computer Inquiry* requirements regarding the 21 systems which DoD has identified as critical to defense needs, and by constructing a framework which enables the federal government to draw upon the experience and expertise of AT&T–C personnel in maintaining these systems on an end-to-end basis.

12. Under the second option, AT&T–C would retain or receive ownership of embedded CPE associated with the critical NSEP systems and circuits identified by FEA. This option also would require that AT&T–C be permitted to own and provide new CPE associated with these critical systems and circuits. AT&T–C also would be authorized to own and provide new CPE needed to meet emergency communications needs. Embedded CPE used in connection with emergency communications needs would remain with ATTIS (as provided in the *Bureau Waiver Order*), but AT&T–C would be permitted to provide end-to-end service, including the provision of embedded CPE, in emergency situations. The equipment would not be provided under tariff or included in regulatory revenue requirements, and AT&T–C would have to follow separate accounting procedures. This approach constitutes a close approximation of the *status quo* regarding the service relationship between AT&T and DoD and other specified federal agencies, but it is our tentative view that such an approach would result in too great a departure from the principles and objectives of the *Second Computer Inquiry*. We are, however, soliciting comments regarding this option so that we can better evaluate whether this is a useful means for ensuring that critical defense and emergency preparedness needs are met.

13. The third option involves expanding the role of Bell Communications Research Incorporated (BCR)[16] established in the AT&T Plan of Reorganization [17] to supplant any end-to-end responsibility for NSEP communications needs currently performed by AT&T–C. The AT&T Plan, as amended and approved by the District Court, contemplates that:

> [T]he BOCs and the centralized government communications group [within BCR] will cooperate fully with the interexchange and intraexchange carriers and equipment vendors involved to provide efficient service. Specifically, the centralized group will, if the government desires, serve as a point of contact for other carriers and vendors to arrange for the installation, joint testing, maintenance, restoration, repair and all other operational aspects of BOC-provided NSEP services that are interconnected with services provided by other carriers.

AT&T Plan at 421.

[16] This organization was previously known as the Central Staff Organization and the Central Services Organization. We note that, although the discussion here addresses BCR, we also invite comments regarding whether other industry organizations or other organizations could perform the role described here.

[17] AT&T Plan of Reorganization, United States v. AT&T (filed Dec. 16, 1982) (hereinafter AT&T Plan). The AT&T Plan, in pertinent part, has been approved by the District Court. *See* United States v. Western Electric Co., 569 F.Supp. 990 (D.D.C.), *aff'd sub nom.* California v. United States, 104 S.Ct. 542 (1983).

14. The AT&T Plan provides that "AT&T" will retain in its regulated entity its existing government communications organization which will continue to perform all of its current NSEP functions other than those transferred to the Central Staff Organization under this Plan of Reorganization." *Id.* at 423–24. The AT&T Plan also indicates that this government communications organization:

> [W]ill continue to provide a single point of contact for the government with AT&T affiliates for both NSEP situations and those long-term research, manufacturing or equipment needs that require the resources of Western Electric, Bell Telephone Laboratories or other AT&T affiliates. If the government desires, the AT&T organization will also serve as a point of contact for the government to coordinate NSEP communications requests that require interconnection between an AT&T affiliates' service and a service provided by a BOC or another exchange carrier.

Id. at 424.

15. Under the option described here, BCR would replace the government communications organization within AT&T and would become the industry-wide point of contact for DoD and other specified federal agencies for all NSEP communications needs. BCR would be responsible for coordinating all service and equipment arrangements with regulated BOC entities and independent exchange carriers, with AT&T–C and ATTIS, and with other interexchange carriers and vendors selected by the federal agencies involved. BCR would not play any direct role in the selection process. Under this approach, full *Second Computer Inquiry* separation requirements would apply regarding relationships between AT&T–C and ATTIS, and between regulated and unregulated BOC entities. With regard to AT&T, embedded CPE used in connection with the 21 designated systems and emergency communications services would be detariffed and transferred to ATTIS pursuant to the valuation, sale, and price predictability requirements discussed in the first option. *See* para. 11, *supra*. Although this approach would achieve a desirable level of consistency with *Second Computer Inquiry* principles, it is our tentative view that there may be practical, competitive, and operational problems associated with assigning such a role to BCR. It may be difficult for BCR or any other single entity to achieve the desired level of coordination and cooperation which would be necessary to maintain an industry-wide single point of contact. Carriers and vendors

might be reluctant to enter into such a cooperative venture on an extensive basis. Further, there could be legal impediments to such a centralized structure. Nonetheless, we invite interested parties to comment regarding the viability and advisability of this alternative.

16. The fourth option involves transferring all embedded CPE associated with the designated NSEP systems and circuits to ATTIS, requiring that AT&T provide new CPE for these systems and circuits only through ATTIS, and permitting ATTIS to resell basic transmission service acquired from AT&T–C (or other carriers) for these systems and circuits and for emergency communications services. This approach, in effect, would enable ATTIS, rather than AT&T–C, to function as AT&T's single point of contact for DoD and other specified federal agencies with respect to maintaining and servicing these systems.[18] This alternative constitutes a subset of proposals we already have made in a separate proceeding.[19] The basis for this option is premised on the same intent we expressed in that proceeding: To "allow ATTIS to provide efficient, innovative offerings of basic, resold services themselves or basic, resold services in conjunction with enhanced services or customer-premises equipment in a manner that does not promote the acquisition and abuse of market power, cross-subsidies, or discrimination." *ATTIS Resale Notice* at para. 3. In this context this intent is particularized by the NSEP and safety objectives of the Communications Act.

17 There are two aspects to this option. First, ATTIS would be permitted to resell basic transmission service obtained from AT&T–C and associated with any of the designated systems, but AT&T–C would still be required to make these transmission services available to other vendors on an unbundled, nondiscriminatory basis. ATTIS also would be authorized to resell basic transmission services for these systems which ATTIS acquires from unaffiliated carriers. Thus, ATTIS would be in a position to continue serving as a single point of contact in cases in which DoD or other specified federal agencies exercised their option to obtain transmission service for the designated systems from carriers other than AT&T–C. Under this option ATTIS would be required to submit annual reports to the Commission (which would be available to the public) specifying each carrier which provided ATTIS with basic transmission services and the amounts paid by ATTIS for these services.

18. Second, we seek comment regarding whether, for purposes of such resale, ATTIS should be subject either to streamlined regulation or to forbearance from tariff-filing and facilities-authorization requirements under the Communications Act of 1934.[20] We also seek comments regarding the relative advantages and disadvantages of streamlined regulation and forbearance applied to ATTIS's resold offerings in support of the designated NSEP systems.

19. In requesting comments concerning the costs and benefits of this option, we note our preliminary view that the primary benefit of this approach is that it would permit ATTIS to serve as a single point of contact for purposes of meeting the government's NSEP communications needs. There seems to be sufficient basis for tentatively concluding that important national defense goals are advanced through maintenance of a system which enables the specified federal agencies to make their NSEP communications arrangements on a centralized basis through one vendor. We also seek comments regarding whether the potential problems which we have suggested might result from permitting ATTIS to resell basic services generally[21] also would apply in the context of the resale of basic transmission services associated with the designated NSEP systems and with emergency communications services. We also request parties, in considering this fourth option, to comment regarding whether alternatives other than the extension of resale authority to ATTIS (*e.g.*, permitting ATTIS to function as an agent of DoD for purposes of arranging for transmission services from AT&T–C) would be sufficient to meet our concerns.

IV Federally-Tariffed CPE Owned by Independent Companies

20. We proposed in the *Notice* a general framework for removing from regulated service embedded CPE owned by the independent telephone companies. *See Notice*, 94 FCC 2d at 109–10. That framework, however, would apply only to embedded equipment currently subject to state tariffs and would not embrace equipment owned by the independents and tariffed at the federal level. Our purpose here is to seek comments from interested parties regarding a proposal for the detariffing of this federally-tariffed embedded equipment.[22] (We will establish rules for the detariffing of equipment owned by the independents and currently tariffed at the state level in a subsequent action in this docket.)

21. It is our understanding that the amount of embedded CPE owned by the independent telephone companies and tariffed at the federal level comprises only a small portion of the total amount of embedded equipment owned by the independents. This CPE usually is associated with interstate private line services which the independents offer as connecting or concurring carriers. The CPE includes data sets, conference telephone sets, hand sets, and other equipment. We note, however, that it is difficult to acquire accurate information regarding the value of this federally-tariffed CPE and we are hopeful that parties filing comments in response to this Notice will include data which shed light on this question.

22. In our view, it may be the case that, even though the total amount of this federally-tariffed equipment may be small in comparison with the total amount of CPE owned by independent telephone companies, a significant portion of embedded CPE owned by particular independent companies may be tariffed at the federal level.[23] It thus

[18] Although the text addresses only the situation of ATTIS, we also request comment regarding whether the resale option, if adopted, also should apply to the separate organizational structures established by the BOCs. *See* para. 9 & n. 12, *supra*. Further, we seek comment regarding whether such resale by the BOCs should be limited to intra-LATA service.

[19] Provision of Basic Services Via Resale by Separate Subsidiary, CC Docket No. 83–1375, Notice of Proposed Rulemaking, FCC 83–604, 49 FR 1248 (released Jan. 5, 1984) (ATTIS Resale Notice).

[20] *See* ATTIS Resale Notice at para. 14 & n. 25. The type of streamlined regulation and forbearance discussed here is the same as that specified in the ATTIS Resale Notice. As noted in the ATTIS Resale Notice, certain obligations under Title II of the Communications Act of 1934 (*e.g.*, the complaint process and the requirement of just, reasonable, and nondiscriminatory rates) would apply to ATTIS's resold services.

[21] *See id.* at para. 9 & nn. 10–20.

[22] It should be noted that, under the CPE Detariffing Order, no distinction was made between Bell System embedded CPE tariffed at the state or federal level. Embedded equipment owned by AT&T, or owned by the BOCs and transferred to AT&T at divestiture, which is tariffed at the federal level has been detariffed in accordance with the terms of the CPE Detariffing Order and is subject to the sale and lease requirements and other requirements established in the CPE Detariffing Order. It also should be noted that we indicated in the CPE Detariffing Order that we would address issues relating to federally-tariffed CPE owned by the independents in a subsequent action in this proceeding. *See* CPE Detariffing Order at para. 175. We do so here.

[23] This may be particularly true for small companies, such as Benton Ridge Telephone Company, Inter-Community Telephone Company, Clifton Forge-Waynesboro Telephone Company, and Peninsula Telephone and Telegraph Company.

Continued

becomes important to fashion a detariffing mechanism which works efficiently with respect to all embedded equipment remaining under federal tariffs and which also is sufficiently flexible to ensure that companies which have a substantial portion of their embedded CPE tariffed at the federal level are subject to detariffing rules and procedures which do not disadvantage their ratepayers or investors, while adequately balancing the interests of users of this CPE.

23. We propose to establish a detariffing plan under which federally-tariffed CPE owned by independent telephone companies would be detariffed on a "flash-cut" basis as of January 1, 1985. Under this approach, the equipment would be removed from regulated service at adjusted net book value [24] as of that date. In-place customers would be given the opportunity to purchase their equipment at any time during the two-year period following detariffing at sale prices which, in the aggregate, do not exceed the adjusted net book value of the equipment plus reasonable transaction costs. Accounting requirements currently applicable to the offering of new CPE, by companies which do not establish separate subsidiaries for such offerings, also would apply to this detariffed CPE. We also seek comment regarding whether we should establish a price predictability program, based upon the requirements applicable to ATTIS established in the *CPE Detariffing Order*, under which lease rates charged by the independent companies would be subject to established ceilings. Existing contracts applicable to this detariffed equipment would remain in effect and would be enforceable by the independent company and the customer involved. The company would have to establish accounting mechanisms for the detariffed equipment which comply with the accounting requirements we will establish in this docket for state-tariffed embedded CPE owned by the independents. *See CPE Detariffing Order* at para. 175; *Notice*, 94 FCC 2d at 106–07

24. Our goal, in formulating this proposal for the deregulation of independent companies' CPE tariffed at the federal level, is to effectuate the detariffing of this equipment as expeditiously as possible while also protecting the interests of ratepayers, in-place customers, and investors. We invite interested parties to comment on our proposal and to present and discuss other alternatives for the detariffing of this embedded equipment.

V. Regulatory Flexibility Act Certification

25. This Notice proposes rules and policies under which AT&T and the BOCs may provide new and embedded CPE to federal agencies as a part of end-to-end NSEP communications service. The objective of this proceeding is to establish a workable and durable framework for the provision of this CPE in a manner which accommodates national defense and emergency preparedness goals as well as the policies of *Second Computer Inquiry*. This Notice also proposes a framework for the deregulation of embedded CPE owned by independent telephone companies and currently tariffed at the federal level, with the objective of establishing requirements and procedures which accommodate the particular needs of these independent companies. The authority for this proposed rulemaking proceeding is contained in Sections 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, 403.

26. We certify that small business entities, as defined for purposes of the Regulatory Flexbility Act, 5 U.S.C. 602–612, would not be affected by this proposed rulemaking. The proposals made in this Notice would affect AT&T, the BOCs, and the independent telephone companies. We conclude that these entities are not small businesses within the meaning of the Regulatory Flexibility Act. This is the case regarding the independent companies because each of them is the dominant provider of telephone service within its service area. *See Notice*, 94 FCC 2d at 114. We also conclude that there are no federal rules which would overlap, duplicate, or conflict with the action proposed in this Notice. We note that, even though the Regulatory Flexibility Act does not apply to independent telephone companies, our proposal regarding the detariffing of CPE owned by the independents and tariffed at the federal level complies with the spirit of that statute because it will have the effect of reducing administrative burdens faced by small independent telephone companies.

VI. Comment Filings; Ordering Clauses

27 For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantial disposition of the matter is to be considered in a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever occurs earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding.

28. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation, and that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

29. Accordingly, it is hereby ordered, that, pursuant to Sections 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, 403, and pursuant to Section 553 of Title 5, United States Code, notice is hereby given of the proposed adoption of new or modified rules, in accordance with the discussion and delineation of issues in this Notice and on the basis of previous notices and filings in this proceeding.

30. It is further ordered, that all interested persons may file comments onthe issues and proposals discussed in this Notice not later than July 20, 1984 and that replies may be filed not later than August 9, 1984. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments, or replies shall be filed with the Federal Communications Commission, Washington, D.C. 20554, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, D.C., offices. In reaching its decision, the Commission may consider information

which have a significant amount of assets tariffed at the federal level. *See* FCC Tariff No. 260 at 253–58 (revisions effective Apr. 13, 1983 and Aug. 31, 1983).

[24] Adjustments to net book value would be made in accordance with the principles and rules adopted with respect to the Bell System in the CPE Detariffing Order.

and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of the Commission's reliance on any such information or ideas is noted in the *Order*.

31. It is further ordered, that the Secretary shall cause this Notice of Proposed Rulemaking to be published in the Federal Register.

32. It is further ordered, that the Secretary shall transmit a copy of this Notice to the Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-16929 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 15

[Gen. Docket No. 83-325; RM-4062; RM-4075]

Amendment of the Commission's Rules To Add New Interim Provisions for Cordless Telephones; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On May 23, 1984, the Commission released a Further Notice of Proposed Rulemaking (FCC 84-232) in this proceeding regarding cordless telephones. Inadvertently, the document was published twice (first on May 25, 1984, 49 FR 22112, then again on June 6, 1984, 49 FR 23397). Because the comment/reply comment dates are affected by this error, this document establishes June 6, 1984 as the correct publication date. This is to allow sufficient time for comments and replies.

DATES: Comments and reply comments regarding the proposed rule are due by July 9, 1984 and July 24, 1984 respectively, as set forth in the June 6, 1984 publication.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Julius Knapp, (202) 653-8247.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-16931 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 31

[CC Docket No. 84-468]

Amendment of the Commission's Rules To Revise the Accounting Provisions for Cost of Removal, Gross Salvage, and Reusable Plant; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Extension of comment/reply comment period.

SUMMARY: This Commission is granting a request by the United States Telephone Association (USTA) for an extension of time to file comments in the Commission's Notice of Inquiry concerning uniform system of accounts in Docket 84-468, FCC 84-199, released May 16, 1984, and a request for a waiver of § 1.46(b) of our rules which requires requests for extension of time to file comments in rulemaking proceedings to be filed at least 7 days before the filing date. This additional time should provide all parties adequate time to analyze and address all issues raised in this proceeding.

DATES: Comments and reply comments are now due by July 12, 1984 and July 27, 1984 respectively.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Chief, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

SUPPLEMENTARY INFORMATION: The Notice of Inquiry was published on May 21, 1984, 49 FR 21375.

Order

In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, to revise the accounting provisions for cost of removal, gross salvage, and reusable plant (CC Docket 84-463).

Adopted: June 15, 1984.

Released: June 18, 1984.

By the Chief, Common Carrier Bureau.

1. We have before us a motion filed on June 13, 1984, by the United States Telephone Association (USTA) for an extension of time to file comments on our Notice of Inquiry (NOI) in Docket 84-468 (FCC 84-199, released May 16, 1984). USTA requests that the time for filing such comments be extended from June 15, 1984, to July 12, 1984. USTA also requests a waiver of § 1.46(b) of the Commission's rules which requires motions for extension of time to be filed at least 7 days before the filing date.

2. As indicated by USTA, the NOI seeks comments on several accounting recommendations of the Telecommunications Industry Advisory Group (TIAG) and a dissenting report by the National Association of Regulatory Utility Commissioners (NARUC), both of which were submitted to the Commission on January 9, 1984. In support of its motion, USTA states that its mid-size and smaller exchange carriers need additional time because they do not have the accounting resources available to develop promptly the various tax consequences and revenue impacts called for in the NOI.

3. We hereby grant USTA's request to extend the date for filing comments from June 15, 1984, to July 12, 1984, and USTA's request for a waiver of § 1.46(b) of the Commission's rules. This additional time period should provide all parties adequate time to analyze and address all the issues raised in this proceeding.

4. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291, that, the due date for filing comments in this proceeding is extended to July 12, 1984, and the due date for reply comments is extended to July 27, 1984.

William F. Adler,

Deputy Chief, Policy, Common Carrier Bureau.

[FR Doc. 84-16933 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-600; RM-4642]

FM Broadcast Station in East Jordan, Michigan; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 265A to East Jordan, Michigan, in response to a petition filed by Midwest Radio Consultants. The proposed assignment could provide a first FM service to that community.

DATES: Comments must be filed on or before August 6, 1984, and reply comments on or before August 21, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (East Jordan, Michigan); MM Docket No. 84-600, RM-4642.

Adopted: May 15, 1984.

Released: June 14, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Midwest Radio Consultants ("petitioner"), requesting the assignment of FM Channel 265A to East Jordan, Michigan, as that community's first FM service. The petitioner filed information in support of the proposal, but did not state that he would apply for the channel, if assigned. Petitioner is expected to do so in his comments.

2. Channel 265A can be assigned to East Jordan, Michigan, in compliance with the minimum distance separation requirements of the Commission's Rules. Canadian concurrence must be obtained since the proposed assignment is within 320 kilometers (200 miles) of the common U.S.-Canadian border.

3. In view of the fact that the proposed assignment could provide a first FM service to East Jordan, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
East Jordan, Michigan		265A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before August 6, 1984, and reply comments on or before August 21, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows:

Midwest Radio Consultants, David C. Schaberg, Post Office Box 11101, Lansing, Michigan 48901-1101.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, 3.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7 For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-16942 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[Gen. Docket No. 84-282]

General Fairness Doctrine Obligations of Broadcast Licensees; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of reply comment period.

SUMMARY: Upon further reflection, the General Counsel's Office has decided that additional time for interested persons to review initial comments and prepare reply comments in Gen. Docket 84-282 Concerning General Fairness Doctrine Obligations of Broadcast Licensees is warranted and would serve the public interest.

DATE: Initial comment date originally extended to September 5, 1984, remains the same but the reply comment period now expires November 8, 1984.

ADDRESS: Submit comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Bailey (202) 254-6530.

SUPPLEMENTARY INFORMATION: The Notice of Inquiry was published on May 14, 1984, 49 FR 20317

Order Extending Reply Comment Period

In the matter of inquiry into § 73.1910 of the Commission's Rules and Regulations Concerning the General Fairness Doctrine Obligations of Broadcast Licensees, (Gen. Docket No. 84-282).

Adopted: June 12, 1984.

Released: June 15, 1984.

1. On April 11, 1984, the Commission adopted a notice of inquiry in the above-captioned proceeding relating to the obligations imposed upon broadcast licensees under the general fairness doctrine and originally set August 6, 1984, for the filing of initial comments and September 5, 1984, for the filing of reply comments. *See Notice of Inquiry in Gen. Docket 84-282,* FCC 84-140 (released May 8, 1984). On May 17, 1984, Media Access Project filed a motion for extension of time requesting that the initial comment period be extended to November 16, 1984, and the reply comment period to February 6, 1985, on the basis, *inter alia,* that such "an unusually lengthy period of time for comments" was necessary "due to the extraordinary nature of the Notice of Inquiry." By *Order,* adopted June 4, 1984 (Release No. 4674), the General Counsel's Office denied in part MAP's original request but granted a limited extension of time to allow interested persons to file initial comments on or before September 6, 1984, and reply comments on or before October 9, 1984.

2. Upon further reflection, the General Counsel's Office has decided that, although no additional time is warranted for submission of initial comments, which are now required to be filed on or before September 6, 1984, it believes that the reply comment period which is scheduled to expire on October 9, 1984, approximately thirty days later, may not provide sufficient time for interested persons to review the initial comments and prepare reply comments that are responsive to the issues in those initial comments. For these reasons, a further limited extension of time for reply comments would serve the public interest.

3. Therefore, it is hereby ordered, That pursuant to the applicable procedures set out in §§ 1.4 and 1.415 of the Commission's Rules and Regulations, 47 CFR 1.4 and 1.415, and the authority delegated in § 0.251 of the Commission's Rules and Regulations, 47 CFR 0.251, interested persons may file reply comments in the above-captioned proceeding on or before November 8, 1984.

Bruce E. Fein,

General Counsel.

[FR Doc. 84-16304 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 40674-4074]

Tanner Crab off Alaska

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

ACTION: Proposed rule.

SUMMARY: NOAA isssues a proposed rule to implement Amendment 9 to the fishery management plan for the Commercial Tanner Crab off the Coast of Alaska. Implementation of measures contained in this amendment is necessary to adjust fishing seasons and areas based on current harvest levels and socioeconomic needs of the fishery. Implementation would also update a maximum sustainable yield and allowable biological catches, from which optimum yields are derived. These measures are intended to promote an orderly fishery that is consistent both with the needs of the industry and with conservation requirements.

DATE: Written comments on the amendment, proposed rule, environmental assessment (EA), and regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) must be received on or before August 3, 1984.

ADDRESS: Comments should be mailed to Robert W. McVey, Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, AK 99802, or delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska. Copies of the amendment, EA, and RIR/IRFA may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501, telephone 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, Kodiak Field Office, NMFS), 907-486-4791.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP) was developed by the North Pacific Fishery Management Council (Council) and approved and implemented by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), under the Magnuson Fishery Conservation and Management Act, Pub. L. 94-265, as amended, 16 U.S.C. 1801-1837 *et seq.* (Magnuson Act). The FMP was published in the Federal Register on May 6, 1978 (43 FR 21170). Following initial implementation of the FMP in December 1978, the Assistant Administrator has approved and implemented eight amendments to the FMP that had been developed by the Council.

The Secretary of Commerce (Secretary) has received Amendment 9, which was approved by the Council at its July 1983 meeting. A notice of its availability has been published in the Federal Register (49 FR 22362, May 29, 1984), inviting written data, views, or comments on the amendment by August 3, 1984. A description of the management measures contained in Amendment 9 follows:

A. Establish a Framework Provision for Setting Tanner Crab Fishing Seasons

This framework management measure provides a mechanism for setting season opening and closing dates in accordance with biological or socioeconomic factors. Seasons are usually closed during the biologically sensitive period of the life cycle of Tanner crab, which is generally from spring to fall, although the timing for individual stocks may vary somewhat, necessitating some adjustments in seasons. Winter through early spring is generally the acceptable period for harvesting crab from a biological standpoint. However, molting Tanner crab have been found to some extent at all times of the year and in every area.

Seasons are usually closed to protect the spawning population of male Tanner crab during their migrations into shallow water spawning grounds and to allow sufficient time preceding peak spawning periods so that spawning males are not overharvested as they segregate into discrete schools immediately prior to spawning. After molting, sufficient time is allowed until shells have hardened to enable handling with minimal mortality and damage. Seasons may also remain closed in consideration of the time of egg hatching by females.

Fishing seasons are opened during periods when crab are not molting or reproducing, and when handling mortality should be low and meat content high. These periods may last up to nine months, far exceeding the time required to harvest the available catch. In some areas, provision for an open season may be desirable to provide for an exploratory fishery on underutilized stocks. An opening may also be justified if adverse environmental conditions such as sea ice covering the fishing grounds prevent utilization of harvestable crab during a normal season even though the opening were during a period that was not optimal relative to the biology of the crab. An opening during a sensitive biological period would be designed to ensure that no irreparable damage will be done to any Tanner crab stock.

To meet the objectives of the FMP, the Council and the Regional Director may therefore consider the following factors in setting fishing seasons:

• *Deadloss.* Rational—All Tanner crab must be alive when processing begins. Those dying prior to processing are classed as "deadloss" and discarded. They are counted as part of the harvest and the optimum yield (OY). Deadloss increases if crab are (1) in softshell condition, (2) not completely filled out, (3) held for long periods in boat tanks or processor holding tanks, (4) held in tank contaminated by fresh or warm water, and (5) handled too many times. Seasons should be set when crab are hard and well filled out, and scheduled in relation to other fishing seasons and activities to promote orderly deliveries and processing, thereby reducing to a minimum the time a catch is kept in vessel or processor holding tanks. Warm water temperatures and periods when fresh water is on the surface of bays and harbors should be avoided if possible, since both factors increase mortality in holding tanks.

• *Recovery rate.* Rationale—Since different segments of a stock within a fishing area may fill out at different times during the acceptable biological season, it is not always possible to harvest all crab in an area during the best meat recovery period. Seasons should be scheduled to produce the best possible recovery rate, which is the ratio of meat recovered in proporation to live weight.

• *Weather.* Rationale—Seasons should be scheduled to minimize the period of severe weather conditions during the fishery to avoid loss of fishing time and losses of lives and ships because of adverse conditions.

• *Costs.* Rationale—Costs of industry operations are affected by the timing of seasons. Seasons should be scheduled to minimize these costs.

• *Other fisheries.* Rationale—Seasons should be scheduled in consideration of other fisheries that will be making demands on the same harvesting, processing, and transportation systems needed in the Tanner crab fishery.

• *Coordinated season timing.* Rationale—Seasons should be scheduled in consideration of the need to time Tanner crab seasons relative to one another to distribute fishing effort, prevent gear saturation in a particular area, and allow maximum participation in the fishery by all elements of the Tanner crab fleet.

• *Enforcement and management costs.* Rationale—Seasons should be scheduled in consideration of the costs of enforcement and management before, during, and after an open season as affected by the timing and area of different Tanner crab seasons and as affected by seasons for king crab and other resources.

The Council normally receives testimony on these factors from representatives of the industry and from professional fishery managers at joint meetings of the Council Alaska Board of Fisheries, which are usually conducted during March of each year. If the Council determines that these factors warrant adjustments to previously specified opening or closing dates of any fishing season following receipt of testimony, it will recommend to the Regional Director that the seasons be adjusted.

The Secretary will publish a notice in the Federal Register, specifying the adjustments he considers necessary, as soon as practicable after receiving the Council's recommendations. The notice will invite comments for a 30-day period from the interested public on the adjustments and whether they are consistent with the FMP The Secretary will then publish a second notice approving, disapproving, or partially disapproving the season adjustments based on comments received and the consistency of the adjustments with the objectives of the FMP, the national standards, and other applicable law.

B. Broaden the Secretary's Field Order Authority To Adjust Seasons or Fishing Areas for Socioeconomic Reasons

This management measure will add to the scope of criteria for which the Secretary may find it necessary to make inseason adjustments to harvest levels and season opening and closing dates. In addition to the biological criteria already provided for in the FMP, the Secretary will also have the authority to take prompt action to make such adjustments for factors that relate to socioeconomic conditions in the fishery, if he finds that new information so requires. The Secretary will issue a field order in the Federal Register, making the inseason adjustment to the season opening or closing dates. He may decide for good cause to make the adjustments without affording a prior opportunity for public comment. An after-the-fact comment period of 15 days will be provided, however, when public comments on the necessity for, and extent of, the adjustment will be received. If comments are received, he will reconsider the necessity for the adjustment and either continue, modify, or rescind it, publishing his decision and responses to any comments in the Federal Register.

C. Establish New Optimum Yields for Tanner Crab Stocks Based on the Best Available Scientific Information

Significant changes in the status of Tanner crab stocks have occurred in many districts. Therefore, the values of maximum sustainable yield (MSY) and acceptable biological catch (ABC) that are specified in the FMP are being updated to reflect these changes. Values for OYs, derived from the amended ABCs, are proposed. (See Table of MSYs and ABCs for Tanner crab stocks in the Registration Areas and districts). These changes are required to bring the FMP into conformity with the best available scientific information. Fishermen frequently rely on published values as a guide to current and expected stock conditions and potential harvests. With the close relationship that exists between the attainment of OY and the setting of fishing seasons, this measure would serve to announce to fishermen the best available information on stock conditions.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97-453, requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the amendment and regulations. At this time, the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an environmental assessment for this

amendment and concluded that no significant impact on the human environment will result from this rule. A copy of the environmental assessment may be obtained from the Council for review and comment at the address listed above.

The Council has determined that approval and implementation of this rule would be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program. The State of Alaska's Office of Management and Budget concurred with this determination on July 11, 1983.

TABLE OF MSYS AND ABCS FOR TANNER CRAB STOCKS IN THE REGISTRATION AREAS AND DISTRICTS

[All figures are in millions of pounds]

Registration area	District	MSY	Years on which MSY is based	ABC	Source
A (Southeastern)	Southeast	1.7	1973–82	1.0 to 3.0	Alaska Department of Fish and Game (ADF&G) harvest guideline.
	Yakutat	1.4	1973–82	0.1 to 1.0	ADF&G harvest guideline; 0.1 figure equals 1983 catch.
E (Prince William Sound)		4.3	1973–82	1.5 to 3.5	ADF&G harvest guideline based on surveys and recent catch data.
H (Cook Inlet)		4.2	1973–82	1.5 to 3.0	ADF&G harvest guideline based on surveys and recent catch data.
J (Westward)	Kodiak	22.5	1973–82	11.0 to 33.0	ADF&G index surveys and trawl surveys.
	Chignik	3.8	1973–82	0.5 to 5.0	ADF&G index surveys and trawl surveys.
	South Peninsula	6.7	1973–82	2.0 to 6.0	ADF&G index surveys.
	Eastern Aleutians	0.3	1973–82	0.1 to 2.0	NMFS trawl surveys.
	Western Aleutians	0.3	1973–82	0.1 to 2.0	1978–83 catch data.
	Bering Sea:				
	Chionoecetes bairdi	32.0	1978–83	5.0 to 28.5	NMFS trawl surveys; 28.5 figure is based on highest estimates of stock abundance during 1978–83 using an exploitation rate of 0.4 and an average weight of 2.3 lbs. per crab; 5.0 figure is based on lowest catch during 1978–83.
	Chionoecetes opilio	30.0	1978–83	20.0–130.0	NMFS trawl surveys; 130.0 figure is based on 1978–83 data for all male crabs captured, using an exploitation rate of 0.58 and an average weight of 1.2 lbs. per crab; 20.0 figure is based on lowest catch during 1978–83.

The Administrator of NOAA has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, but that the proposed rule, if implemented, would have a significant economic impact upon a substantial number of small domestice entities for the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* These determinations were base on an analysis contained in an RIR/IRFA prepared by the Council. The following is a summary of the analysis in the RIR/IRFA.

1. A framework mechanism based upon meeting biological and/or socioeconomic criteria for development of season opening dates is preferred. This form of framework allows the Secretary the flexibility to receive and act upon the best available industry and biological information, while at the same time having guidance in the criteria to be met. Although the constraints on the Secretary are broader in scope, criteria are included that would provide guidance.

2. A rule giving the Secretary broader authority to make inseason modifications of seasons and areas on the basis of new socioeconomic information as well as on biological information is superior to considering only biological information. Needs of the industry can be responded to better and in a more timely manner.

3. Updating the value of ABC on which OYs are based is superior to not changing them. The values, which indicate the biological status of stocks, are based on the best available information obtained during recent years of the fishery.

This proposed rule is exempt from the procedures of E.O. 12291 under Section 8(a)(2) of the order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why following the regular procedures of the order is not practicable.

This proposed rule does not contain a collection of information requirement within the meaning of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: June 20, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 671—[AMENDED]

For the reasons set forth in preamble, it is proposed to amend 50 CFR Part 671 as follows:

1. In § 671.2, new definitions for "Council" and "FMP" are added in appropriate alphabetical order as follows:

§ 671.2 Definitions.

* * * * *

Council means the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, telephone 907–274–4563.

* * * * *

FMP means the Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska

* * * * *

2. In § 671.21, Table 1 at paragraph (a) is revised to read as follows:

§ 671.21 Optimum yield.

(a) * * *

TABLE 1. OPTIMUM YIELDS (MILLIONS OF POUNDS) OF TANNER CRAB STOCKS IN THE FISHING DISTRICTS OR REGISTRATION AREAS OFF ALASKA [1]

Registration area—district	Optimum yield
Southeastern (A):	
Southeast	1.0 to 3.0.
Yakutat	0.1 to 1.0.
Prince William Sound (E)	1.5 to 3.5.
Cook Inlet (H)	1.5 to 3.0.
Westward (J):	
Kodiak	11.0 to 33.0.
Chignik	0.5 to 5.0.
South Peninsula	2.0 to 6.0.
Eastern Aleutians	0.1 to 2.0.
Western Aleutians	0.1 to 2.0.
Bering Sea:	
C. bairdi	5.0 to 28.5.
C. opilio	20.0 to 130.5=domestic annual harvest.

[1] Catches of Tanner crab in a State of Alaska registration area or district will be considered part of the optimum yield specified for the contiguous Federal registration area or district of the same name.

* * * * *

3. In § 671.26, paragraph (a) is revised to read as follows: paragraphs (c)(2), (d)(2), (e)(2), and (f)(2) are removed, and paragraphs (c)(3), (d)(3), and (f)(3) are redesignated as paragraphs (c)(2), (d)(2), and (f)(2), respectively.

§ 671.26 Seasons, general gear restrictions, and registration areas.

(a) *Season dates*— (1) *Criteria for setting season opening and closing dates.* The Council may recommend to the Regional Director Tanner crab season opening and closing dates that it finds to be necessary in accordance with the following factors:

(i) *Deadloss*—the need to prevent or minimize deadloss, i.e. mortality of crab prior to processing.

(ii) *Recovery rate*—the need to increase the meat recovery rate.

(iii) *Weather*—the need to shorten the period of severe weather conditions during the fishery to minimize unsafe fishing time and losses of ships and crew.

(iv) *Costs*—the need to minimize costs to the industry.

(v) *Other fisheries*—the need to consider demands by other fisheries on harvesting, processing, and transportation systems.

(vi) *Coordinated season timing*—the need to distribute fishing effort and thus prevent gear saturation in a particular area.

(vii) *Enforcement and management costs*—the need to consider costs of enforcement and management before, during, and after an open season.

(2) *Procedures.* (i) As soon as practicable after the Council has recommended season opening and closing dates to the Regional Director, the Secretary will publish a notice in the Federal Register specifying the proposed dates. Public comments on the proposed dates and whether they are consistent with the objectives of the FMP will be invited for a period of 30 days after this notice is published in the Federal Register.

(ii) Within 30 days after the end of the comment period, the Secretary will publish a second notice approving, disapproving, or partially disapproving the proposed season dates based on comments received and his determination on whether the dates are consistent with the objectives of the FMP, the national standards of the Magnuson Act, and other applicable law. Season opening and closing dates presented under this paragraph will remain in effect until the Secretary issues a notice approving changes to those dates.

* * * * *

4. In § 671.27, paragraph (b) is revised to read as follows:

§ 671.27 Time and area closures.

* * * * *

(b) *Adjustments of harvest levels and season opening and closing dates*—(1) *General.* The Secretary may, following consultation with the ADF&G, adjust the harvest levels and season opening and closing dates for the Federal registration areas, districts, subdistricts, and sections, or parts thereof, specified in § 671.26.

(2) *Determinations.* Any adjustment under this section will be based on a determination by the Regional Director that the harvest levels and season opening and closing dates previously specified require modification in light of newly obtained information if the fishery is to be conducted in accordance with the factors listed in § 671.26(a)(1) and the objectives of the FMP or if harm to Tanner crab stocks is to be avoided.

* * * * *

[FR Doc. 84-16859 Filed 6-21-84; 2:29 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 124
Tuesday, June 26, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Citizens' Advisory Committee on Equal Opportunity; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: Citizen's Advisory Committee on Equal Opportunity

Dated: June 28–29, 1984

Place: Ramada Inn, 25 Hotel Circle, N.E. Albuquerque, New Mexico

Time: 8:30 am–5:00 pm

Purpose: To promote discussion among Committee members to identify specific problem areas within the Department's civil rights program, and to develop recommendations on ways to strengthen and improve the Department's civil rights efforts. Also, to meet with Indian leaders to discuss and exchange ideas for improving benefits and services of USDA programs to the Pueblos.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Office of Equal Opportunity, U.S. Department of Agriculture, 14th & Independence Avenue, S.W., Room 102W, Washington, D.C. 20250, (202) 447–5681. Written statements may be submitted prior to or up to July 16, 1984.

This Notice is submitted in less than 15 days because of administrative error.

Dated: June 22, 1984.

Alma R. Esparza,

Director, Office of Equal Opportunity, U.S. Department of Agriculture.

[FR Doc. 84–17119 Filed 6–25–84; 8:45 am]

BILLING CODE 3410–95–M

State of Iowa Abandoned Mine Reclamation Program Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all state cost-share payments or improvements made under the Iowa Abandoned Mine Reclamation Program are made primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination is in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Dan Chargo, Abandoned Mine Land Coordinator, Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319, (515) 281–5347, or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 382–1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, 26 U.S.C. 126, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for federal income tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife " The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR Part 14 and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made to a person under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The Iowa Abandoned Mine Reclamation Program is authorized by Iowa Code, section 83.21. It is funded through grants from the Office of Surface Mining, the Department of the Interior, to provide financial assistance to owners of abandoned mined land to help them install various conservation practices on their land. Cost-share payments accomplish one or more of the following purposes:

(1) Properly conserve and utilize the water and related land resources.

(2) Protect public health, safety, general welfare and property from the adverse effects of past coal mining practices.

(3) Protect the public health, safety, and general welfare from the adverse effects of past coal mining practices which do not constitute an extreme danger.

(4) Restore eligible land and water and the environment previously degraded by adverse effects of past coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife.

(5) Promote research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques.

(6) Protect, repair, replace, construct, or enhance public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by past coal mining practices.

(7) Develop publicly owned land adversely affected by past coal mining practices, including land acquired for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

(8) Protect the public from hazards endangering life and property resulting from the adverse effects of past noncoal mining practices. However, upon the request of the Governor of the State of Iowa, such work, if authorized by the State Soil Conservation Committee, may be undertaken before the priorities related to past coal mining have been fulfilled.

(9) Protect the public from hazards to health and safety from the adverse affects of past noncoal mining practices.

(10) Restore the environment degraded by the adverse effects of past noncoal mining.

(11) Construct public facilities in communities impacted by coal development if the Governor of the State of Iowa certifies that all other objectives of the fund have been met, the available impact funds are inadequate for such construction, and the Director of the Office of Surface Mining and the State Soil Conservation Committee concur.

Procedural Matters

The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause of a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An Iowa Abandoned Mine Reclamation Program "Primary Purpose Determination for Federal Tax Purposes," Record of Decision, has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, or Dan Chargo, Abandoned Mine Land Coordinator, Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures of the Iowa Abandoned Mine Reclamation Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all cost-share payments made under this program are for soil conservation, protecting or restoring the environment, improving forests, or providing wildlife habitat. Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for federal income tax purposes, all or part of such payments made under the Iowa Adandoned Mine Reclamation Program after December 2, 1984.

Signed at Washington, D.C., on June 21, 1984.

John R. Block,

Secretary.

[FR Doc. 84-16912 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-01-M

State of North Dakota Abandoned Mine Reclamation Program Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Determination.

SUMMARY: The Secretary of Agriculture has determined that all state cost-share payments or improvements made under the North Dakota Abandoned Mine Reclamation Program are made primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forest, or providing a habitat for wildlife. This determination is in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: North Dakota Public Service Commission, Capitol Building, Bismarck, North Dakota 58505-0165, (701) 224-2400, Lynn Schloesser, Director, Abandoned Mine Land Division, or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 382-1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, 26 U.S.C. 126, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for federal income tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife " The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR Part 14 and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made to a person under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments. The North Dakota Abandoned Mine Reclamation Program is authorized by state law, Chapter 38-14.2, N.D.C.C. (1981). It is funded by biennial state appropriations and grants from the Office of Surface Mining, the Department of the Interior, to provide for reclamation of abandoned mined lands. Cost-share payments accomplish one or more of the following purposes:

(1) Properly conserve and utilize the water and related land resources.

(2) Protect the health and safety of the public.

Procedural Matters

The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A North Dakota Abandoned Mine Reclamation Program "Primary Purpose Determination for Federal Tax Purposes," Record of Decision, has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, or the North Dakota Public Service Commission, Abandoned Mine Lands Division, Capital Building, Bismarck, North Dakota 58505-0165.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures of the North Dakota Abandoned Mine Reclamation Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all cost-share payments made under this program are for soil and water conservation and protecting or restoring the environment. Subject to

further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for federal income tax purposes, all or part of reclamation construction costs incurred under the North Dakota Abandoned Mine Reclamation Program after September 30, 1979.

Signed at Washington, D.C., on June 21, 1984.

John R. Block,

Secretary.

[FR Doc. 84-16910 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-01-M

State of West Virginia Abandoned Mine Reclamation Program Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all state cost-share payments or improvements made under the West Virginia Abandoned Mine Reclamation Program are made primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination is in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The determination permits recipients of these payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Patrick C. Park, Assistant Chief, Department of Natural Resources, Division of Reclamation, 1800 Washington Street, East, Charleston, West Virginia 25305, (304) 348-3267 or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 382-1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, 26 U.S.C. 126, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for federal income tax purposes if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife " The Secretary of Agriculture evaluates these conservation programs on the basis of criteria set forth in 7 CFR Part 14 and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that the payments made to a person under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The West Virginia Abandoned Mine Reclamation Program is authorized by the Abandoned Mine Reclamation Act of West Virginia, Code 20-6C. State funds generated by grants administered from the Office of Surface Mining, the Department of the Interior, provide financial assistance to owners of abandoned mined land to help them install various conservation practices on their land. Cost-share payments accomplish one or more of the following purposes:

(1) Properly conserve and utilize the water and related land resources.

(2) Attempt to restore, reclaim, abate, control or prevent the adverse effects caused by past coal mining practices.

(3) Provide a habitat for wildlife.

Procedural matters

The Department of Agriculture has classified this determination as "not major" in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Secretary has determined that these program provisions will not result in an annual effect on the economy of $100 million or more; will not cause a major increase in cost to consumers, individuals, industries, government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. A West Virginia Abandoned Mine Reclamation Program "Primary Purpose Determination for Federal Tax Purposes," Record of Decision, has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, or Patrick C. Park, Assistant Chief, West Virginia Department of Natural Resources, Division of Reclamation, 1800 Washington Street, East, Charleston, West Virginia 25305.

Determinations

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures of the West Virginia Abandoned Mine Reclamation Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all cost-share payments made under this program are for soil and water conservation, protecting or restoring the environment, improving forests or providing wildlife habitat. Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for federal income tax purposes, all or part of such payments made under the West Virginia Abandoned Mine Reclamation Program after January 16, 1981.

Signed at Washington, D.C., on June 21, 1984.

John R. Block,

Secretary.

[FR Doc. 84-16911 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Research Service

Food and Agricultural Sciences National Needs Graduate Fellowships Grant Committee; Meeting

Contingent upon timely establishment of the Food and Agricultural Sciences National Needs Graduate Fellowships Grant Committee and according to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 85 Stat. 770-776), the Agricultural Research Service office of Higher Education Programs announces the following meeting:

Name: Food and Agricultural Sciences National Needs Graduate Fellowships Grant Committee.

Date: August 14-18, 1984.

Time: 9:00 a.m.—5:00 p.m.

Place: U.S. Department of Agriculture, Room 024 West Auditors Building, Washington, D.C.

Purpose: To review and evaluate proposals for the Food and Agricultural Sciences National Needs Graduate Fellowships Grant program as part of the selection process for awards.

Type of meeting: Closed.

Reasons for closing: The meeting is being closed in accordance with section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I). Section 10(d) requires advisory committee meetings to be open to the public except "in accordance

with subsection (c) of section 552b of title 5, United States Code." That subsection authorizes the head of the agency to which an advisory committee reports to close that portion of a meeting which the agency head finds likely to "disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy." Because information related to quality of academic programs will be discussed (including quality of faculty) there is a need to close these meetings.

Authority to close meeting: This determination was made by the Acting Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92-463.

Contact person: Dr. K. Jane Coulter, Director, Higher Education Programs, Agricultural Research Service, U.S. Department of Agriculture, Room 350-A, Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone (202) 447-7854.

Done at Washington, D.C. this 20th day of June, 1984.

K. Jane Coulter,

Director, Higher Education Programs, Agricultural Research Service.

[FR Doc. 84-16958 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-03-M

Packers and Stockyards Administration

Proposed Posting of Stockyards; Mike's Livestock Auction, et al.; Correction

On May 15, 1984, (49 FR 20530) a notice was published in the Federal Register giving notice of the proposed posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the facility nos. assigned to the following markets in that publication.

The notice should have read:

GA-191 Taylor County Livestock, Inc. Reynolds, Georgia

NC-153 Southeastern Livestock Market, Inc. Chadbourn, North Dakota

TX-329 San Augustine Livestock Auction, Inc. San Augustine, Texas

Done at Washington, D.C., this 20th day of June, 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-16957 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Suwanee Creek Watershed, Georgia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Deauthorization of Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Suwanee Creek Watershed project, Gwinnett and Hall Counties, Georgia, effective on June 1, 1984.

FOR FURTHER INFORMATION CONTACT: B. C. Graham, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue, Athens, Georgia 30601, telephone: 404-546-2276.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 19, 1984.

B. C. Graham,

State Conservationist.

[FR Doc. 84-16899 Filed 6-25-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL RIGHTS COMMISSION

Maine Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee to the Commission scheduled for July 10, 1984, at Augusta, Maine (FR Doc. 84-15651 on page 24154) appeared with the incorrect Regional Office as an informational source.

The correct Regional Office is the New England Regional Office, at (617) 223-4671. All other information will remain the same.

Dated at Washington, D.C., June 21, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-16961 Filed 6-25-84; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee to the Commission will convene at 8:30 a.m. and will end at 5:00 p.m., on August 10, 1984, at the Richland City Council, Chambers Room, 505 Swift Boulevard, Richland, Washington 99352. The purpose of the meeting is to discuss the subject of Administration of Justice issues involved in the immigration process in Washington, and to hear expert presentations on the subject.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Northwestern Regional Office at (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 21, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-16960 Filed 6-25-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-401]

Preliminary Determinations of Sales at Less Than Fair Value and Sales at Not Less Than Fair Value; Certain Stainless Steel Sheet and Strip Products From Spain

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain stainless steel sheet products from Spain are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of certain stainless steel sheet products from Spain that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each such entry in amounts equal to: 2.1 percent for hot-rolled stainless steel sheet and 2.1 percent for cold-rolled stainless steel sheet. We have preliminarily determined that certain stainless steel strip products are not being, nor are likely to be, sold in the United States at less than fair value. Liquidation will not be suspended for cold-rolled stainless steel strip and hot-rolled stainless steel strip. If this investigation proceeds normally, we will make a final determination by September 4, 1984.

Effective Date: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department

of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that certain stainless steel sheet products from Spain are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). For hot-rolled stainless steel sheet we have preliminarily determined the weighted-average margin of sales at less than fair value to be 2.1 percent. For cold-rolled stainless steel sheet we have determined the weighted average margin to be 2.1 percent. For cold-rolled stainless steel strip we have preliminarily determined that there were no sales at less than fair value. There were no sales of hot-rolled stainless steel strip during the period of investigation.

If this investigation proceeds normally, we will make a final determination by September 4, 1984.

Case History

On January 13, 1984, we received a petition from counsel for: Allegheny Ludlum Steel Corporation; Armco Inc., Carpenter Technology Corporation; Eastern Stainless Steel Company; J & L Specialty Steels, Inc.; Jessop Steel Company; Republic Steel Corporation; Universal-Cyclops Specialty Steel Division, Cyclops Corporation; Washington Steel Corporation; and United Steelworkers of America, AFL/CIO-CLC, on behalf of the domestic stainless steel sheet and strip industry. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioners alleged that imports of certain stainless steel sheet and strip products from Spain are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring or are threatening to materially injure a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on February 1, 1984 (49 FR 4959). On February 27, 1984, the ITC determined that there is a reasonable indication that imports of certain stainless sheet and strip products from Spain are materially injuring a U.S. industry (49 FR 8505).

On February 22, 1984, we presented an antidumping questionnaire to counsel for Compania Espanola Para la Fabricacion de Acero Inoxidable, S.A. (Acerinox). An extension of the time to respond was granted, and on April 9, 1984, we received Acerinox's response to the questionnaire.

Scope of Investigation

The merchandise covered by these investigations consists of certain stainless steel sheet and strip products. For a further description of these products, see the appendix appearing with this notice.

Since we believe Acerinox to be the sole manufacturer of this merchandise to the United States, we limited our investigation to this one firm. We investigated 84 percent of sales of this merchandise by Acerinox to the United States during the period August 1, 1983, through January 31, 1984.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. In the case of hot-rolled stainless steel sheet, no sales in the home market of such or similar merchandise were available for comparison. For the purpose of this preliminary determination, we are applying the weighted-average margin calculated for cold-rolled stainless steel sheet to hot-rolled stainless steel sheet as the best information available. Additional information has been requested of Acerinox regarding third-country sales and constructed value of hot-rolled stainless steel sheet. If such information is provided in time to be verified and evaluated, we will use it for purposes of our final determination. In the case of hot-rolled stainless steel strip, there were no sales to the U.S. during the period of investigation. Information on sales of hot-rolled stainless steel strip during an expanded period of investigation will be sought for use in arriving at our final determination.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Acerinox because there were sufficient sales to unrelated purchasers prior to its importation into the United States. We calculated the purchase price for each United States sale based on either the (1) packed, C.I.F. or (2) packed, C.I.F. duty paid, delivered prices to unrelated customers in the United States. We deducted costs for foreign handling, insurance, ocean freight, and, where appropriate, U.S. customs duties and U.S. inland freight. We accounted for taxes rebated or uncollected by virtue of exportation but included in the home market prices. Respondent claimed an addition to the U.S. prices for a "bonus" to those prices based on an average of expected exchange rate fluctuations. We received insufficient information to evaluate this claim, and are disallowing it for purposes of our preliminary determination.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on Acerinox's home market prices. Acerinox made sufficient sales of cold-rolled stainless steel sheet and strip in the Spanish home market to form a basis for fair value comparisons. We calculated home market prices on the basis of the packed, ex-works, insured price to unrelated purchasers with discounts based on class, size, and importance of customer, sales from stock and, where appropriate, adjustments for untrimmed coil edges, coil size, strip width, quality, plus polishing and coating extras. We made deductions for rebates and insurance. As packing is identical in both markets, no adjustment was made for home market packing. In accordance with § 353.15 of our regulations (19 CFR 353.15), we made a circumstance of sale adjustment for differences in credit terms. Respondent claimed an allowance for indirect sales expenses in the home market. As the only commissions in the U.S. prices used for comparison were paid to a sales facility majority-owned by Acerinox, no offset was allowed. Respondent claimed an allowance, where appropriate, for an advertising rebate. From data submitted in the response this advertising appears to be for the benefit of the producer of the merchandise, and was not allowed. Respondent claimed an allowance for warehousing expenses. These expenses consisted of pre-sale warehousing and interest on inventory, and were not allowed because they are not directly related to sales. The respondent claimed an allowance for warranty expenses. However, data submitted provided only an amount budgeted for such expenses and no information regarding actual expenses incurred. No allowance has been granted; however, we will reconsider this claim if further information on actual expenses incurred is supplied in sufficient time to be analyzed and verified. Respondent claimed an allowance for technical service expenses. Data were not

submitted in sufficient detail to allow us to determine whether the amounts claimed were of a nature allowable as technical service expenses. No adjustment was made. Respondent claimed an allowance for bad debt expenses. We did not grant an allowance because these expenses were not tied to sales under consideration and are considered a normal general expense of doing business.

Comparisons were made based on categories selected by a Department industry specialist.

Verification

As provided in section 773(a) of the Act, we will verify all data used in reaching the final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act we are directing the United States Customs Service to suspend liquidation of all entries of the subject stainless steel sheet products from Spain which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise exceeded the United States price, which was: 2.1 percent for hot-rolled stainless steel sheet; 2.1 percent for cold-rolled stainless steel sheet. This suspension of liquidation does not apply to hot-rolled or cold-rolled stainless steel strip. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 A.M. on July 13, 1984, at the United States Department of Commerce, Conference Room 5611, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by July 6, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: June 21, 1984.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

Appendix—Product Description: Certain Stainless Steel Sheet and Strip Products

For the purpose of this investigation the term "certain stainless steel sheet and strip products" covers hot or cold rolled stainless steel sheet or strip, excluding hot or cold rolled stainless steel strip not over 0.01 inch in thickness, currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 the Tariff Schedules of the United States Annotated.

Hot rolled stainless steel sheet covers hot rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold rolled stainless steel sheet covers cold rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included in this investigation.

[FR Doc. 84-17001 Filed 6-25-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-588-047]

Chain of Iron or Steel From Japan; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on chain of iron or steel from Japan. The review covers the period January 1, 1983, through December 31, 1983. As a result of the review, the Department has preliminarily determined the amount of the net subsidy to be 1.95 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 43369) the final results of its last administrative review of the countervailing duty order on chain of iron or steel from Japan (43 FR 37685, August 24, 1978) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act") the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of Japanese chain of iron or steel, the links of which are essentially round in cross section, and parts thereof. Such merchandise is currently classifiable under items 652.2410 through 652.2450, 652.2710 through 652.2740, 652.3010 through 652.3040, 652.3310 through 652.3330, and 652.3510 through 652.3530 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1983, through December 31, 1983, and a program of tax deferrals on funds held in the Overseas Market Development Reserve ("OMDR").

Analysis of Programs

The Government of Japan has not responded to our questionnaire on the status of benefits bestowed on the covered merchandise during the review period. Therefore, the Department is using the subsidy determined during our previous administrative review as the best information available.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 1.95 percent *ad valorem* for the period January 1, 1983, through December 31, 1983.

On November 17, 1982, the International Trade Commission ("the ITC") notified the Department that the Government of Japan had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there would be material injury or threat of material injury to an industry in the United States if the order were revoked, the Department will instruct the Customs Service to assess countervailing duties in the amount of estimated duties required to be deposited on all unliquidated entries of Japanese chain of iron or steel entered, or withdrawn from warehouse, for consumption on or after November 17, 1982, and through the date of the ITC's notification to the Department of its determination.

The Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, of 1.95 percent of the entered value on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: June 19, 1984.

Alan F. Holmer,

Deputy Assistant Secretary Import Administration.

[FR Doc. 84-17032 Filed 6-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-791-001]

Ferrochrome From South Africa; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ferrochrome from South Africa. The review covers the period January 1, 1982, through December 31, 1982.

As a result of the review, the Department has preliminarily determined the amount of the total bounty or grant to be 0.74 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Williams or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 21983) the final results of its last administrative review of the countervailing duty order on ferrochrome from South Africa (49 FR 21155, April 9, 1984) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of Review

Imports covered by the review are shipments of South African ferrochrome. Such merchandise is currently classifiable under items 606.2200 and 606.2400 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1982, through December 31, 1982, and six programs: (1) Industrial Development Corporation loans; (2) Export Incentive Program—Categories A, B, C, and D; (3) preferential rail rates; (4) Electrical Power Cost Aid Scheme; (5) regional decentralization program; and (6) beneficiation allowances for mineral processors.

Analysis of Programs

(1) Industrial Development Corporation Loans

The Industrial Development Corporation ("IDC") a South African government corporation, provides funds for the purposes of establishing new export capacity throughout the country and housing in decentralized areas. These loans are long-term and are given at below commercial interest rates. During the review period, four of the five companies investigated had outstanding IDC loans. In calculating the benefit arising from these loans, we compared what a company would pay for comparable commercial loans with what a recipient company actually paid for an IDC loan. As a benchmark for the export capacity loans, we used the average long-term interest rate (in the year of receipt of the loan) established in the secondary market on company loan securities, as reported in the *Quarterly Bulletin* of the South African Reserve Bank. For the housing loans, we used the prevailing interest rates on new mortgage loans offered by building societies in South Africa, as reported in the *Quarterly Bulletin*.

We then calculated the present value of each year's payment differentials for the loans, using the benchmark interest rate described above as the discount rate. We then allocated this amount over the life of the loan using the declining balance methodology described in the Subsidies Appendix to the notice of "Final Affirmative Countervailing Duty Determinations" on

cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006). For each firm, we divided the benefit allocated to the review period by the firm's total exports. We then weight-averaged each company's benefit by its share of South African exports to the United States. We preliminarily determine that the benefit from this program during the period of review was 0.51 percent *ad valorem*. In 1983, one company completed repayment of its only outstanding IDC loan. Therefore, for purposes of the cash deposit of estimated countervailing duties, the potential benefit under this program is 0.42 percent.

(2) Export Incentive Program

In 1980 the South African Department of Industries, Commerce, and Tourism expanded and restructured its Export Incentive Program into four categories. Category C of this program, a scheme of rebate of finance charges for exporters, was eliminated on April 1, 1982. One of the companies that exported ferrochrome to the United States during the review period reported that it had received Category C benefits on United States exports during the first three months of 1982. To calculate the benefit attributable to this program, we divided the benefits on export shipments to the United States by total ferrochrome exports to the United States. We preliminarily determine that the benefit from the Export Incentive Program during the review period was 0.23 percent *ad valorem*. None of the companies investigated received Categories A, B, or D benefits on exports to the United States during the review period. Because Category C was eliminated on April 1, 1982, the potential benefit under this program for purposes of the cash deposit of estimated countervailing duties is zero percent.

(3) Preferential Rail Rates

Effective January 1, 1982, the South African Transport Services ("SATS") equalized rail rates on shipments of ferrochrome destined for domestic and export markets. During the review period, SATS did not reinstate higher rail rates for shipments of ferrochrome destined for domestic markets. We therefore preliminarily determine that rail rates on ferrochrome do not confer a subsidy.

(4) Electrical Power Cost Aid Scheme

The South African Department of Industries, Commerce, and Tourism provides a 45 percent rebate on the cost of electricity used in the production of minerals for export. During our verification, we found that electricity costs on the production of ferrochrome exported to the United States are excluded from the companies' claims under this program. We therefore preliminarily determine that this program was not used with respect to exports of ferrochrome to the United States.

(5) Other Programs

We also examined the following two programs and preliminarily find that South African companies that exported ferrochrome to the United States did not use them during the review period:

A. Regional Decentralization Program

B. Beneficiation Allowances for Mineral Exporters

Preliminary Results of the Review

As a result of our review, we preliminarily determine the total bounty or grant to be 0.74 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 0.74 percent of the f.o.b. invoice price on any shipments of this merchandise exported on or after January 1, 1982, and on or before December 31, 1982.

Because of the changes in the programs described above, we preliminarily determine the potential bounty or grant to be 0.42 percent. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*. Therefore, the Department intends to instruct the Customs Service to continue to waive the cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on all shipments of South African ferrochrome entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days afer the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: June 20, 1984.

Alan F. Holmer,

Deputy Assistant Secretary Import Administration.

[FR Doc. 84-17004 Filed 6-25-84; 8:45 am]

BILING CODE 3510-DS-M

[C-201-006]

Polypropylene Film From Mexico; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on polypropylene film from Mexico. The review covers the period December 7, 1982, through March 31, 1983.

As a result of the review, the Department has preliminarily determined that the signatory, Celulosa y Derivados, S.A., the only known exporter of polypropylene film to the United States, has complied with the terms of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 26, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 54992) a notice of suspension of countervailing duty investigation regarding polypropylene film from Mexico, and announced its intent to conduct an administrative review. The petitioner requested that the investigation be continued and on April 4, 1983, the Department published in the Federal Register (48 FR 14421) a notice of final affirmative countervailing duty determination. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted the administrative review.

Scope of the Review

Imports covered by the review are shipments of Mexican polypropylene film, a thin transparent film made from polypropylene resin. Such merchandise is currently classifiable under items 774.5595 and 771.4316 of the Tariff Schedules of the United States Annotated. Polypropylene film is used for packaging a wide variety of articles and in the manufacture of pressure sensitive packing tape, dielectric material in electrical capacitors, and for wrapping power and communication cables.

The review covers the period December 7, 1982, through March 31, 1983, and eight programs: (1) CEDI, (2) FOMEX, (3) CEPROFI, (4) FONEI, (5) FOGAIN, (6) State Tax Incentives, (7) Import Duty Reductions and Exemptions, and (8) NIDP Preferential Price Discounts. Celulosa y Derivados, S.A. ("CYDSA") is the only known manufacturer and exporter of Mexican polypropylene film to the United States.

Analysis of Programs

(1) CEDI

The Certificado de Devolucion de Impuesto ("CEDI") is a certificate issued by the Government of Mexico in an amount equal to a percentage of the value of exported goods. The CEDI certificates may be used to pay a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties). The CEDI rate was 15 percent for the period January 1, 1982, through August 25, 1982, and zero after the Mexican government suspended the CEDI program for all exports on or after August 26, 1982. CYDSA, therefore, could not receive CEDI benefits during the period of review.

(2) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program since August 1, 1983. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters of goods for two purposes: pre-export (production) financing and export financing. We consider both export and pre-export FOMEX loans export subsidies since these loans are given only on merchandise destined for export. CYDSA received no such loans during the period of review.

(3) CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates which are used to promote the goal of the National Industrial Development Plan and are granted in conjunction with investments in designated industrial activities and geographic regions. CEPROFI certificates can be used to pay a wide range of federal tax liabilities.

CYDSA received one CEPROFI certificate for production of polypropylene film during the period of review. This benefit had been applied for an August 9, 1982, about 4 months prior to the effective date of the suspension agreement, and was received by CYDSA on December 14, 1982, one week after the date of the suspension agreement. This CEPROFI was in the amount of approximately $2,000, and represents less than 0.1 percent of the value of CYDSA's total production of polypropylene film during the period of review. No other CEPROFI benefits have been applied for or received on polypropylene film during the period of review. Under the circumstances and because the total benefit is *de minimis*, we believe acceptance of this single CEPROFI benefit does not constitute a violation of the suspension agreement. We preliminary find that CYDSA did not use the CEPROFI program during the period of review.

(4) Other Programs

We also examined the following programs and preliminary find that CYDSA did not use them during the period of review.

(A) State Tax Incentives.

(B) Fund for Industrial Development ("FONEI").

(C) Guarantee and Development Fund for Medium and Small Industries ("FOGAIN").

(D) Import Duty Reductions and Exemptions.

(E) National Industrial Development Plan ("NIDP") Preferential Discounts.

Preliminary Results of Review

As a result of the review, we preliminarily determine that CYDSA has complied with the terms of the suspension agreement for the period December 7, 1982, through March 31, 1983.

The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of exports of polypropylene film to the United States. Our information indicates that CYDSA account for 100 percent of United States imports of polypropylene film from Mexico during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: June 19, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-17003 Filed 6-25-84; 8:45 am]
BILLING CODE 3510-DS-M

COMMODITY FUTURES TRADING COMMISSION

Exchange Proposals to Trade Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Availability of the proposed terms and conditions for trading commodity options on futures contracts in domestic agricultural commodities.

SUMMARY: Six domestic boards of trade have submitted applications to trade options on commodity futures contracts in domestic agricultural commodities under the three-year pilot program adopted by the Commodity Futures Trading Commission ("Commission"). The Commission believes that public comment on these proposals is in the public interest, and is consistent with its option regulations, and with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before July 26, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to the

particular application addressed in the comment.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, (202) 254-7303.

The Commission has previously adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts are permitted to be traded on domestic boards of trade designated by the Commission as contract markets for options trading (46 FR 54500 (November 3, 1980)). The pilot program was subsequently expanded to permit trading of options on physical commodities as well (47 FR 56996 (December 22, 1982); 48 FR 41575 (September 16, 1983)). The pilot program has been further expanded to permit the designation for each board of trade in no more than two options on futures contracts in domestic agricultural commodities (49 FR 2752 (January 23, 1984)).

Six domestic boards of trade have applied for contract market designation, pursuant to section 6 of the Commodity Exchange Act, 7 U.S.C. 8 (1982), ("Act") and Commission Regulation 33.5, to trade options on futures contracts in domestic agricultural commodities. Applications submitted by the following boards of trade: Chicago Board of Trade to trade options on soybean and corn futures contracts; Chicago Mercantile Exchange to trade options on live cattle and live hog futures contracts; Kansas City Board of Trade to trade options on hard winter wheat futures contracts; MidAmerica Commodity Exchange to trade options on wheat and soybean futures contracts; Minneapolis Grain Exchange to trade options on hard red spring wheat futures contracts; and New York Cotton Exchange to trade options on cottom futures contracts.

A copy of the terms and conditions of each of these proposals to trade options on a commodity futures contract in domestic agricultural commodities will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted in support of these applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1983)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8. Certain of these submissions are subject to requests for confidential treatment pursuant to 17 CFR 145.9.

Any persons interested in submitting written data, views or arguments on the terms and conditions of the proposed options contracts, or with respect to other materials submitted in support of the applications, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by July 26, 1984. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on June 20, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-16915 Filed 6-25-84; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 84-1]

Honeywell, Inc., a Corporation; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Prehearing Conference.

DATE: This notice announces a prehearing conference to be held in the matter of Honeywell, Inc. on July 12, 1984 at 9:30 a.m.

ADDRESS: The prehearing conference will be in Hearing Room E, Interstate Commerce Commission Building, 12th & Constitution Ave., NW., Washington, DC. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6800.

Notice of Prehearing Conference

Please take notice that a prehearing conference in this proceeding will be held at 9:30 a.m., on July 12, 1984, in Hearing Room E, Interstate Commerce Commission, 12th & Constitution Ave., NW., Washington, DC, for the purposes outlined in 16 CFR 1025.21(a). The Presiding Officer will be Administrative Law Judge Richard M. Wilkins. The issues to be considered may include any or all of the following:

(1) Petitions for leave to intervene;

(2) Motions, including motions for consolidation of proceedings and for certification of class actions;

(3) Identification, simplification and clarification of the issues;

(4) Necessity or desirability of amending the pleadings;

(5) Stipulations and admissions of fact and of the content and authenticity of documents;

(6) Oppositions to notices of depositions;

(7) Motions for protective orders to limit or modify discovery;

(8) Issuance of subpoenas to compel the appearance of witnesses and the production of documents;

(9) Limitation of the number of witnesses, particularly to avoid duplicate expert witnesses;

(10) Matters of which official notice should be taken and matters which may be resolved by reliance upon the laws administered by the Commission or upon the Commission's substantive standards, regulations, and consumer product safety rules;

(11) Disclosure of the names of witnesses and of documents or other physical exhibits which are intended to be introduced into evidence;

(12) Consideration of offers of settlement;

(13) Establishment of a schedule for the exchange of final witness lists, prepared testimony and documents, and for the date, time and place of the hearing, with due regard to the convenience of the parties; and

(14) Such other matters as may aid in the efficient presentation or disposition of the proceedings.

Dated: June 21, 1984.

Sheldon D. Butts,

Deputy Secretary, Office of the Secretary.

[FR Doc. 84-16982 Filed 6-25-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Friday, 17 August 1984, The Pentagon, Washington, D.C.

The entire meeting, commencing at 0800 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Special Actions.

Dated: June 21, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-16938 Filed 6-25-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee Pacific Basin Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Pacific Basin Task Force will meet July 23-24, 1984, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to evaluate alternative U.S. Maritime Strategies in the Pacific Basin areas. The entire agenda for the meeting will consist of discussions of key issues related to United States national security interests and naval strategies in the Pacific and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be keep secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756-1205.

Dated: June 21, 1984.

Dennis Gonzalez,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Office.

[FR Doc. 84-16946 Filed 6-25-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Federal Education Data Acquisition Council; Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Federal Education Data Acquisition Council. This notice also describes the functions of the council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: July 12 and 13, 1984.

ADDRESS: Regional Office Building, Room 3652, 7th & D Streets SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, Executive Director, Federal Education Data Acquisition Council, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, D.C. 20202, (202) 426-7304.

SUPPLEMENTARY INFORMATION: The Federal Education Data Acquisition Council is established under section 400A of the General Education Provisions Act (Pub. L. 95-561; 20 U.S.C. 1221-3). The Council is established to advise and assist the Secretary with respect to the improvement, development and coordination of Federal education information and data acquisition activities, and to review the policies, practices, and procedures established by the Secretary.

The meeting of the Council is open to the public. The agenda includes: Orientation, Plan Next Year's Agenda, Establish Next Meeting Date.

Records are kept of all Council proceedings, and are available for public inspection at the Division of Education Information Management, 330 C Street SW., Washington, D.C. 20202 from the hours of 8:00 a.m. to 5:00 p.m.

Dated: June 21, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

[FR Doc. 84-16947 Filed 6-25-84; 8:45 am]

BILLING CODE 4000-01-M

Library Career Training Program; Application

AGENCY: Department of Education.

ACTION: Application Notice.

Applications are invited for new projects under the Library Career Training Program for fiscal year 1985.

Authority for this program is contained in Sections 201 and 222 of the Higher Education Act of 1965, as amended by the Education Amendments of 1980. (20 U.S.C. 1021 *et seq.*)

The Secretary may award a grant to an institution of higher education or library agency or organization. The purpose of these grants is to assist in training persons in librarianship.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by September 18, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.036, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center (Room 5673, Regional Office Building 3), 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program Information: Evaluation criteria and eligibility requirements for

the Library Career Training program appear in the Code of Federal Regulations at 34 CFR Part 776. The fiscal year 1985 grant program will be governed by the provisions of the final regulations published on March 5, 1982, in the Federal Register (47 FR 9786).

An application for grants will be evaluated independently *according to academic levels*, i.e., associate, bachelor's, master's, post-masters, and doctorate. If funds are appropriated for fiscal year 1985, the Secretary anticipates making grants for fellowship projects only. The Secretary will not consider applications for institute or traineeship projects.

Available Funds: For fiscal year 1985 the Department of Education has not requested funds for the Library Career Training program. However, applications are invited for fellowship projects to allow sufficient time to evaluate applications and complete processing prior to the end of the fiscal year, if funds are appropriated for the program. At the present time, there are no multi-year projects under this program.

In fiscal year 1984, 41 grants were awarded totaling $638,800 which provided fellowships to 76 individuals. In fiscal year 1984, $534,000 was awarded for fellowships at the master's level, $44,800 at the post-master's level and $60,000 at the doctoral level. If funds are appropriated for the program in fiscal year 1985, the Secretary will reserve funds for fellowships.

The U.S. Department of Education is not bound to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by July 27, 1984. They may be obtained by writing to the Library Education, Research and Resources Branch, Attn: II-B, U.S. Department of Education (Room 613, Brown Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that applicants *not* submit information that is not requested. (Approved OMB #1850-0022).

Applicable Regulations: Regulations applicable to this program include the following:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

(b) Regulations governing the Library Career Training Program (34 CFR Part 776).

Further Information: For further information, contact Mr. Frank A. Stevens or Ms. Yvonne Carter, Library Education, Research and Resources Branch, Division of Library Programs, Center for Libraries and Education Improvement, U.S. Department of Education (Room 613, Brown Building), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 254-5090.

(20 U.S.C. 1021, *et seq.*)

(Catalog of Federal Domestic Assitance Program No. 84.036, Library Career Training Program)

Dated: June 21, 1984.

Donald J. Senese,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 84-16963 Filed 6-25-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Inventions Available for License

The Department of Energy hereby announces a number of inventions available for license, in accordance with 35 U.S.C. 207-209, in order to achieve expeditious commercialization of results of federally funded research and development. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of specification of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161.

Signed at Washington, D.C. on this 11th day of June, 1984.

United States Department of Energy.

Theodore J. Garrish,

General Counsel.

UNITED STATES DEPARTMENT OF ENERGY, PATENT APPLICATIONS

Serial No.	Title of Invention
477,548	Electrostatic Wire for Stabilizing a Charged Particle Beam.
491,132	Radionuclide Labeled Lymphocytes for Therapeutic Use.
491,133	Fire Flood Method for Recovering Petroleum from Oil Reservoirs of Low Permeability and Temperature.
491,134	Manipulator Having Thermally Conductive Rotary Joint for Transferring Heat from a Test Specimen.
491,639	Graphite-Ceramic RF Faraday-Thermal Shield and Plasma Limiter.
492,924	Method of Controlling Fusion Reaction Rates.
492,925	Separation of Certain Carboxylic Acids Utilizing Cation Exchange Membranes.
492,926	Method of Using a Nuclear Magnetic Resonance Spectroscopy Standard.
494,236	Staged Fluidized Bed.
494,482	Method of Saccharifying Cellulose.
494,484	Electropositive Bivalent Metallic Ion Unsaturated Polyester Complexed Polymer Concrete.
494,467	Integral, Low Energy Thermite Ignitor.
495,205	Photothermal Method of Determining Calorific Properties of Coal.
495,386	Steady State Compact Toroidal Plasma Production.
495,888	Graphite Furnace Atomizer.
495,889	Circuit Breaker Lock Out Assembly.
498,434	Low-Temperature Magnetic Refrigerator.
498,435	Method for Making Generally Cylindrical Underground Openings.
498,437	Ethanol Production Method and System.
498,438	Silane-Propane Ignitor/Burner.
498,999	Method and Apparatus for Producing High Purity Silicon.
500,101	Production of Chemical Feedstock by the Methanolysis of Wood.
500,102	Tantalum-Copper Alloy and Method for Making.
500,105	Transverse Field Focused System.
500,106	Portable Instrument and Method for Detecting Reduced Sulfur Compounds in a Gas.
500,107	Homogenous Tritium Production Reactor.
500,112	Barrier Breaching Device.
500,199	Variable Control of Neutron Albedo in Toroidal Fusion Devices.
500,717	Plasma Discharge Elemental Detector for a Mass Spectrometer.
501,312	Rigid Indented Cylindrical Cathode for X-Ray Tube.
501,313	Rotational Viscometer for High-Pressure High-Temperature Fluids.
503,128	Ceramic to Metal Attachment Systems.
503,129	Fuel Assembly for the Production of Tritium in Light Water Reactors.
503,130	Laser Induced Phosphorescence Uranium Analysis.
503,373	Electron Emitting Filaments for Electron Discharge Devices.
504,904	Reductive Stripping Process for Uranium from Organic Extracts.
504,905	X-Ray Beam Finder.
505,011	Dual Rotating Shaft Seal Apparatus.
506,559	High Surface Area ThO_2 Catalyst.
506,560	Method and Apparatus for Synthesizing Hydrocarbons.
507,188	Vapor Spill Pipe Monitor.
507,189	Flexural Support Member Having a High Ratio of Lateral-to-Axial Stiffness.
509,076	Photovoltaic Cells and Electrodes.
509,077	Heart Testing Compound.
509,554	Front Lighted Optical Tooling Method and Apparatus.
509,555	Omnidirectional Fiber Optic Tiltmeter.
509,557	Solvent Recovery of Eastern Shale Oil.
509,758	Helical Screw Viscometer.
511,702	Positioning Apparatus.
512,059	Quantum Well Multijunction Photovoltaic Cell.
513,521	Laser Window with Annular Grooves for Thermal Isolation.
513,523	Steam Reforming of Fuel to Hydrogen in Fuel Cell.
513,557	High Resolution, High Rate X-Ray Spectrometer.
514,126	Capacitive Label Reader.
514,127	Fully Synthetic Taped Insulation Cables.
515,844	Catalysis Using Hydrous Metal Oxide Ion Exchangers.
517,138	Process for Tertiary Oil Recovery Using Tall Oil Pitch.
517,473	Hermetically Sealed Electrical Feed-Through for High Temperature Secondary Cells.

UNITED STATES DEPARTMENT OF ENERGY, PATENT APPLICATIONS—Continued

Serial No.	Title of Invention
517,474	Oxidation Sulfidation Resistance of Fe-Cr-Ni Alloys.
517,475	Method for Extracting Lanthanides and Actinides from Acid Solutions.
517,476	Method and Source for Producing a High Concentration of Positively Charged Molecular Hydrogen or Deuterium Ions.
517,477	Method of Enhancing Selective Isotope Desorption from Metals.
517,531	Method of Making Fine-Grained Triaminotrinitrobenzene.
517,536	Hard Metal Composition.
518,243	Method and Apparatus for Measuring Stress
519,873	Method for Fabricating Laminated Uranium Composites.
519,941	Ductile Aluminide Alloys for High Temperature Applications.
521,497	Silicon Crystal Growing by Oscillating Crucible Technique.
521,815	Method for Removing Cesium from a Nuclear Reactor Coolant.
521,816	Process for the Production of 5—Deoxy-5-[18F] Fluorouridine.
522,277	Process for Removing Sulfur from Coal.
522,282	Method and Apparatus for Measuring Response Time.
523,207	Nuclear Reactor Safety Device.
523,492	Extraction of Trace Metals from Fly Ash.
523,556	Synthesis of Refractory Materials.
523,990	Superconducting Magnet Wire.
526,246	Natural Chelates for Radionuclide Decorporation.
526,249	Fluorination Process Using Catalysts.
526,251	Tin-117m-Labeled Stannic (Sn^{4+}) Chelate of Diethylenetriamine Penta-acetic Acid (DPTA) for Application in Diagnosis and Therapy.
526,765	Shock Wave Absorber Having Apertured Plate.
526,767	Shock Wave Absorber Having a Deformable Liner.
526,855	Desulfurization of Fuel Gases in Fluidized Bed Gasification and Hot Fuel Gas Cleanup System.
527,547	Detachable Connection for a Nuclear Reactor Fuel Assembly.
528,278	Dual Aperture Dipole Magnet with Second Harmonic Component.
528,279	Separation of Uranium from Technetium in Recovery of Spent Nuclear Fuel.
528,284	Method and Apparatus for Fringe-Scanning Chromosome Analysis.
528,285	Reflex Ring Laser Amplifier System.
528,509	Inductively Stabilized, Long Pulse Duration Transverse Discharge Apparatus.
528,510	Separations by Supported Liquid Membrane Cascades.
532,430	Jet Spoiler Arrangement for Wind Turbine.
534,427	Combustion Heater for Oil Shale.
534,472	Process for Oil Shale.
535,462	Gas Tagging and Cover Gas Combination for Nuclear Reactor.
535,463	Method and System for Producing Lower Alcohols.
535,464	Method to Produce Large, Uniform Hollow Spherical Shells.
535,974	In-Situ Determination of Energy Species Yields of Intense Particle Beams.
535,979	Void/Particulate Detector.
537,218	Laser or Charged-Particle-Beam Fusion Reactor with Direct Electric Generation by Magnetic Flux Compression.
537,219	Process for the Preparation of Benzotriazoles and Their Polymers, and 2(2-Hydroxy-5-Isopropenylphenyl)-2H-Benzotriazole Produced Thereby.
538,006	Physico-Chemical Fracturing and Cleaning of Coal.
538,059	Digital Rotation Measurement Unit.
538,889	Ceramic-Glass-Metal Seal by Microwave Heating.
538,890	Ceramic-Glass-Ceramic Seal by Microwave Heating.
539,011	Biasing and Fast Degaussing Circuit for Magnetic Materials.
539,013	Thermoacoustic Couple.
539,366	Ultraviolet Light Absorbers Having Two Different Chromophors in the Same Molecule.
539,367	Use of Layer Strains in Strained-Layer Superlattices to Make Devices for Operation in New Wavelength Ranges, e.g., InAsSb at 8–12 um.
539,369	Gaseous Leak Detector.

UNITED STATES DEPARTMENT OF ENERGY, PATENT APPLICATIONS—Continued

Serial No.	Title of Invention
539,370	Multi-Function Magnetic Jack Control Drive Mechanism.
539,493	Di- and Tri-Benzotriazole Substituted Tri-Hydroxybenzenes.

[FR Doc. 84-16999 Filed 6-25-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Ozark County Gas, Inc.; 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 (PRO) which was issued to Ozark County Gas, Inc., P.O. Box 1339, Branson, Missouri 65616. This Proposed Remedial Order alleges violations in the pricing of motor gasoline of 10 CFR 212.92 and 212.93 for the period March 1, 1979 through August 31, 1979. The principal amount of the alleged violations for this period is $152,538.41.

A copy of the Proposed Remedial Order, with confidential information deleted may be obtained from: David H. Jackson, Director, Kansas City Office, ERA (816) 374-2092. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 12th day of June 1984.

David H. Jackson,

Director, Kansas City Office, Office of Special Counsel, Economic Regulatory Administration.

[FR Doc. 84-16933 Filed 6-25-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Renewal

This notice is published in accordance with the provisions of Section 101-6.1029 of the General Services Administration Interim Rule on Advisory Committee Management. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92-463), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Energy Research Advisory Board has been renewed for a 2-year period ending June 19, 1986.

The renewal of the Energy Research Advisory Board has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Pub. L. 95-91), the General Services Administration Interim Rule on Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee may be obtained from Gloria Decker (202) 252-8990.

Issued at Washington, D.C., on June 19, 1984.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 84-16934 Filed 6-25-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Algonquin Gas Transmission Co.; Rate Reduction Filing Under Rate Schedule S-IS

June 20, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on June 18, 1984 tendered for filing Seventh Revised Sheet No. 213 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Seventh Revised Sheet No. 213 is being filed to reflect in Algonquin Gas' Rate Schedule S-IS Payment for Inventory Sale Gas a decrease in Consolidated Gas Supply Corporation's ("Consolidated") underlying Rate Schedule E.

Algonquin Gas requests that the Commission accept such tariff sheet to be effective June 1, 1984, to coincide with the proposed effective date of Consolidated's Rate Schedule E rate change.

Algonquin Gas requests permission to credit the subsequent month's bill following Commission acceptance to effectuate such rate change as of June 1, 1984 in the event Algonquin Gas does not receive approval in time or the July 7, 1984 billing of June, 1984 sales.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb
Secretary.

[FR Doc. 84-16968 Filed 6-25-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-483-000]

Arkansas Power & Light Co., Filing

June 21, 1984.

The filing Company submits the following:

Take notice that on June 7, 1984, Arkansas Power & Light Company (AP&L) tendered for filing an amendment to the December 14, 1983 Letter Agreement between AP&L and Cajun Electric Power Cooperative, Inc. The amendment increases to 74 MW the contract capacity and accompanying energy for which AP&L will furnish transmission services.

AP&L requests that the Commission waive any requirements with which AP&L has not already complied.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-16967 Filed 6-25-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. G-4579-027, et al.]

Cities Service Oil & Gas Corp., et al.; Applications To Amend Certificates To Establish Entitlement to Section 109 Price [1]

June 21, 1984.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd.* v. *FERC*, 649 F.2d.376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 10, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[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 ft³	Pressure Base
G-4579-027, Apr. 30, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	K-N Energy, Inc., Morton Field, Finney and Kearny Counties, Kansas.	(1)	
G-10139-002, Feb. 16, 1984	do	Tennessee Gas Pipeline Company, West Delta Area, Offshore Louisiana.	(1)	
CI61-1332-000, June 4, 1984	do	Transwestern Pipeline Company, Bluitt Plant, Roosevelt County, New Mexico.	(1)	
CI65-561-000, June 4, 1984	do	Natural Gas Pipeline Company of America, Bluitt Plant, Roosevelt County, New Mexico.	(1)	
CI83-168-002, June 7, 1984	do	Tennessee Gas Pipeline Company, West Delta & Grand Isle Areas, Offshore Louisiana.	(1)	

[1] Applicant proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order to *Tenneco Exploration, Ltd.* v. *FERC* 649 F2d 376. 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. 84-16938 Filed 6-25-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-485-000]

Consumers Power Co., Filing

June 21, 1984.

The filing Company submits the following:

Take notice that on June 11, 1984, Consumers Power Company (Consumers) tendered for filing Consumers' Supplemental Agreement No. 3 to the Coordinated Operating Agreement with the City of Holland, Michigan dated as of April 1, 1981.

Consumers state that Supplemental Agreement No. 3 adds a new schedule, Service Schedule F—Specific Capacity

and Energy available from surplus capacity on the other party's system for a period of not less than five nor more than twelve calendar months.

Consumers further state that the extent and use of Specific Capacity and Energy among the parties for the next twelve months is not known at the present time as such transaction will only be scheduled from time to time as load and capacity conditions on either system dictate. Accordingly, it is not possible to estimate the transactions for such period.

Consumers request an effective date of June 1, 1984, and therefore request waiver of the Commission's notice requirements.

According to Consumers copies of the filing were served on the City of Holland, Michigan and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16969 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-480-000]

Idaho Power Co., Filing

June 21, 1984.

The filing Company submits the following:

Take notice that on June 7, 1984, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commissions' Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during April, 1984, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 30

Sierra Pacific Power Company—Supplement 28

Montana Power Company—Supplement 27

Portland General Electric Company—Supplement 23

Washington Water Power Company—Supplement 18

Puget Sound Power & Light Company—Supplement 8

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16970 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-484-000]

Illinois Power Co.; Filing

June 21, 1984.

The filing Company submits the following:

Take notice that on June 8, 1984, Illinois Power Company (Illinois) tendered for filing the Interconnection Agreement, dated March 1, 1983, between Southern Illinois Power Cooperative (SIPC) and Illinois, and Amendment No. 1 thereto dated June 24, 1983.

Illinois indicates that ths filing is made for the purposes of FERC approval of this interconnection between these two utilities.

Illinois requests an effective date of July 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon SIPC and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16971 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-418-005]

Kansas Power and Light Co.; Refund Report

June 21, 1984.

Take notice that on June 11, 1984, the Kansas Power and Light Company (KP&L) submitted for filing its refund report pursuant to the Commission's order issued May 2, 1984.

KP&L states that in accordance with § 35.19a, interest for the entire refund period was calculated at an average prime rate for each calendar quarter on all excessive rates.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 on or before July 10, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16972 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-477-000]

Lone Star Gas Co., a Division of Enserch Corp.; Request Under Blanket Authorization

June 21, 1984.

Take notice that on June 11, 1984, Lone Star Gas Company, a Division of Enserch Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP84-477-00 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Lone Star proposes

to construct and operate sales taps and appurtenant facilities under authorization issued in Docket No. CP83-59-000, as amended in Docket No. CP83-59-002,[1] all as more fully set forth in the request on file with the Commission and open to public inspection.

Lone Star proposes to construct and operate three sales-tap facilities in order to sell up to 100 Mcf of natural gas on an annual basis to two residential customers located in McClain County, Oklahoma, and to sell up to 18,000 Mcf of natural gas on an annual basis to Sun Exploration and Production Company (Sun Exploration). Lone Star states that Sun Exploration would utilize the natural gas to power a water pumping unit in Garvin County, Oklahoma.

Lone Star further states that it would utilize its residential rate for the service to the two residential customers and its industrial rate for the service to Sun Exploration. Both rates have been approved by the Oklahoma Corporation Commission, it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16973 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[1] By the Commission's order issued November 7, 1983, Lone Star was authorized in Docket No. CP83-59-002 to install and operate on-system sales taps pursuant to § 157.211 and the Regulations for retail customers not currently receiving gas at another service location in Lone Star's system.

[Docket No. ER84-488-000]

Maine Electric Power Company, Inc., Filing

June 21, 1984.

The filing Company submits the following:

Take notice that on June 11, 1984, Maine Electric Power Company, Inc. (MEPCO) tendered for filing an initial rate for transmission service to be provided to Bangor Hydro-Electric Company by MEPCO over its Transmission Facilities system.

MEPCO states that the rate applicable to the provisions of transmission service is .03 cents per kilowatt, per mile, per year which is MEPCO's filed Rate Schedule FPC No. 1.

MEPCO requests an effective date of August 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intevene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16974 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-276-000]

Mississippi Power & Light Co., Order Accepting for Filing and Suspending Rates, Granting Intervention, Denying Motion To Reject, and Establishing Hearing and Price Squeeze Procedures

Issued: June 22, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III.

On February 13, 1984, as completed on April 23, 1984,[1] Mississippi Power & Light Company (MP&L) tendered for filing a proposed increase in rates for full requirements and transmission service to twelve wholesale customers.[2] The proposed rates would increase revenues by about $2.4 million (16.3%) for the twelve month period ending May 31, 1985. MP&L has also proposed increased rates applicable to its Interconnection Agreement with the Municipal Energy Agency of Mississippi (MEAM).[3] The Interconnection Agreement was initially filed as part of a settlement in Docket No. ER84-128-000, but has not yet become effective, pending ratification by MEAM members. The revised rates under the Interconnection Agreement will have no revenue impact until the Interconnection Agreement is ratified. Until that time, MEAM members are served individually by the company under separate requirements rate schedules for which MP&L has proposed an increasse increase in this docket.[4] MP&L requests an effective date of June 22, 1984, for the rates for transmission service to the Tennessee Valley Authority (TVA) and an effective date of April 14, 1984, for all other proposed rates.[5]

Notice of the original a submittal was published in the Federal Register, with comments due on or before March 6, 1984. Timely motions to intervene were filed by MEAM and the South Mississippi Electric Power Association (SMEPA).

In support of its request for a five month suspension, MEAM raises various cost of service issues, including: (1) Inclusion of operating reserves in rate base; (2) assignment of construction-related materials and supplies to CWIP balances; (3) inclusion in land held for future use of amounts related to the Desoto County Unit; (4) inclusion in rate base of CWIP related to baseload units that may ulitmately be assigned to serve other utilities under the Middle South Pool equalization formula; (5) return on equity and overall rate of return; (6) depreciation allowance for steam production plant, cash working capital allowance, O&M expenses, and A&G expenses; (7) amortization of investment tax credit; (8) estimates of interchange revenues and costs; and (9) projected wholesale demands. Further, MEAM seeks to reserve the ability to raise additional issues, including the appropriateness of requiring MP&L to provide a "postage stamp" transmission rate for service

[1] By letter dated March 13, 1984, the Director of the Commissioner's Office of Electric Power Regulation advised MP&L that its filing was deficient. On April 23, 1984, the company submitted additional workpapers and other supporting data which cured the deficiencies.

[2] *See* Attachment for affected customers and rate schedule designations.

[3] MEAM represents eight wholesale customers of MP&L, including the Cities of Canton, Durant, Itta Bena, Kosciusko, Leland, Clarksdale, Greenwood, and Yazoo City.

[4] The Interconnection Agreement was assigned an effective date coincident with MEAM member ratification and will supersede the current individual MEAM rate schedules when it becomes effective, without further filing by MP&L.

[5] The requested April 14, 1984 effective date is 60 days after MP&L's original submittal. MP&L requests an effective date of June 22, 1984, for TVA, because TVA is served under a contract which is subject to revision in June 1984, and annually thereafter, subject to TVA's right to terminate the agreement within 30 days of a proposed increase.

over the entire Middle South network. Finally, MEAM alleges that the proposed rates may create a price squeeze.

SMEPA contends that MP&L's failure to file required workpapers justifies rejection of the filing or issurance of a deficiency letter. In support of its alternative against for a five month suspension, SMEPA raises many of the same cost of service issues identified by MEAM, in addition to issues concerning: (1) The demand rate for transmission service; and (2) deduction of AFUDC related to claimed amounts for CWIP.

On march 21, 1984, MP&L filed a response to the motions of MEAM and SMEPA. MP&L requests that the Commission deny the motion of SMEPA for rejection, deny the motions of SMEPA and MEAM for a five month suspension, and deny MEAM's attempt to reserve the right to later raise a transmission rate issue.

On March 26, 1984, as amended on April 30, 1984, the Mississippi Public Service Commission filed a motion for late intervention. The Mississippi Commission states, as justification for its untimely intervention, that its staff did not receive actual notice of the proceeding until March 20, 1984, and that, at that time, "the orderly flow of information" was disrupted, because its staff was in the process of moving its offices. It also asserts that its intervention will neither disrupt the proceeding nor prejudice any party's rights. The Mississippi Commission raises no substantive issues.

On May 16, 1984, after MP&L had revised its filing to respond to the Staff deficiency letter, SMEPA filed a motion to reject the company's amended filing and to terminate the docket. SMEPA asserts that the revised filing is still deficient and does not support the increased rates. On May 18, 1984, MEAM filed a request for permission to amend its original protest. MEAM also argues that not all of the original deficiencies have been cured and that the revised filing does not support MP&L's proposed increase. MP&L responded to the motion to reject on May 31, 1984.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make MEAM and SMEPA parties to this proceeding. Furthermore, given the Mississippi Commission's interest as a State public utility commission, the stated reasons for its delay, and the early stage of this proceeding, we find that good cause exists to grant its motion to intervene out of time.

We shall also consider the late-filed pleadings of SMEPA and MEAM, inasmuch as they address the company's April 23, 1984 deficiency response. However, despite SMEPA's and MEAM's claim that MP&L's filing is still incomplete, we find that the company's revised submittal substantially complies with the filing requirements set forth in Part 35 of the Commission's regulations.[6] We shall, therefore, deny SMEPA's request that MP&L's submittal be rejected.

Our preliminary review of MP&L's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept MP&L's proposed rates for filing and suspend them as ordered below.[7]

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary review indicates that a proposed increase may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our preliminary examination indicates that MP&L's proposed requirements and transmission rates may not yield substantially excessive revenues. Further, MP&L's revised rates under the Interconnection Agreement with MEAM are based on the same cost of service used to support the requirements rates. Accordingly, we shall suspend all of MP&L's proposed rates for one day. As noted, MP&L requests an effective date of April 14, 1984, for rates applicable to all customers except TVA and an effective date of June 22, 1984, for the rates applicable to TVA. We note, however, that MP&L did not complete its filing until April 23, 1984, and has shown no good cause for waiver of notice. Therefore, we shall suspend MP&L's proposed rates for one day from 60 days after completion of its filing, to become effective on June 24, 1984, subject to refund.

In light of the price squeeze allegations raised by MEAM, we shall phase that issue in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79-339, 8 FERC ¶ 61,131 (1979).

The Commission orders

(A) The Mississippi Public Service Commission's motion to intervene out of time is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) SMEPA's motion to reject MP&L's filing is hereby denied.

(C) MP&L's proposed rates are hereby accepted for filing and suspended for one day, to become effective on June 24, 1984, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of MP&L's rates.

(E) The Commission staff shall serve top sheets in this proceeding on or before June 29, 1984.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations

[6] *See Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F. 2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 923 (1972).

[7] We note that all of the cost of service issues raised by the intervenors, including MEAM's concern as to a "postage stamp" transmission rate, present questions of fact best resolved in the context of an evidentiary proceeding. Therefore, despite the fact that an intervenor's pleading should identify all of its objections to a rate filing, we find that denying the intervenors' rights to pursue any of these issues would be premature at this stage of the proceeding.

as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission

Kenneth F. Plumb,

Secretary.

Attachment.—Mississippi Power & Light Company

[Docket No. ER84-276-000]

RATE SCHEDULE DESIGNATIONS

Designation	Description	Other party
(1) Supplement No. 11 to Rate Schedule FPC No. 87 (Supersedes Supplement No. 10).	Rate Schedule MW-17	City of Kosciusko.
(2) Supplement No. 11 to Rate Schedule FPC No. 88 (Supersedes Supplement No. 10).	do	City of Canton.
(3) Supplement No. 11 to Rate Schedule FPC No. 93 (Supersedes Supplement No. 10).	do	City of Leland.
(4) Supplement No. 7 to Rate Schedule FPC No. 236 (Supersedes Supplement No. 6).	do	City of Durant.
(5) Supplement No. 7 to Rate Schedule FPC No. 238 (Supersedes Supplement No. 6).	do	City of Itta Bena.
(6) Supplement No. 4 to Supplement No. 6 to Rate Schedule FPC No. 239 (Supersedes Supplement No. 3 to Supplement No. 6).	Amendment No. 2 to Revised Service Schedule E.	City of Greenwood.
(7) Supplement No. 4 to Supplement No. 6 to Rate Schedule FPC No. 243 (Supersedes Supplement No. 3 to Supplement No. 6).	do	City of Clarksdale.
(8) Supplement No. 4 to Supplement No. 5 to Rate Schedule FERC No. 254 (Supersedes Supplement No. 3 to Supplement No. 5).	do	City of Yazoo City.
(9) Supplement No. 3 to Supplement No. 8 to Rate Schedule FERC No. 251 (Supersedes Supplement No. 2 to Supplement No. 8).	Amendment No. 2 to Revised Service Schedule TS-2.	South Mississippi Electric Power Association.
(10) Supplement No. 3 to Supplement No. 11 to Rate Schedule FERC No. 251 (Supersedes Supplement No. 2 to Supplement No. 11).	Amendment No. 2 to Revised Service TS-1.	South Mississippi Electric Power Association.
(11) Supplement No. 1 to Rate Schedule FERC No. 263.	Amendment No. 1 to Letter Agreement.	Tennessee Valley Authority.
(12) Supplement No. 1 to Rate Schedule FERC No. 265.	Amendment No. 1 to Service Schedule TS-3.	Gulf States Utilities Corporation.
(13) Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 266.	Amendment No. 1 to Service Schedule B.	Big Rivers Electric Corporation.
(14) Rate Schedule FERC No. 268	Interconnection Agreement	Municipal Energy Agency of Mississippi.
(15) Exhibit A to Rate Schedule FERC No. 268.	Points of Delivery, Full Requirements	Do.
(16) Exhibit B to Rate Schedule FERC No. 268.	Point of Delivery, Clarksdale	Do.
(17) Exhibit C to Rate Schedule FERC No. 268.	Point of Delivery, Greenwood	Do.
(18) Exhibit D to Rate Schedule FERC No. 268.	Point of Delivery, Yazoo City	Do.
(19) Supplement No. 1 to Rate Schedule FERC No. 268.	Service Schedule A, Partial Requirements.	Do.
(20) Supplement No. 2 to Rate Schedule FERC No. 268.	Service Schedule B, Emergency Service.	Do.
(21) Supplement No. 3 to Rate Schedule FERC No. 268.	Service Schedule C, Maintenance Service.	Do.
(22) Supplement No. 4 to Rate Schedule FERC No. 268.	Service Schedule D, Economy Energy.	Do.
(23) Supplement No. 5 to Rate Schedule FERC No. 268.	Service Schedule E, Reserve Capacity.	Do.
(24) Supplement No. 6 to Rate Schedule FERC No. 268.	Service Schedule F, Inadvertant Energy.	Do.
(25) Supplement No. 7 to Rate Schedule FERC No. 268.	Service Schedule G, Reactive Power	Do.
(26) Supplement No. 8 to Rate Schedule FERC No. 268.	Service Schedule H, Transformation Capacity.	Do.
(27) Supplement No. 9 to Rate Schedule FERC No. 268.	Service Schedule I, Bulk Power Transmission.	Do.
(28) Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 268.	Amendment No. 1 Service Schedule A.	Do.
(29) Supplement No. 1 to Supplement No. 8 to Rate Schedule FERC No. 268.	Amendment No. 1 to Service Schedule H.	Do.
(30) Supplement No. 1 to Supplement No. 9 to Rate Schedule FERC No. 268.	Amendment No. 1 Service Schedule I.	Do.

Designations (14)-(27) apply to the Interconnection Agreement with MEAM that will not be made effective until properly ratified by MEAM's member utilities. These designations were inadvertently excluded from the Commission's letter accepting the settlement agreement in Docket No. ER82-128-000.

[FR Doc. 84-16975 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-450-000]

Northwest Pipeline Corp., Request Under Blanket Authorization

June 21, 1984.

Take notice that on May 30, 1984, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP84-450-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest proposes to transport natural gas for an eligible end-user under the authorization issued in Docket No. CP82-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport up to five billion Btu of natural gas per day for the account of NGL Production Company (NGL) pursuant to a letter agreement (Agreement) dated March 19, 1984. The proposed transportation service shall be for an initial term expiring June 30, 1985, it is stated.

Northwest states that the gas is purchased by Overthrust Gas Brokers Company (OGBC) from Cities Service Oil Company (Cities) at the outlet of Cities' Lignite Plant in Burke County, North Dakota, and sold by OGBC to NGL at the below-described delivery points from the Montana-Dakota Utilities Co. (Mondak) to Colorado Interstate Gas Company (CIG) pursuant to a gas purchase contract dated January 18, 1984. NGL warrants that this gas was not dedicated to interstate commerce on or before November 8, 1978, it is submitted.

It is indicated that NGL would tender gas to Northwest for transportation at existing points of interconnection between Mondak pipeline and CIG pipeline in Park County, Wyoming (Elk Basin Receipt Point), or Fremont County, Wyoming (Madden Receipt Point). It is explained that Northwest, by utilizing its March 11, 1980, gas transportation and exchange agreement with CIG, would provide for the transportation of NGL's gas from the Elk Basin and/or Madden Receipt Points to existing points of delivery on Northwest's transmission system in Sweetwater County, Wyoming, or Uintah County, Utah. Northwest states that it then would transport NGL's gas on its mainline and redeliver thermally equivalent volumes of gas, less fuel, to NGL's Foundation Creek, North Douglas Creek, and Moxa Arch processing plants located adjacent to Northwest's facilities in Rio Blanco County,

Colorado, and Lincoln County, Wyoming.

Northwest states that NGL has indicated that the natural gas would be used exclusively to replace fuel and shrinkage incurred in the processing of Northwest's gas at NGL's processing plants. Approximately 10 percent of the gas would replace plant fuel, with the remaining 90 percent replacing plant shrinkage, it is submitted.

Northwest states that the proposed service is conditioned upon the availability of pipeline capacity sufficient to provide such service without detriment or disadvantage to Northwest's existing customers who are dependent on Northwest's general system supply.

Northwest states that it would charge NGL a mainline transportation rate of 1.25 cents per million Btu and a GRI adjustment of 0.118 cents per million Btu. Northwest would also retain 0.83 percent of volumes transported as reimbursement for mainline fuel usage, which are set forth in Northwest's currently effective FERC Gas Tariff, Volume No. 2. It is stated that NGL would also reimburse Northwest for the charges incurred from CIG in transporting NGL's gas from the Elk Basin and Madden receipt points to Northwest's transmission system. It is further stated that CIG's current rate is 36.0 cents per million Btu plus reimbursement of compressor fuel in kind. The average delivered price to NGL, exclusive of fuel reimbursement, would be approximately $2.8287 per million Btu, it is submitted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16976 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-89-000]

Texas Eastern Transmission Corp.; Request for Approval of Refund Plan

June 20, 1984.

Take notice that on June 12, 1984, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing a request that the Commission approve its refund plan.

On May 3, 1984, in Docket No. RM84-6-000 the Commission promulgated an Interim Rule regarding how to refund amounts Texas Eastern receives from producers as a result of the decision in *Interstate Natural Gas Ass'n of America v. FERC*, 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, U.S. (1984) (INGAA) wherein the Court vacated Order Nos. 93 and 93-A on grounds that the NGPA required that maximum lawful price ceilings be calculated on a saturated Btu basis. Texas Eastern has filed a Request for Clarification of that Rule insofar as its instructions to pipelines on how to refund the amounts received. That request is pending. However, in the meantime, Texas Eastern may soon receive refunds from certain producers pursuant to the Interim Rule. For this reason, Texas Eastern requests that the Commission approve its refund plan with respect to amounts it receives as a result of the *INGGA* decision.

Texas Eastern states that, with minor exceptions, it collected from its customers the amounts required as a result of Order Nos 93 and 93-A in the period from April 1, 1982 to April 1, 1983. This was the period of time in which its surcharge for the Order Nos. 93 and 93-A retroactive payments was in effect and also the period of time when it began paying producers on a current basis according to Orders Nos. 93 and 93-A and including such costs in rates. Accordingly, Texas Eastern submits that consistent with the Interim Rule an equitable and fair way of distributing the subject refunds to its customers is to pay them a percentage of the refunds based on the total sales to each customer compared to total sales to all customers during the period April 1, 1982 to April 1, 1983, a period representative of Texas Eastern's customers' payment of the Order Nos. 93 and 93-A amounts and a period which covers a winter heating and summer take pattern. Texas Eastern believes that this is in accord with the Interim Rule's goal of refunding to the customers who paid the Order Nos. 93 and 93-A.

Texas Eastern states that a copy of this filing has been mailed to each person designated on the official service list.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16977 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-91-000]

Texas Eastern Transmission Corp.; Petition for Waiver of Tariff Provisions and Proposed Changes in FERC Gas Tariff

June 20, 1984

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 18, 1984 filed with the Commission a petition to waive certain of the provisions of the Gas Transportation Agreement dated August 27, 1959 between Texas Eastern and Consolidated Gas Transmission Corporation pursuant to the terms of a letter agreement dated June 7, 1984 (Letter Agreement) between Consolidated and Texas Eastern. Said transportation agreement is currently on file with the Commission as Rate Schedule X-43 of Texas Eastern's FERC Gas Tariff, Original Volume No. 2. In addition, Texas Eastern tendered for filing as part of Rate Schedule X-43 the following tariff sheets:

Original Sheet No. 344A
Original Sheet No. 344B
Original Sheet No. 344C

The foregoing tariff sheets set forth in full the text of the Letter Agreement.

Texas Eastern states the Letter Agreement provides for a waiver of all, or a portion of, the minimum bill in Rate Schedule X-43 in the event Consolidated tenders pursuant to Rate Schedule X-43, at Texas Eastern's request, a quantity of gas less than 103,809 dth, which is the Maximum Daily Quantity specified in the rate schedule. In particular, for each day during the period June 1, 1984 through and including November 15,

1984 in which, at Texas Eastern's request, Consolidated tenders a quantity of gas equal to or less than the difference between the Maximum Daily Quantity and the quantity requested not to be tendered by Texas Eastern for transportation pursuant to Rate Schedule X-43, Texas Eastern and Consolidated have agreed to waive the minimum monthly bill otherwise due pursuant to Paragraph 2 of Article III of Rate Schedule X-43 by an amount equal to the product of (i) the sum of the quantities requested not to be tendered by Texas Eastern on such days in a month times (ii) the effective X-43 rate (currently 4.60¢ per dth) times (iii) 86%.

By granting its petition for waiver and authorizing implementation of the terms of the Letter Agreement, Texas Eastern states the Commission will permit Consolidated, at its discretion upon request by Texas Eastern, to assist Texas Eastern in alleviating, estimated insufficient actual operating capacity on Texas Eastern's system and as a result to receive appropriate recognition of Consolidated's assistance on the minimum bill under Rate Schedule X-43.

Texas Eastern anticipates experiencing insufficient actual operating capacity west of Uniontown, Pennsylvania to meet the throughput demand at and east of Uniontown, Pennsylvania. During the period of June 1, 1984 through and including November 15, 1984, Texas Eastern states its actual operating capacity west of Uniontown, Pennsylvania will be impacted during said period by the estimated low daily takes of its jurisdictional customers in Zone C during said period and extensive pipeline maintenance and testing scheduled by Texas Eastern for this summer.

The proposed waiver is requested for a limited term from June 1, 1984 through and including November 15, 1984. The proposed effective date of the above tariff sheets is for the period June 19, 1984 through and including November 15, 1984.

Texas Eastern states that copies of the petition and the tariff filing are being posted in accordance with § 154.16 of the Commission's Regulations and are being served on the affected party.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before *June 27, 1984*. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16978 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-88-000]

Transwestern Pipeline Co.; Request for Approval of Refund Plan

June 20, 1984.

Take notice that on June 12, 1984, Transwestern Pipeline Company (Transwestern) tendered for filing a request that the Commission approve its refund plan.

On May 3, 1984, in Docket No. RM84-6-000 the Commission promulgated an Interim Rule regarding how to refund amounts Transwestern receives from producers as a result of the decision in *Interstate Natural Gas Ass'n of America* v. *FERC*, 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, — U.S. — (1984) (INGAA) wherein the Court vacated Order Nos. 93 and 93-A on grounds that the NGPA required that maximum lawful price ceilings be calculated on a saturated Btu basis. Texas Eastern Transmission Corporation has filed a Request for Clarification of that Rule insofar as its instructions to pipelines on how to refund the amounts received, with which Transwestern concurs. That request is pending. However, in the meantime, Transwestern may soon receive refunds from certain producers pursuant to the Interim Rule. For this reason, Transwestern requests that the Commission approve its refund plan with respect to amounts it receives as a result of the *INGAA* decision.

Transwestern states that, with minor exceptions, it collected from its customers the amounts required as a result of Order Nos. 93 and 93-A in the period from April 1, 1982 to April 1, 1983. This was the period of time in which its surcharge for the Order Nos. 93 and 93-A retroactive payments was in effect and also the period of time when it began paying producers on a current basis according to Orders Nos. 93 and 93-A and including such costs in rates. Accordingly, Transwestern submits that consistent with the Interim Rule an equitable and fair way of distributing the subject refunds to its customers is to pay them a percentage of the refunds based on the total sales to each customer compared to total sales to all customers during the period April 1, 1982 to April 1, 1983, a period representative of Transwestern's customers' payment of the Order Nos. 93 and 93-A amounts and a period which covers a winter heating and summer take pattern. Transwestern believes that this is in accord with the Interim Rule's goal of refunding to the customers who paid the Order Nos. 93 and 93-A.

Transwestern states that a copy of this filing has been mailed to each person designated on the official service list.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-16979 Filed 6-25-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals is seeking comments on a Proposed Decision and Order concerning refund procedures for moneys obtained from five crude oil producers and resellers.

DATE AND ADDRESS: Comments may be submitted no later than 30 days from the date of publication in the Federal Register and should be addressed to: Marcia B. Proctor, Chief, Docket and Publications Branch, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should display Case No. HEF-0489.

FOR FURTHER INFORMATION CONTACT: Roger J. Klurfeld, Assistant Director.

Meri Arnett Kremian, Staff Attorney, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2383.

SUPPLEMENTARY INFORMATION: The Department of Energy's Office of Hearings and Appeals (OHA) has issued a Proposed Decision and Order which sets forth its tentative conclusions concerning appropriate refund procedures to be adopted for disposition of moneys obtained through consent orders and stipulated settlements entered into by the DOE with five crude oil producers and resellers. The names of those firms and individuals are listed in the Appendix to the Proposed Decision which follows this Notice. The OHA proposes that a two-stage refund process be followed. In the first stage, the OHA proposes to accept refund applications in these cases. Those applications will be adjudicated in the same manner and using the same principles as applied to those refund applications filed pursuant to two earlier OHA determinations, *Office of Enforcement: In the Matter of Alfred B. Alkek*, 47 FR 2196 (1982), and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 47 FR 16381 (1982). After all valid claims are paid in the first stage, some funds may remain for distribution in a second stage of the refund process. The OHA proposes to reserve until the conclusion of the first stage the determination of the procedures which will govern the second stage proceedings.

Specific information concerning any individual consent order or stipulated settlement underlying these special refund proceedings may be obtained by contacting the persons whose names are listed at the beginning of this Notice. The Office of Hearings and Appeals will accept comments on the Proposed Decision that are filed within 30 days of the date of publication of this Notice in the Federal Register. Applications for refund should not be filed at this time.

Dated: June 8, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 8, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Ernest E. Allerkamp and others listed in Appendix.

Date of Filing: March 20, 1984.

Case Number: HEF-0489, and others listed in Appendix.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement a specially-designed process to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of DOE regulations. 10 CFR Part 205, Subpart V In accordance with these regulatory provisions, the ERA filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders or stipulated settlements which it entered into with Ernest E. Allerkamp and four other firms and individuals. The names of each firm or individual, and the refund amount provided for by the corresponding consent order or stipulated settlement are listed in the Appendix to this Decision and Order.[1] Pursuant to these orders, these parties have agreed to make refunds totaling approximately $1.3 million for violations and alleged violations of DOE pricing regulations. Those funds, which have already been paid to the DOE, are being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution.[2] As will be discussed in greater detail below, each alleged violation of the DOE pricing regulations in these cases is similar because it involves crude oil pricing violations, and the parties injured by each of the alleged or actual violations are for the most part identical. Therefore these cases have been consolidated for purposes of this Decision.

I. Regulatory Background

Each of the consent orders and stipulations involved in this proceeding resulted from an audit or investigation conducted by the DOE and its predecessor agencies. As a result of these audits and investigatios, the DOE alleged that the parties in each of these cases were involved in the sale of crude oil at prices in excess of those established in the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150 and 10 CFR Part 212.

Those regulations generally required crude oil producers to determine the first sale price of crude oil on the basis of the level of production from a property during a specified base period, *i.e.*, the base production control level (BPCL). See 6 CFR 150.354; 10 CFR 212.72-212.74. The term "property" was defined as the right to produce crude oil which arises from a lease or fee interest. 6 CFR 150.354(b)(2); 10 CFR 212.72. Crude oil production that did not exceed the BPCL for a particular property was generally subject to the lower tier ("old" oil) ceiling price rule. 6 CFR 150.354; 10 CFR 212.73. Crude oil production that exceeded the BPCL ("new" oil) could generally be sold without regard to the ceiling price rule prior to February 1, 1976, and at the upper tier ceiling price level after that date. 6 CFR 150.354(c)(2); 10 CFR 212.74(a). Prior to February 1, 1976, in months in which new oil could be sold from a property, additional volumes of crude oil could be sold as "released" oil at prices in excess of the applicable lower tier ceiling price level. 6 CFR 150.354(c)(3); 10 CFR 212.74(b). Additionally, crude oil produced from a "stripper well property" could generally be sold at market price levels. Producers and resellers of crude oil were generally required to certify in writing to each purchaser in the distribution chain the respective volumes of the various categories of price-controlled domestic crude oil included in each purchase. 10 CFR 212.131(a)(4), (b)(1). Refiners were required to report these certifications to the DOE and its predecessors when they processed the crude oil to enable the agency to administer the Entitlements Program, 10 CFR 211.67

The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by the DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. As discussed above, the federal regulations governing the price of crude oil created a price disparity between, on the one hand, foreign crude and uncontrolled domestic crude oil, and old and upper-tier (price-controlled) oil on the other hand. These price controls had an unequal effect on refiners because some refiners had greater access to the cheap old oil than others. Firms which had little or no access to price-controlled oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent firms, with little or no access to price-controlled domestic reserves, experienced crude oil acquisition costs so high relative to the industry as a whole that those costs threatened their viability. To remedy these imbalances, the DOE established the Entitlements Program. 39 FR 31650 (1974); 39 FR 39740 (1974). Under the Entitlements Program, refiners with

[1] Copies of the respective refund orders and supporting materials filed by ERA may be obtained from the OHA Public Docket Room. However, inasmuch as the majority of these orders contain little specific information regarding the crude oil pricing violations that were actually alleged prior to settlement, we have not attempted to include in this Decision any specific identification of the alleged violations underlying these consent orders and stipulated settlements.

[2] All funds are deposited as collected into an escrow account which, along with accrued interest, totaled approximately $1,314,500 as of March 30, 1984.

proportionally greater access to cheap price-controlled oil made cash payments, in the form of the purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed to restore the competitive viability of the refining industry by generally equalizing among all domestic refiners the benefits associated with access to the lower-priced domestic crude oil.

II. Factual Background

The types of alleged violations involved in this proceeding fall into four categories. Some of the alleged violations involve incorrect certifications by producers. The producers were therefore alleged to have overcharged purchasers by an amount per barrel which represents the difference between the "new" or "stripper well" prices and the maximum price permitted for "old" oil. The second type of violation involved concerns producers who were alleged to have sold "old" oil at levels in excess of the applicable ceiling price. In this type of case, the producers allegedly determined May 15, 1973 posted prices for crude oil incorrectly and thus sold crude oil at a price higher than that permitted by the regulations. The third type of violation concerns resellers that were alleged to have miscertified "old" crude oil which they owned and sold it at the higher "new" or world market level (uncontrolled) oil prices. The fourth type of violation concerns resellers who were alleged to have engaged in "layering" practices—that is, charging a price to customers greater than the price which it paid for the crude oil without performing any of the services traditionally and historically associated with resellers—or to have charged prices in excess of the "permissible average mark-up" provided by the regulations. *See* 10 CFR 212.183.

In these cases, the Government agreed to terminate the pending investigations, administrative proceedings, and court litigation through a consent order or stipulation of settlement and the parties agreed to pay a stipulated sum of money to the DOE. Notices of some of the consent orders were published in the Federal Register.[3] Interested parties were provided an opportunity to comment on the terms of the consent orders and to submit written notices to ERA of potential claims against the settlement funds. In one of these cases the funds were remitted to the DOE as the result of a court-approved stipulation of settlement.[4] The respective dates of the publication of the final consent orders and the dates of the court orders approving the settlements are set forth in Appendix to this Decision. In some cases parties have submitted claims for a portion of the funds.[5]

III. Jurisdiction.

The procedural regulations of the Department of Energy set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V [6] Those regulations provide that the Subpart V process may be used in situations where the Department of Energy is unable to identify readily persons who were or may have been injured by alleged or adjudicated violations or to readily ascertain the amount of their alleged injuries. 10 CFR 205.280. For a more detailed discussion of Subpart V, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). After reviewing the records developed in the cases involved in this proceeding, we have concluded that in each of these cases, it is difficult to identify potentially injured parties and to determine to what extent a refund applicant may have been injured by the pricing or certification practices of a firm which entered into a settlement. Under these circumstances, Subpart V provides a useful mechanism for devising a procedure to effect restitution. The Office of Hearings and Appeals therefore will accept jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petitions for Implementation of Special Refund Proceedings set forth in the Appendix to this Decision.

IV. Proposed Refund Procedures

We have previously established refund procedures for consent orders involving the same type of crude oil-related violations as those which are the subject of the present proceedings. In *Office of Enforcement: In the matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*) and *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*), which involved consent orders and remedial orders with 58 firms, we established a two-stage refund procedure for consent order and remedial order funds received as a result of alleged crude oil regulatory violations.[7] We noted in *Alkek* that "the benefits associated with the moneys received as refunds for possible overcharges should be distributed in a manner that will inure to the maximum extent possible to those who were actually injured by the alleged overcharges." Alkek at 85,135. We stated that any party that believed it could prove an injury resulting from the alleged violations may file an Application for Refund, but cautioned that a claimant must affirmatively demonstrate that it has been injured by the alleged violation and should consequently received a refund. *Id.* We suggested some kinds of evidence which would tend to demonstrate that a party was injured by a consent order firm's pricing or certification practices. *Id.* at 85,137

However, in both *Adams* and *Alkek*, we point out that refiners which purchased crude oil directly from consent order firms and other refiners which participated in the Entitlements Program, 10 CFR 211.67, might not be appropriate recipients of the total pool of refund moneys available. Because of

[3] The DOE procedural regulations require the publication for public comment in the Federal Register of consent orders which call for the payment of sums exceeding $500,000. *See* 10 CFR 205.199J(b).

[4] On January 26, 1984, the United States District Court for the District of Utah signed an Order stipulating settlement in a consolidated case involving Flying Diamond Oil Corporation, No. C-77-0292J No. C-77-0292J. By the terms of that Order, $130,000 plus interest was paid to the Department of Energy, and subsequently deposited in an escrow account. The settlement also provided for payment to parties which had filed claims against Flying Diamond, including Telum Inc., PREMOCO, KarKwik, Stimson, Inc., and Major Oil Company and its receiver. In return, these firms released Flying Diamond from further claims. Because of the settlement and release, those firms will be precluded from filing an Application for Refund in this proceeding.

[5] All claims and comments received by the ERA were included in the materials which it filed with its March 20, 1984 Petitions for the Implementation of Special Refund Procedures. All of those claimants will receive a copy of this Proposed Decision and Order and be given an opportunity to file comments on it. In addition, all of those parties will receive a copy of the final Decision and Order setting forth the procedures for filing an application for refund.

[6] At one time crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to overcharged parties including ultimate consumers. However, since the President has exempted crude oil and all refined petroleum products from the DOE regulatory program, *see* Exec. Order No. 12287, 46 FR 9909 (1981), price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past.

[7] We subsequently added to the Alkek/Adams "pool" the portion of the Amoco consent order funds that was allocated for crude oil claims. *See* Office of Special Counsel, 10 DOE ¶ 85,048 at 88,203. We have also discussed the potential distribution of crude oil overcharge funds in re Stripper Well Exemption Litigation, Case No. HEF-0025, 48 FR 57608 (1983).

the way the Entitlements Program was set up, it had the effect of dispersing overcharges resulting from miscertifications of crude oil throughout the domestic crude oil refining industry. As we noted in *Alkek:*

> Miscertifications cause price-controlled crude oil to disappear. This disappearance caused the volume of old oil to be distributed through the Entitlements Program to decline and caused the DOSR [Domestic Crude Oil Supply Ratio] to be reduced. Thus, refiners who included more than the national average percentage of price-controlled oil in their crude oil receipt and runs to stills had to purchase a *greater* number of entitlements. Similarly, refiners with less than the national average percentage of price-controlled crude oil had *fewer* entitlements to sell. As a result, every refiner's cost of crude oil was increased. Thus, all refiners were affected by the alleged miscertification violations involved in the Consent Orders.

Alkek at 85,133 (citations omitted). These cost increases were treated by refiners exactly like other crude oil cost increases such as an OPEC price increase or an increase in a domestic posting for crude oil. To the extent they could increase their prices for refined peteroleum products to reflect these cost increases, refiners were able to shift the effects of these cost increases to their customers. *Tenneco Oil Company/ Plateau, Inc.*, 10 DOE ¶ 85,015 (1982). If these cost increases were entirely passed through by a refiner, it incurred no injury as a result of miscertifications of crude oil. If the passthrough were less than complete, that refiner would likely have incurred some injury. However, because of such factors as the accumulation of refiners' banks of increased costs, and changes in prevailing crude oil costs and price levels during the relatively lengthy period covered by the consent orders, it would be extremely burdensome to compute with precision the degree to which each refiner absorbed any increases in costs engendered by miscertifications.

We did note, however, that certain identifiable parties might be able to show demonstrable injury from the alleged violations. One such class of potentially injured parties was the group of resellers or refiners that obtained crude oil directly from the parties which entered into consent orders in which an improper computation of the base price for crude oil was alleged. We noted that because this oil appeared to be properly certified, the alleged overcharges were not passed through the mechanisms of the Entitlements Program. As a result, these direct purchasers and refiners may have borne the effect of such overcharges and may be eligible for refunds to the extent that they could show that the alleged overcharges were not passed through to subsequent purchasers. *Alkek* at 85,133–34.

The second class of potentially injured parties which should be able to demonstrate injury consists of refiners that obtained crude oil from parties that entered into consent orders concerning violations alleged to have occurred before the commencement of the Entitlements Program on November 1, 1974. As we noted in *Alkek*, because the effects of these overcharges were not passed through the Entitlements Program, these refiners were directly affected and may have absorbed the effects of the alleged overcharges. Thus we concluded that refiners in this class, like those that purchased crude oil for which the base price was improperly computed, would be eligible for refunds to the extent they could show that they did not pass these increased costs on the subsequent Purchasers. *See Tenneco Oil Company/Plateau, Inc.*, 10 DOE ¶ 85,015 (1982).

A third class of claimants that may be able to demonstrate that injury resulting from a consent order firm's alleged violations consists of purchasers which used crude oil as industrial boiler fuel. These end-users of crude oil would also be eligible to file claims for refunds in these cases.

Despite our concern that it would be a extremely difficult for refiners to demonstrate that they absorbed, rather than passed through, the injurious effects of a consent order firm's alleged violations, refiners are not foreclosed from submitting applications for refund in this proceeding. For periods subsequent to November 1, 1974, both refiners and subsequent purchasers that obtained crude oil or refined products produced or sold by the parties that entered into the consent orders involved in the proceeding could be eligible for refunds if they can show that the Entitlements Program did not negate the adverse effects caused by the alleged violations and could accurately calculate the impact of those effects on them. *Alkek* at 85,136–37

As noted above, because the types of alleged violations that underlie the present proceeding are substantially the same as those that were the subject of the *Alkek* and *Adams* proceedings, we have determined that it is appropriate to formulate a two-stage refund proceeding modeled after those proceedings. We therefore propose to establish first-stage refund procedures for these five cases in which we will accept first-stage refund applications to be adjudicated in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek* and *Adams* determinations. As we noted in *Alkek*, however, if our tentative conclusions are correct, the effects of the alleged overcharges were spread among all refiners by the Entitlements Program and were largely passed on by them and subsequent purchasers to ultimate consumers. However, as we noted in *Alkek*, it would be premature for consumers and consumer groups to file Applications for Refund until the refiners' and resellers' claims have been resolved. *Alkek* at 85,136.

V. Second Stage Refund Procedures

Because of the difficulty inherent in establishing the level of injury to parties in the majority of these cases, there is likely to be a substantial portion of these refund moneys remaining after all successful first-stage claimants have been paid. As in previous cases, we shall hold in abeyance our determination as to appropriate second-stage procedures for these cases until we know how much money will remain after first-stage claims are paid. *See Office of Enforcement*, 9 DOE ¶82,508 (1982). Our views concerning possible second-stage resolutions are contained in *In Re Stripper Well Exemption Litigation*, Case No. HEF–0025, 48 FR 57603 (1983).

It Is Therefore Ordered That:

The refund amounts provided in conjunction with the consent orders, remedial orders, and stipulations of settlement listed in the Appendix to this Decision and Order shall be distributed in the manner set forth in the foregoing Decision.

Appendix

Name of firm	Case No.	Settlement amount	
Ernest E. Altshamp.	HEF–0433	$444,030.44	*
Flying Diamond Oil Co.	HEF–0439	155,537.03	(D. Utah) Jan. 28, 1984.
Kastman Oil Company.	HEF–0492	50,000.00	*
Southern Crude Oil Resources, Inc.			
Texas Pacific Oil Co., Inc.	HEF–0436	500,000.00	43 FR 43379 (1983).

[FR Doc. 84-16003 Filed 6-25-84; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Advisory Committee Meets

July 11, 1984.

The next meeting of the Advisory Committee on Radio Broadcasting has been scheduled for 1:30 p.m., Wednesday, July 11, 1984, in Room 330, 1200 19th Street, NW., Washington, D.C.

The Committee will consider:

—Recommendations to the FCC concerning ongoing discussions with Mexico relating to revisions to the United States—Mexican AM Radio Broadcasting Agreement; and

—Other business.

The meetings of the Committee are public, and are open for participation by all interested persons. The meeting scheduled for July 11, 1984 may, if the participants so decide, be recessed for resumption at such other time and place as they may designate.

For further information please contact the Committee Chairman, Louis C. Stephens, or Jonathan David, at FCC Headquarters: (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-16930 Filed 6-25-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-711-DR]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA-711-DR), dated June 18, 1984, and related determinations.

DATED: June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice: Notice is hereby given that, in a letter of June 18, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the State of Connecticut, resulting from severe storms and flooding beginning on or about May 27, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Albert A. Gammal, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Connecticut to have been affected adversely by this declared major disaster:

Hartford and Middlesex Counties for Individual Assistance and Public Assistance.

Fairfield, Litchfield, New Haven and Tolland Counties for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-16913 Filed 6-25-84; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-712-DR]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont (FEMA-712-DR), dated June 18, 1984, and related determinations.

DATED: June 18, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice: Notice is hereby given that, in a letter of June 18, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the State of Vermont, resulting from severe storms and flooding beginning on June 6, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Vermont.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Brendon Bailey of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Vermont to have been affected adversely by this declared major disaster:

Caledonia, Franklin, Lamoille, Orange and Washington Counties for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84-16914 Filed 6-25-84; 8:45 am]

BILLING CODE 6718-02-M

Privacy Act of 1974; Proposed New Routine Use to Existing System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: The purposes of this notice are to add a new routine use to an existing system of records entitled, "FEMA/FIA-1, Federal Crime Insurance Program" and to make administrative and typographical corrections to the system

of records entitled, "FEMA/NPP-1, National Defense Executive Reserve System" which was published in the Federal Register on May 17, 1984, (49 FR 20907).

SUMMARY: The Federal Crime Insurance Program will expire in September 1984. While we will continue to honor existing policies after that date, no renewals will be available upon the expiration of the policies after that date, no renewals will be available upon the expiration of the policies. Therefore, we require a new routine use in order to make the names and addresses available to State facilities and private insurers for direct solicitation of the Federal crime insurance policyholders for the purpose of providing crime insurance coverage to them after September 1984.

EFFECTIVE DATE: Except for the new routine use which appears in the "FEMA/FIA-1, Federal Crime Insurance Program" systems of records, all other changes become effective on June 26, 1984. The new routine use will become effective, without further notice, on July 26, 1984, unless comments dictate otherwise.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, (202) 287-0313.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, as amended by the Congressional Reports Elimination Act of 1982 (Pub. L. 96-375), agencies are required to publish a notice of the systems of records they maintain that are subject to the Act only when the agency is establishing a new system or when it substantively alters an existing system. A substantive change to an existing system is one which would also require a "Report on New Systems" and is described in the Office of Management and Budget's Circular A-108, Transmittal Memorandum No. 1 and No. 3. Thus, a change to the system notice that does not require such a report need only be described in a Federal Register notice, without the necessity of publishing the complete text of the notice. The new information is being printed in italics.

On November 26, 1982, (47 FR 53493), the Federal Emergency Management Agency published the complete text of the system of records, "FEMA/NPP-1, National Defense Executive Reserve System." Revisions to this system of records were published on May 17, 1984, (49 FR 20907). The complete text of the system of records, "FEMA/FIA-1, Federal Crime Insurance Program" was published on October 7, 1981 (46 FR 49470).

Dated: June 20, 1984.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/NPP-1,

SYSTEM NAME:

National Defense Executive Reserve System.

CATEGORIES OF RECORDS IN THE SYSTEM:

On the first line, add the word, "*and*" between the words, "Applicants for" and the words, "the incumbents of"

* * * * *

PURPOSE(S):

On the eighth line, delete the first word, "date" and insert in its place, the word, "*data*"

* * * * *

FEMA/FIA

SYSTEM NAME:

Federal Crime Insurance Program.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the servicing company for the contract and insurance adjustment firms retained by the servicing company for billing, verification of coverage, claims adjusting and issuance of policies; to property loss reporting bureaus; to State Insurance Departments and insurance companies investigating fraud or potential fraud in connection with burglary or robbery claims; *to State property insurance facilities and private sector insurers for the purpose of providing crime insurance to Federal crime insurance policyholders following the expiration of the Federal Crime Insurance Program.* Additional routine use may include Nos. 1, 2, 3, 5, and 8 of Appendix A.

* * * * *

[FR Doc. 84-16923 Filed 6-25-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916 and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 and/or § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.. 003-010071-003.

Title: Cruise Lines International Association.

Parties: American Hawaii Cruises, Bahama Cruise Line, Inc., Carnival Cruise Lines, Commodore Cruise Line, Ltd., Costa Cruises, Cunard Line Ltd., Cunard Norwegian American Cruises, Delta Queen Steamboat Company, Eastern Cruise Lines, Epirotiki Lines, Inc., Holland America Line, USA Inc., Home Lines Cruises Inc., Norwegian Caribbean Lines, Ocean Cruise Lines, Inc., Paquet Cruises, Inc., Pearl Cruises of Scandinavia, Princess Cruises, Royal Caribbean Cruise Line, Inc., Royal Cruise Line, Royal Viking Line, Sitmar Cruises, Sun Line Cruises, Western Cruise Lines.

Synopsis: The proposed amendment would modify Article 8 of the agreement to provide that the basic agreement, which now may be amended by agreement of at least one less than the total number of member companies, may in the future be amended by agreement of a least 75 percent of the total number of member companies.

Filing party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, 1800 Massachusetts Avenue NW., Suite 500, Washington, D.C. 20036.

By Order of the Federal Maritime Commission.

Dated: June 21, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-16931 Filed 6-25-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citicorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794)

for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commerce or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is availabe for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 16, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage *de novo* in the making, acquiring or servicing, for its own account or for the account of others, commercial loans and other extensions of credit, including but not limited to the business of factoring and asset-based financing.

Board of Governors of the Federal Reserve System, June 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16889 Filed 6-25-84; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is not listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 not later than July 16, 1984.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York, to engage *de novo* in acting as agent or broker for the sale of life insurance related to individual retirement accounts offered by any of its subsidiaries authorized under state or federal law to accept such accounts. Applicant asserts that the proposed activities are exempt from the prohibitions against insurance activities found in section 601 of the Garn-St Germain Depository Institutions Act of 1982 based on the exception contained in subsection (D)(ii) of that section. Interested parties may comment on whether the activity is exempt within the meaning of subsection 601(D)(ii) or on whether the activity is closely related to banking.

Board of Governors of the Federal Reserve System, June 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16888 Filed 6-25-84; 8:45 am]

BILLING CODE 6210-01-M

Fairbank, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 18, 1984.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fairbank, Inc.*, Fairhaven, Massachusetts; to become a bank holding company by acquiring at least 93 percent of the voting shares of National Bank of Fairhaven, Fairhaven, Massachusetts.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *F.N.B. Corporation*, Hermitage, Pennsylvania; to merge with North Central Financial Corporation, Emporium, Pennsylvania, thereby indirectly acquiring 100 percent of the voting shares of Bucktail Bank and Trust Company, Emporium, Pennsylvania.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Mid-Tennessee Bancorp, Inc.*, Ashland City, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Ashland City Bank & Trust Company, Ashland City, Tennessee.

D. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Golden Sands Bankshares, Inc.*, Neshkoro, Wisconsin; to become a bank holding company by acquiring 97.8 percent of the voting shares of Farmers Exchange Bank of Neshkoro, Neshkoro, Wisconsin.

E. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Southwest Tennessee Bancshares, Inc.*, Adamsville, Tennessee; to become a bank holding company by acquiring at least 80 percent of the voting shares of Farmers & Merchants Bank, Adamsville, Tennessee.

G. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Langdon Bancshares, Inc.*, Langdon, North Dakota; to become a bank holding company by acquiring 81 percent of the voting shares of Farmers and Merchants State Bank, Langdon, North Dakota.

H. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Community Bancorp*, Lacey, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank of Washington, Lacey, Washington.

Board of Governors of the Federal Reserve System, June 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-16890 Filed 6-25-84; 8:45 am]

BILLING CODE 6210-01-M

Selin Corp., Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disputed and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 10, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Selin Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of American National Bank, South Chicago Heights, Illinois, First National Bank of Crystal Lake, Crystal Lake, Illinois; Wauconda National Bank and Trust Company, Wauconda, Illinois; and Wheeling Trust and Savings Bank, Wheeling, Illinois; and 16.1 percent of the voting shares of First National Bank of Niles Illinois, Niles, Illinois.

Board of Governors of the Federal Reserve System, June 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-17200 Filed 6-25-84; 10:42 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Child Support Enforcement Research and Demonstration Grants; Availability of Fiscal Year 1984 Grant Funds

The Acting Director of the Office of Child Support Enforcement (OCSE) gives notice of the availability of fiscal year 1984 funds for child support enforcement research and demonstration (R&D) grants. Funding for grants is authorized under Section 1110 of the Social Security Act.

The closing date for fiscal year 1984 requests for grants will be August 27, 1984.

Program Purpose

Grants funded by OCSE are for research and demonstration projects which will add to existing knowledge and improvements of new methods and techniques for the planning, management, coordination and delivery of child support enforcement activities related to the eligible population.

Program Goals

In general, OCSE intents to support the following types of projects:

(1) Those which develop and demonstrate new performance assessment mechanisms, administrative procedures, and technological innovations for improving the effectiveness and efficiency of child support enforcemet at the State and local levels.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out the child support enforcement programs.

(4) Those which develop and demonstrate more effective linkages between child support enforcement programs and related programs such as Aid to Families With Dependent Children (AFDC), medical assistance, unemployment compensation, etc.

Program Priorities for Research and Demonstration Funding

Research and demonstration projects will be directed toward priorities derived from State administration and program issues. OCSE has identified certain specific priority projects, listed below, which reflect these administrative program issues.

Applicants may also submit proposals for projects not specifically identified in this announcement but which are relevant to OCSE program goals. These proposals will be designated as nonpriority but will also be subject to the panel review process. A limited number of projects may be approved pending available funds and will compete with other nonpriority projects.

Priority Projects

Fiscal Year 1984 Projects

Study of Alternative Approaches to User Fees for Applicants of Non-AFDC Services (OCSE 84-1) Since the inception of the IV-D program in 1975, States have had the option to charge application fees and/or recover actual costs in excess of the application fee for non-AFDC services. The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) made a significant change in this area by requiring States to impose a ten percent fee on absent parents to cover costs in excess of the application fee. The Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) eliminated the 10 percent fee requirement and allowed States, at their option, to recover costs either from the

absent parent or from the non-AFDC individual who is receiving the IV-D services. State approaches to fee assessment have varied in response to changing Federal law, growing demands on State budgets and differences in State policies. These variations have generated a number of questions, raised through policy inquiries and comments on proposed regulations, by States and other interested groups.

It would be useful to have available an assessment of the alternate user fee approaches, including alternative approaches to those allowed by current law, so that future policy determinations can be made.

Under current procedures, States cannot apply income related sliding fee scales to the recovery of costs. The grantee should address the pros and cons of recovery of costs for provision of non-AFDC child support services using income related charges which may involve possible changes in current statutes. One of the principal issues is that of the costs and benefits of cost recovery. Other issues revolve around the connection between mandatory recoupment of costs and the size of support orders, the costs and benefits associated with recovery of actual costs on a case by case basis versus a standardized cost system. Other issues may be addressed by applicants.

It is expected that this project will produce data, based on both an overview assessment of the current diverse statewide fees and cost recovery options in the States and an analysis of alternative approaches to current law, which will provide some answers to the key questions outlined above. Based on these data, the grantee should develop a set of recommendations on some model approaches that could be used in varying situations. It is anticipated that one grant will be awarded for one year not to exceed $120,000. It is also anticipated that, based on the results of this grant, a subsequent grant may be awarded in FY 1985 for a model demonstration of the use of alternative approaches to non-AFDC user fees, and that a contract may be awarded to evaluate the effectiveness of the model demonstration.

Evaluation of the Usage and Effectiveness of Medical Support Requirements (OCSE 84-2). The current Child Support Enforcement (CSE) program permits State IV-D agencies to explicitly include medical support for children by allowing States to petition courts to order absent parents to take advantage of medical insurance. Proposed Federal regulations would require State IV-D agencies to petition courts to order absent parents to obtain medical insurance for their children whenever group medical insurance is readily available to the absent parent at a reasonable price. Little is currently known about the extent to which States have already implemented the proposed requirement in the existing CSE caseload and little is known about how much Medicaid costs have been reduced in those States.

The study will focus on producing national estimates of (a) how much Medicaid costs are reduced under the current regulations and (b) how much Medicaid costs would be reduced if State IV-D agencies were required to petition courts to order absent parents to obtain medical insurance for their children. Other questions to be addressed are: (a) How many cases, with court ordered support have private medical insurance coverage (court ordered and voluntary); (b) to what extent are case support awards reduced in consideration of medical support; (c) how has the number of cases with private medical insurance coverage varied over time (pre-and-post current regulations and for both cases with court ordered support and cases without court ordered support); and (d) to what extent have net Medicaid savings been realized? Other questions may be addressed by the study.

The project will be approached by examining representative samples of CSE case records for each State currently petitioning courts to order private medical insurance to be provided by absent parents. Preference will be given to collecting data in States with large caseloads where representative sampling is easy, if funds are not sufficient to sample all States.

It is anticipated that one grant will be awarded for one year not to exceed $160,000.

Eligible Applicants

Any State, public, or nonprofit organization or agency may apply for a grant under the Section 1110 authority.

Availability of Funds

It is anticipated that approximately two new grant awards will be made pursuant to this announcement in FY 1984.

Anticipated Amounts Are

Fiscal Year 1984 Projects

OCSE-84-1 (Study of Alternative Approaches to User Fees for Applicants of non-AFDC Services). It is anticipated that one grant for one year will be awarded for up to $120,000.

OCSE-84-2 (Evaluation of the Usage and Effectiveness of the Medical Support Requirements). It is anticipated that one grant for one year will be awarded for up to $160,000.

Recipient Share of the Project Costs

Applicants for grants are expected to contribute some portion of the total cost of the activity in order to receive consideration for funding. Generally, 5 percent of the total cost of the project is considered acceptable. No grant will be awarded which will cover 100 percent of project costs.

The Application Process

1. *Availability of application forms.* Application kits which contain the prescribed application forms and supplemental descriptive information on the priority projects of the Office of Child Support Enforcement are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, 1-C-1, Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, Telephone: (303)594-0284, Lawrence H. Pullen, Chief, Grants Management Branch.

2. *Application submission.* To be considered for a grant award, all applications must be submitted on standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency or organization and to assume for the agency or organization the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the Application form SSA-96, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement and must reference the unique project identifier (OCSE-84-1, etc.) for which the application is to compete. If the application is not submitted in response to a priority project, indicate "nonpriority"

3. *Application consideration.* Applications are initially screened for relevance to the interest of OCSE. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by a review panel of not less than three persons. Written assessment of each application is made.

4. *Application approval.* Following approval of the applications selected for funding, financial assistance awards will be issued within limits of Federal funds available. The FY 84 grants awards will be issued in August 1984. The official award document is the

Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the budget period for which support is given, the terms and conditions of the award, the total project period for which support is contemplated, and the total grantee financial participation.

5. Additional information, for questions concerning project development please contact John K. Maniha, Office of Child Support Enforcement, Rockville, MD 20852, (301) 443-2980.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria.

1. *Research and Demonstration Design.* Understanding the scope of the work statement and the proposed technical approach to the requirement. This includes clarity of goals and objectives. (30 points)

2. *Knowledge.* Knowledge of the field, literature, and background presentation material. Assurance of timely and acceptable performance. (10 points)

3. *Reasonableness.* Reasonableness of the proposal. Does it make sense? Can it be done? Are the workhour effort and types of workpower to complete the project reasonable? (15 points)

4. *Experience.* Prior experience and/or new approaches or ideas in the branch of the technology or field involved. (10 points)

5. *Relevance.* Relevance of proposal to OCSE priorities and goals; and to the purposes of these grants. (25 points)

6. *Personnel, Budget, and Facilities.* Availability and competence of specific kinds and numbers of experienced personnel. Is the project cost effective? Are the costs reasonable and adequately described considering the anticipated results? Are the applicant's facilities and resources adequate? (10 points)

Closing Dates and Times

For fiscal year 1984 projects, the closing date will be August 27, 1984.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP Grants Management Branch, 1-C-1 Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207

Appliction must be received by the Division of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date. Applications which are not received on time will not be considered for funding.

Exective Order 12372 Intergovernmental Review of Federal Program. These grant activities are not covered by the requirements of Executive Order 12372 relating to the Federal policy for consulting with State and local elected officials on proposed Federal financial assistance.

Dated: June 19, 1984.

Martha A. McSteen,

Acting Director, Office of Child Support, Enforcement.

[FR Doc. 84-16231 Filed 6-25-84; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

[Docket No. 83D-0414]

Volatility N-Nitrosamines in Rubber Baby Bottle Nipples; Availability of Revised Compliance Policy Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a modification in the methodology the agency will use to determine levels of total volatile *N*-nitrosamines (nitrosamines) in rubber baby bottle nipples (rubber nipples). The agency has revised Compliance Policy Guide 7117.11 to reflect that modification. FDA is also rescinding its advisory that consumers should repeatedly boil rubber nipples before using them. Recent data show that the levels of nitrosamines in rubber nipples have been dramatically reduced, and that repeated boilings do not further significantly reduce the nitrosamine levels.

ADDRESS: Written requests for single copies of revised Compliance Policy Guide 7117.11 and for the revised methodology for determining nitrosamine levels in rubber nipples may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0179.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 27, 1983 (48 FR 57014), FDA announced the availability of Compliance Policy Guide 7117.11 that establishes action levels for nitrosamines in rubber nipples. An action level of 60 parts per billion (ppb) applies to rubber nipples for consumer use that are initially introduced or initially delivered for introduction into interstate commerce between January 1 and December 31, 1984, and to rubber nipples for hospital use that are initially introduced or initially delivered for introduction into interstate commerce between March 1 and December 31, 1984. FDA also announced that an action level of 10 ppb for nitrosamines in rubber nipples will apply to rubber nipples for both consumer and hospital use that are initially introduced or initially delivered for introduction into interstate commerce on or after January 1, 1985.

In the Compliance Policy Guide, FDA cited the method of analysis published in the November-December 1982 issue of *Food and Chemical Toxicology* ("Estimation of Volatile *N*-Nitrosamines in Rubber Nipples for Babies' Bottles," 20:939-944) as the method it would use to determine compliance with the established action levels. However, recent changes in the formulations of some of the rubber nipples have prevented use of that method because uncontrollable foaming occurs during the distillation step of this method. Thus, FDA has found it necessary to modify the method to curb the foaming. The modification involves the addition of 2 grams of barium hydroxide ($Ba(OH)_2$) to the solution to be distilled. A copy of an FDA memorandum that explains this modification in methodology has been filed with the Dockets Management Branch (address above) (Ref. 39). The agency has revised Compliance Policy Guide 7117.11 to reference this modification. A copy of revised Compliance Policy Guide 7117.11 also has been filed with the Dockets Management Branch (Ref. 37).

FDA also announced in the December 27, 1983 notice that consumers should boil new rubber nipples five to six times before the initial use, using fresh water

for each boil. FDA requested that the industry voluntarily label rubber nipple packages with a statement that reflects this advice.

FDA's announcement suggesting the boiling of new rubber nipples was based on studies conducted by FDA in which the rubber nipples tested contained very high levels of nitrosamines. The results of those tests led FDA to conclude that if the rubber nipples were boiled five to six times, the levels of nitrosamines would be significantly reduced.

After publication of the December 27, 1983 notice, however, FDA and the Rubber Manufacturers Association independently conducted similar tests to determine the effects of repeated boilings on the nitrosamine levels in rubber nipples. These tests utilized rubber nipples that were in compliance with the 60 ppb action level. The results of these tests reveal that boiling does not necessarily reduce the level of nitrosamines in rubber nipples in which the level is low before boiling (Ref. 38).

Based on these more recent data, FDA has determined that repeated boilings of rubber nipples containing low levels of nitrosamines may not provide any benefit to consumers. Thus, FDA is rescinding the advisory that consumers should repeatedly boil new rubber nipples before they are used. FDA is also rescinding the request that the industry voluntarily label rubber nipple packages with a statement advising the consumer to boil the rubber nipples before the initial use.

References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1–36. See Federal Register notice of December 27, 1983 (48 FR 57016–57017).

37 Revised Compliance Policy Guide 7117.11.

38. Memorandum of meeting between FDA and representatives of the rubber baby bottle nipples industry, February 21, 1983.

39. Memorandum from Additives Analytical Methods Branch (HFF–459) to Associate Director for Compliance (HFF–300), April 6, 1984.

Dated: June 14, 1984.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–16905 Filed 6–25–84; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (Federal Register, Vol. 46, No. 223, pp. 56911–56934, dated Thursday, November 19, 1981, and Federal Register, Vol. 48, No. 3, pp. 512–518, dated Wednesday, January 5, 1983) is amended to reflect the Secretary's approval of changes to the organizational structure of HCFA. A brief summary of the changes follows:

- Office of the Associate Administrator for Management and Support Services: Amend the functional statement of the Office of Direct Reimbursement (ODR) to reflect the transfer of the claims processing functions for certain experiments and demonstration projects to the Office of Research and Demonstration (ORD).
- Office of the Associate Administrator for Policy: Amend the ORD functional statement to include the claims processing functions for experiments and demonstration programs transferred from ODR.

The specific changes to Part F are detailed below:

- Section FH.20., Office of the Associate Administrator for Management and Support Services (FH)(Functions) is amended as follows:

1. Section FH.20.E., Office of Direct Reimbursement (FHF) is deleted in its entirety and replaced by the following:

E. Office of Direct Reimbursement (FHF)

Directs HCFA's function of reimbursing those Medicare providers who are reimbursed directly by the Federal Government. Plans and designs operations systems and develops methods and procedures for the review, disallowance, or authorization of Medicare claims submitted by these providers. Determines the methods and procedures for interim reimbursement and establishes interim reimbursement rates. Receives and analyzes Medicare cost reports submitted by these providers to validate aggregate and program costs to determine final Medicare program payments.

- Section FQ.20., Office of the Associate Administrator for Policy (FQ) (Functions) is amended as follows:

1. Section FQ.20.B., Office of Research and Demonstrations (FQB) is deleted and replaced with a new functional statement. The new functional statement reads as follows:

B. Office of Research and Demonstrations (FQB)

Provides leadership and executive direction within HCFA for health care financing research and demonstrations activities pertaining to HCFA programs. Works closely with the Associate Administrator for Policy, other Bureau/Office Directors, and high level staff outside HCFA to insure that the Agency's objectives in these areas are accomplished. Participates with Departmental components in a wide range of experimental health care delivery projects. Performs claims adjudication, reimbursement, and data collection for demonstration projects. Provides a setting for testing proposed policies and procedures which impact on fiscal intermediary and carrier operations.

Dated: June 18, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84–16880 Filed 6–25–84; 8:45 am]

BILLING CODE 4120–03–M

Office of Human Development Services

FY 1984 and FY 1985 Grants to Indian Tribes for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA), Office of Human Development Services, HHS.

ACTION: Notice.

Subject: Extension of Deadline for Applications from Potential New Indian Tribal Grantees for Supportive and Nutritional Services under Title VI of the Older Americans Act.

SUMMARY: The Administration on Aging announces that the deadline for applications from new applicants (not current grantees) for grants under Title VI of the Older Americans Act is extended from June 29, 1984 to August 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Michio Suzuki, Associate Commissioner, Office of State and Tribal Programs, Administration on Aging, Office of Human Development Services, Department of Health and Human Services, North Building, Room 4282, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone Number (202) 245–0011.

DATE: The closing date for receipt of applications from new applicants is August 15, 1984. Applications from current grantees are due June 29, 1984.

SUPPLEMENTARY INFORMATION: On April 10, 1984, AoA published Program Announcement 13655-841 in the Federal Register (Vol. 49, No. 70, pages 14248-14250) stating that applications from both current Indian tribal grantees and new Indian tribal applicants were due at the Office of Human Development Services by June 29, 1984. We are extending the due date for applications from new Tribes to August 15, 1984.

This extension applies only to Federally recognized Indian Tribes which have not received grant support under Title VI of the Older Americans Act for the previous year. Applications from current grantees are still due by June 29, 1984.

The reason for the extension is to allow more time to small Tribes to make certain arrangements with regard to eligibility for the grant. Many small Tribes do not represent the required number of 75 Indians age 60 or over and can meet this requirement only by forming a consortium of two or more Tribes. Forming a consortium requires resolutions by all participating Tribes, and developing cooperative arrangements to prepare a service program which will serve all the participating Tribes. The extension will allow more time to make these arrangements.

One (1) signed original and two (2) copies of the application including all attachments must be submitted no later than 5:30 p.m., Wednesday, August 15, 1984 to: Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, North Building, Room 1740, 330 Independence Avenue, SW., Washington, D.C. 20201, Attn: William J. McCarron.

The awards to current grantees will be announced by September 30, 1984. Awards to new applicants will be announced when funds become available.

Dated: June 14, 1984.

Lennie-Marie P. Tolliver, Ph.D.,

Commissioner on Aging.

Dated: June 19, 1984.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 84-16920 Filed 6-25-84; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of a proposal to add a routine use and to add a special disclosure statement to the existing system of records 09-37-0015, National Center for Health Services Research Grants Records System, HHS/OASH/NCHSR.

SUMMARY: In accordance with the requirements of the Privacy Act and the Debt Collection Act of 1982 (Pub. L. 97-365), the Public Health Service (PHS) is publishing notice of a proposal to add a new routine use and the (b)(12) special disclosure statement to consumer reporting agencies to system of records 09-37-0015, National Center for Health Services Research Grant Records System. The new routine use is for the purpose of determining creditworthiness of individual grant applicants of the National Center for Health Services Research (NCHSR).

PHS invites interested persons to submit comments on the proposed new routine use on or before July 26, 1984.

DATE: PHS will adopt the new routine use without further notice 30 days after the date of publication (July 26, 1984), unless PHS receives comments which would result in a contrary determination. The special disclosure provision is effective on the date of publication.

This (b)(12) special disclosure is so named because it does not require a public comment period.

ADDRESS: Please address comments to: Ms. Helen T. Rickrode, Privacy Act Coordinator, NCHSR, Park Building, Room 3-28, 5600 Fishers Lane, Rockville, MD 20857

Comments received will be available for inspection at the same address from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Sloat, Chief, Grants Operations and Administration Branch, Office of Program Support/NCHSR, Room 1-43, Park Building, 5600 Fishers Lane, Rockville, MD 20857, 301/443-4033. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: NCHSR is the primary source of Federal support for research on problems relating to the quality and delivery of health services. Grants are awarded primarily to researchers located in universities, hospitals, and other research organizations. The system of records covers principal investigators. Records in the grant file are used to facilitate day-to-day grant management operations. Adding the proposed new routine use pursuant to OMB Bulletin No. 83-21 will allow disclosures to credit reporting agencies to determine creditworthiness of individual grant applicants.

The addition of the special disclosure statement to the system of record under the authority of subsection (b)(12) of the Privacy Act (added by Pub. L. 97-365, the Debt Collection Act of 1982), will permit the disclosure of personal information to consumer reporting agencies to encourage repayment of overdue debts owed to the Federal Government.

We are adding a statement in the Purpose section that if individual grantees fail to repay excess grant funds, or funds subject to audit exception, the information will be referred to the DHHS fiscal office for the purpose of debt collection.

We have also corrected the address of NCHSR, reformatted the Safeguards section, and made other minor changes to enhance the clarity and specificity of the system notice.

The system notice was last published in the Federal Register on November 29, 1983, pp. 53794-53795. We are publishing the system notice in its entirety below to incorporate the proposed changes.

Dated: June 20, 1984.

Wilford Forbish,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-37-0015

SYSTEM NAME:

National Center for Health Services Research Grants Records System, HHS/OASH/NCHSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Center for Health Services Research, Park Building, Room 1-44, 5600 Fishers Lane, Rockville, Maryland 20857.

Federal Records Center, 4205 Suitland Road, Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal Investigators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant files, including summary reports, grant applications, grant award notices, credit reports, summary comments of peer reviewers, salary

information, staffing lists, general project correspondence, and Social Security Numbers (optional).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Title II, Administration, Section 304, (General Authority Respecting Health Statistics and Health Services Research Evaluations, and Demonstrations (42 U.S.C. 242b)), Section 305, (National Center for Health Services Research (42 U.S.C. 242c)). Section 308, (General Provisions Respecting Sections 304, 305, 306, and 307 (42 U.S.C. 242m)), Title XII, Emergency Medical Services Systems, Section 1205, (Grants and Contracts for Research (42 U.S.C. 300d–4)).

PURPOSE(S):

The information in this system is used to facilitate day-to-day grants management operations and for purposes of review, analysis, planning and policy formulation by NCHSR staff members and by other components of DHHS.

These records may also be referred to the DHHS fiscal office for the purpose of debt collection.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. NCHSR may disclose information about an individual grant applicant to credit reporting agencies to obtain a credit report in order to determine his/her creditworthiness.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 522a(b)(12): Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal Government; typically, to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Disclosure of records is limited to the individual's name, address, Social Security number, and other information necessary to establish the individual's identity; the amount, status, and history of the claim; and the agency or program under which the claim arose. This disclosure will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files (file folders).

RETRIEVABILITY:

Retrievable by name and grant number.

SAFEGUARDS:

1. Authorized Users: Only staff members of the Grant Operations and Administration Branch (GOAB) have regular access.

2. Physical Safeguards: Locked file cabinets; general building security.

3. Procedural Safeguards: NCHSR staff may inspect and review records on a need-to-know basis only, with the approval—and in the presence—of GOAB staff.

4. These safeguards are in compliance with DHHS Chapter 43–13 and Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL

Approved grant applications and their respective files are retained at NCHSR for two years beyond the termination date of the project. Rejected grant applications are held for one year. The grant files are then retired to a Federal Records Center and subsequently disposed of in accordance with the PHS/OASH records control schedule. The records control schedule may be obtained by writing to the System Manager at the following address.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Grants Operations and Administration Branch; National Center for Health Services Research, Park Building, Room 3–28, 5600 Fishers Lane, Rockville, Maryland 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the above address.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Positive identification is required, except that no verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act. You may also request an accounting of disclosures that have been made of your record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under System Manager above and reasonably identify the record, specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Applications, reports and correspondence from the research community, and statments from grant review committees; consumer reporting agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–17013 Filed 6–25–84; 8:45 am]
BILLING CODE 4160–17–M

Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses of the National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses of the National Committee on Vital and Health Statistics, pursuant to functions established by section 306(k)(2) of the Public Health Service Act, as amended 42 U.S.C. 242k), will convene on Thursday, July 12, 1984, at 9:00 a.m. in Room 503–A of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The Subcommittee will consider several critical issues in disease classification, medical nomenclature, automated coding systems, and diagnostic related groups.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7122.

Date: June 19, 1984.

Manning Feinleib,

Director, National Center for Health Statistics

[FR Doc. 84-16379 Filed 6-25-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Battle Mountain District, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board Meeting.

SUMMARY: In accordance with Pub. L. 94-579, a meeting of the Battle Mountain District Grazing Advisory Board will be held. The meeting will be held jointly with the Battle Mountain District Advisory Council.

DATE: July 25, 1984, begin at 8:00 a.m. in the Tonopah Convention Center, 301 Brougher, Tonopah, Nevada.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes:

1. A review of proposed range improvement projects along with the investment analysis.
2. Discussion of the cooperative management agreement program and consideration of potential nominees for this program.
3. A field trip to a grazing allotment under the Tonopah Experimental Stewardship Program.

The field trip will begin at 12:00 noon from the Tonopah Convention Center. Participants should bring their own lunch. The purpose of the trip is to observe grazing allotment conditions, review the grazing system and discuss progress of the stewardship program in the area. The trip will end at approximately 5:00 p.m. Public comment time is scheduled from 11:15 to 11:45 a.m. The public is invited to attend this meeting and field trip and may, at the designated time, submit written or oral statements for the advisory groups' consideration.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820, or phone (702) 635-5181.

Date signed: June 15, 1984.

Michael C. Mitchell,

Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 84-16380 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-HC-M

[A-18416-A]

Navajo Relocation Exchange; Maricopa County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action Designating Public Lands for Transfer out of Federal Ownership in Exchange for Private Lands Selected by the Navajo Tribe for Relocation Purposes.

SUMMARY: Under the provisions of sections 4 and 28 of the Navajo and Hopi Indian Relocation Amendment Act, 1980, 25 U.S.C., 640d-10 and 25 U.S.C. 640d-26, the Navajo Tribe filed a selection application on June 30, 1983, for private lands in Apache County, Arizona, to be obtained by exchange for public lands. Interest has been expressed by the private landowners to select the following public lands for part of the compensation for the lands selected by the Navajo Tribe:

Gila and Salt River Meridian, Arizona

T. 1 S., R. 2 W.,
- Sec. 1, lots 5 through 20; 610.74.
- Sec. 10, all; 640.00.
- Sec. 11, all; 640.00.
- Sec. 12, lots 1 through 16; 602.17.
- Sec. 13, lots 1 through 16; 603.09.
- Sec. 14, all; 640.00.
- Sec. 15, all; 640.00.
- Sec. 22, E½, E½NW¼, SW¼; 560.00.
- Sec. 23, all; 640.00.
- Sec. 24, all; 640.00.
- Sec. 25, W½, SE¼; 480.00.
- Sec. 26, lots 1 through 16; 639.36.
- Sec. 27, all; 640.00.
- Sec. 28, S½; 320.00.
- Sec. 30, lot 1; 39.87.
- Sec. 31, lots 1, 3, 4, NE¼NW¼, N½NE¼, E½SW¼; 319.78.
- Sec. 32, S½N½, SW¼SW¼; 200.00.
- Sec. 33, NE¼, S½NW¼; 240.00.
- Sec. 34, NW¼, N½S½, SE¼SW¼, S½SE¼; 440.00.
- Sec. 35, all; 640.00.
- Sec. 36, all; 640.00.

Comprising 10,815.01 acres, more or less, located in Maricopa County.

In accordance with the regulations in 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document of conveyance to such lands to the private landowners or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

Inquiries, comments and protests to the Notice should be addressed to either the Indian Project Manager, Indian Project Office, 2708 North 4th Street, Suite B-5, Flagstaff, Arizona 86001, or the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: June 15, 1984.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-16383 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-32-M

[U-53908]

Utah: Realty Action, Non-Competitive Sale of Public Lands in Uintah County

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($40 000).

Salt Lake Meridian, Utah

T. 8 S., R. 23 E.,
- Sec. 36: W½.

The land described aggregates 320 acres.

This land is being offered at direct sale to Deseret Generation and Transmission Cooperative at the appraised market value.

The land offered in this sale is for surface estate only. The United States will reserve all minerals, plus the right to construct ditches and canals in the future. Setting aside this land for the power plant is consistent with Bureau planning, county zoning, and the EIS prepared or the right-of-way. The public interest will be well served by offering these lands for direct sale to Deseret.

For a period of 45 days from the date of ths Notice, interested parties may submit comments to the Vernal District Manager, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will

become the final determination of the Department of the Interior.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 84-16936 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-DQ-M

[W-81397]

Wyoming; Conveyance, Sale of Public Land in Sweetwater County, Wyoming

June 15, 1984.

Notice is hereby given that pursuant to section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1982), Niels Hansen has purchased and received a patent for the following described public land in Sweetwater County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 96 W.,
Sec. 18, SW¼NE¼NE¼, NE¼SE¼N W¼NE¼, and S½SE¼NW¼NE¼.

Containing 17.5 acres.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 84-16937 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Receipt of Application for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.):*

Applicant: National Zoological Park, Washington, D.C.—APP 5934AB.

The applicant requests a permit to import two captive-bred male maned wolves (Chrysocyon brachyurus) from Ravensden Zoo Ltd., Northants, England, for enhancement of propagation.

Applicant: New York Zoological Society, Bronx, NY—APP 1051BM.

The applicant requests a permit to import a pair of captive-bred Babirusa (Babyrousa babyrussa) from Wilhelma Zoo, Stuttgart, West Germany for enhancement of propagation.

Applicant: Mesa Garden, Belen, NM—APP 1500BM.

The applicant requests a permit to export and conduct interstate commerce with artifically propagated specimens of Knowlton's cactus (*Pediocactus knowltonii*), Peeble's Navajo cactus (*P peeblesianus*) and Wright's fishhook cactus (*Sclerocactus wrightiae*) for enhancement of propagtion.

Applicant: International Animal Exchange, Ferndale, MI—APP 152592.

The applicant requests a permit to purchase in interstate commerce two male and one female captive-bred jaguars from Prosect Park Zoo, NY Jacksonville Zoo, TN and Oklahoma City Zoo, OK for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2/APP number when submitting comments.

Dated: June 20, 1984.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-16904 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Intention to Negotiate Concession Contract

On February 27, 1984, pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice was given in the Federal Register (Vol. 46, No. 49, page 7156) that the Department of the Interior, through the Director, National Park Service, proposed to negotiate a concession contract with ARA Virginia Skyline Company, Incorporated authorizing it to continue to provide food and lodging facilities and services for the public at Shenandoah National Park, Virginia for a period of twenty (20) years from January 1, 1985.

All interested parties were to submit their proposals on or before April 27, 1984. However, following the issuance of this public notice, the Department of the Interior found it necessary to revise the franchise fee in the proposed contract. Therefore, pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with ARA Virginia Skyline Company, Incorporated authorizing it to continue to provide food and lodging services for the public at Shenandoah National Park, Virginia for a period of twenty (20) years from January 1, 1985.

This proposed contract requires a construction and improvement program. The construction and improvement program required was previously addressed in the Environmental Assessment (June 1981) that was prepared in conjunction with the General Management Plan for Shenandoah National Park.

The following concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect grants ARA Virginia Skyline Company, Incorporated an opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by the aforementioned ARA Virginia Skyline Company, Incorporated. If ARA Virginia Skyline Company, Incorporated amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with said ARA Virginia Skyline Company, Incorporated.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Shenandoah National Park, Virginia 22835, phone (703) 999-2243, for information as to the requirements of the proposed contract.

Dated: June 15, 1984.

Richard H. Briceland,

Acting Director, National Park Service.

[FR Doc. 84-16954 Filed 6-25-84; 8:45 am]

BILLING CODE 4310-70-M

Proposed Guidelines for Alaska Land Bank Program; Availability

AGENCY: National Park Service; U.S. Fish and Wildlife Service; Bureau of Land Management, Interior.

ACTION: Notice of Availability of Proposed Guidelines.

SUMMARY: The Alaska Land Bank Program was established by section 907 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, 43 U.S.C. 1936, which provides that certain

private landowners may participate in the Land Bank Program by entering into a written agreement with the Secretary regarding the use and development of their lands. The program was established to "enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State and Native and other private lands." 43 U.S.C. 1636(a).

The program is intended, in part, to induce compatible, low developmental uses of undeveloped private lands that adjoin, or would directly affect federal and state lands. In addition the program offers a mechanism through which lands conveyed under the terms of the Alaska Native Claims Settlement Act (ANCSA), 85 Stat. 688, 43 U.S.C. 1601, could be retained in Native ownership for the benefit of future generations

The purpose of the Proposed Guidelines are to outline for the Interior Department land managing agencies the scope of the program, the policies that should be pursued in its implementation, and the various terms and conditions that should be considered in any agreement.

Due to its length, the Proposed Guidelines are not being reproduced in the Federal Register. Copies of the Guidelines are available for inspection during normal business hours at Bureau of Land Management, Department of the Interior, 18th & C Street, NW., Room 3256, Washington, D.C. 20240; Bureau of Land Management, 701 C Street, Anchorage, Alaska 99513; U.S. Fish and Wildlife Service, Department of the Interior, 18th & C Street, NW., Room 5660, Washington, D.C. 20240; U.S. Fish and Wildlife Service, Region 7, 1011 E. Tudor Road, Anchorage, Alaska 99503; National Park Service, Department of the Interior, 18th & C Street, NW., Room 3104, Washington, D.C. 20240; Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503. In addition, copies will be sent upon request.

DATE: Comments are requested on or before August 27, 1984.

Comments should be directed to: William Horn, Deputy Under Secretary, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David Watts, Assistant Solicitor, Conservation and Wildlife, Department of the Interior, Washington, D.C. 20240.

Dated: June 15, 1984.

William Horn,

Deputy Under Secretary.

[FR Doc. 84-16953 Filed 6-25-84; 8:45 am]
BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 15, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 11, 1984.

Carol D. Shull,

Chief of Registration, National Register.

IOWA

Fayette County

Oelwein, *Hanson, Alfred, House*, 403 N. Frederick Ave.

Jasper County

Colfax, *Hall, James Norman, House*, 410 E. Howard St.

Johnson County

Iowa City, *Close, M.T., and Company Flaxseed Warehouse*, 521 S. Gilbert St.

Madison County

Winterset vicinity, *Schoenenberger, Nicholas, House and Barn*, Off IA 169

Scott County

Bettendorf, *Bettendorf-Washington School*, 533 16th St.

Davenport, *Adams, Walker, House (Davenport MRA)*, 1009 College Ave.

Davenport, *Ball-Waterman House (Davenport MRA)*, 616 Kirkwood Blvd.

Davenport, *Burdick, Anthony, House (Davenport MRA)*, 833 College Ave.

Davenport, *Busch, Diedrich, House (Davenport MRA)*, 2340 E. 11th St.

Davenport, *Cameron, W.S., House (Davenport MRA)*, 623 Kirkwood Blvd.

Davenport, *Cawley, James, House (Davenport MRA)*, 1406 Esplanade

Davenport, *Columbia Avenue Historic District (Davenport MRA)*, Roughly W. Columbia Ave., Harrison, Ripley, and W. Haynes Sts.

Davenport, *Copeland, George, House (Davenport MRA)*, 929 College Ave.

Davenport, *Davenport Hose Station No. 3 (Davenport MRA)*, 326 E. Locust St.

Davenport, *Davison, Abner, House (Davenport MRA)*, 1234 E. River Dr.

Davenport, *Dessaint, Marie Clare, House (Davenport MRA)*, 4803 Northwest Blvd.

Davenport, *Ebeling, Arthur, House (Davenport MRA)*, 1106 W. 15th St.

Davenport, *Ebeling, Henry, House (Davenport MRA)*, 1623 W. 6th St.

Davenport, *Eldridge, D.C., House (Davenport MRA)*, 1333 E. 10th St.

Davenport, *Eldridge, Theodore, House (Davenport MRA)*, 1404 E. 10th St.

Davenport, *First Church of Christ, Scientist (Davenport MRA)*, 636 Kirkwood Blvd.

Davenport, *Grilk, Charles, House (Davenport MRA)*, 2026 Main St.

Davenport, *Guy, Finley, Building (Davenport MRA)*, 310 E. Locust St.

Davenport, *Hall, Israel, House (Davenport MRA)*, 1316 E. 10th St.

Davenport, *Holbrook, William, House (Davenport MRA)*, 804 Kirkwood Blvd.

Davenport, *House at 2212 W. River Drive (Davenport MRA)*, 2212 W. River Dr.

Davenport, *House at 6212 Northwest Boulevard (Davenport MRA)*, 6212 Northwest Blvd.

Davenport, *Kiene, Albert, House (Davenport MRA)*, 1321 W. 8th St.

Davenport, *Klindt, Henry, House (Davenport MRA)*, 834 Marquette St.

Davenport, *Koch Drug Store (Davenport MRA)*, 1501 Harrison St.

Davenport, *Lindsay, James E., House (Davenport MRA)*, 911 College Ave.

Davenport, *Littig, John, House (Davenport MRA)*, 6035 Northwest Blvd.

Davenport, *Lueschen, John, House (Davenport MRA)*, 1628–1632 Washington St.

Davenport, *McCarthy, Patrick F., House (Davenport MRA)*, 942 Marquette St.

IOWA, *Scott County*,

Davenport, *McClellan Heights Historic District (Davenport MRA)*, Roughly bounded by city limits, E. River Dr., East St., Jersey Ridge and Middle Rds.

Davenport, *McHarg, Joseph S., House (Davenport MRA)*, 5905 Chapel Hill Rd.

Davenport, *Meadly House (Davenport MRA)*, 1425 W. 10th St.

Davenport, *Murray, Thomas, House (Davenport MRA)*, 628 Kirkwood Blvd.

Davenport, *Nighswander, Benjamin, House (Davenport MRA)*, 1011 Kirkwood Blvd.

Davenport, *Northwest Davenport Savings Bank (Davenport MRA)*, 1529 Washington St.

Davenport, *Oak Lane Historic District (Davenport MRA)*, Oak Lane between High and Locust Sts.

Davenport, *Palmer, B.J., House (Davenport MRA)*, 803 Brady St.

Davenport, *Peters, J.C., House (Davenport MRA)*, 1339 W. 13th St.

Davenport, *Picklum, Frank, House (Davenport MRA)*, 1340 W. 7th St.

Davenport, *Plambeck, Joachim, House (Davenport MRA)*, 1421 W. 14th St.

Davenport, *Pohlmann, Elizabeth, House (Davenport MRA)*, 1403 W. 13th St.

Davenport, *Pohlmann, Henry, House (Davenport MRA)*, 1204 W. 13th St.

Davenport, *Prospect Park Historic District (Davenport MRA)*, Roughly bounded by E. River Dr., Mississippi Ave., Prospect Terr., 11th and Adams Sts.

Davenport, *Quickel, Jacob, House (Davenport MRA)*, 1712 Davenport St.

Davenport, *Radcliff, William, House (Davenport MRA)*, 904 College Ave.

Davenport, *Riverview Terrace Historic District (Davenport MRA)*, Roughly Riverview Terr., Clay and Marquette Sts.

Davenport, *Roberts, Edward C., House (Davenport MRA)*, 918 E. Locust St.

Davenport, *Rowhouses at 702–712 Kirkwood Boulevard (Davenport MRA)*, 702–712 Kirkwood Blvd.

Davenport, *Schricker, John, House (Davenport MRA)*, 5418 Chapel Hill Rd.
Davenport, *Shaw, E.A., House (Davenport MRA)*, 1102 College Ave.
Davenport, *Smith, James, House (Davenport MRA)*, 1037 E. 18th St.
Davenport, *St. Mary's Academy (Davenport MRA)*, 1334 W. 8th St.
Davenport, *Struck, Dr. Kuno, House (Davenport MRA)*, 1645 W. 12th St.
Davenport, *Untiedt, Claus, House (Davenport MRA)*, 1429 W. 14th St.
Davenport, *Vander Veer Park Historic District (Davenport MRA)*, Roughly bounded by Temple Lane, W. Central Park Ave., Brady, High, and Harrison Sts.
Davenport, *Von Ach, Frank J., House (Davenport MRA)*, 1618 Davenport St.
Davenport, *Washington Flats (Davenport MRA)*, 1415–1431 Washington St.
Davenport, *Washington Gardens (Davenport MRA)*, 1301 W. 13th St.
Davenport, *Werthman Grocery (Davenport MRA)*, 1402 W. 7th St.
Davenport, *Westphal-Schmidt House (Davenport MRA)*, 432 S. Fairmount St.
Davenport, *Wilkinson, Thomas C., House (Davenport MRA)*, 118 McManus St.
Davenport, *Wolters Filling Station (Davenport MRA)*, 1229 Washington St.
Davenport, *Woods, Oscar C., House (Davenport MRA)*, 1825 Grand Ave.

KENTUCKY

Fayette County

Lexington, *Kinkead, Henry P., House*, 403Walnut St.

Jefferson County

Louisville, *Caperton Block*, 564–574 4th Ave.
Louisville, *First Street District (North Old Louisville MRA)*, Roughly bounded by E. Breckinridge, E. Kentucky, and I–65
Louisville, *Old Louisville Residential District (Boundary Increase)*
Louisville, *Tingley, George H., Elementary School*, 1311–1317 S. Preston St.

Nelson County

Bloomfield vicinity, *Stone, John, House*, U.S. 62

LOUISIANA

Lafayette Parish

Lafayette, *Old Guaranty Bank Building*, 500 Jefferson St.

West Feliciana Parish

St. Francisville vicinity, *Catalpa*, U.S. 61

MISSISSIPPI

Amite County

Magnolia vicinity, *Felder-Richmond House*, Off I–55
Magnolia vicinity, *Lea, Hampton, House*, Lea Rd.

Warren County

Vicksburg, *McDermott House*, 1100 South St.

NEBRASKA

Hamilton County

Aurora, *Hearn, Kathleen, Building*, 10th and O Sts.

NORTH CAROLINA

Burke County

Morganton, *Avery, Alphonso Calhoun, House*, 408 N. Green St.

Forsyth County

Winston-Salem, *O'Hanlon Building*, 103 W. 4th St.
Winston-Salem, *Spruce Street YMCA*, 315 N. Spruce St.

Guilford County

Gibsonville, *Smith, Francis Marion, House*, 204 Railroad Ave.
Greensboro vicinity, *Scott, Thomas, House*, SR 1001
Greensboro, *Weir, Dr. David P., House*, 223 N. Edgeworth St.

Haywood County

Cruso vicinity, *Gwyn, James M., House*, NC 276

Madison County

Mars Hill vicinity, *California Creek Missionary Baptist Church*, U.S. 23

Vance County

Stone, Daniel, Plank House,

PENNSYLVANIA

Delaware County

Chanticleer,

Philadelphia County

Philadelphia, *26th District Police and Patrol Station*, 2136–2142 E. Dauphin St.
Philadelphia, *Wills Hospital*, 1601 Spring Garden St.

PUERTO RICO

Ponce County

Ponce, *La Perla Theater*, Mayor and Cristina Sts.
Ponce, *Parque de Bombas de Ponce*, Plaza Las Delicias

TENNESSEE

Bradley County

Charleston, *Charleston Cumberland Presbyterian Church*, Railroad St.

Knox County

Knoxville, *Cowan, McClung and Company Building*, 500–504 Gay St.

Lawrence County

Lawrenceburg, *Garner Mill*, Garner Lane

Marshall County

Chapel Hill, *Swaim House*, Main St.

Scott County

Robbins, *Barton Chapel*, U.S. 27

Shelby County

Memphis, *Austin, John Alexander, House*, 290 S. Front St.
Memphis, *Gartly-Ramsay Hospital*, 686 Jackson Ave.
Memphis, *Richards, Newton Copeland, House*, 975 Peabody Ave.

Tipton County

Covington vicinity, *Mt. Carmel Presbyterian Church*, Mt. Carmel Rd.

Williamson County

Franklin vicinity, *Cedarmont*, Off TN 96

UTAH

Grand County

Moab vicinity, *Dewey Bridge*, NE of Moab on UT 128

Salt Lake City

Salt Lake City, *Gibbs-Thomas House*, 137 N.W. Temple St.

Utah County

Lehi, *Cutler, Thomas R., Mansion*, 150 E. State St.
Provo, *Frisby, Joseph H., House*, 290 N. 400 West
Provo, *Provo West Co-op*, 450 W. Center St.
Provo, *Roberts, William D., House*, 212 N. 500 West

Washington County

St. George, *Butler, William F., House*, 168 S. 300 West

Weber County

Ogden, *Cross, Charles W., House*, 451 17th St.

VERMONT

Caldeonia County

Barnet, *Barnet Center Historic District*, Off U.S. 5

Rutland County

Clarendon, *Clarendon Congregational Church*, Middle Rd.

[FR Doc. 84–16952 Filed 6–25–84; 8:45 am]
BILLING CODE 4310–70–M

Bureau of Reclamation

Salt River Project, Phoenix, Arizona; Realty Action; Competitive Sale of Public Land

The following described land has been identified for disposal under the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374) at no less than the appraised fair market value. The Bureau of Reclamation (Reclamation) will accept bids on the following land, and will reject any bid for less than the appraised value.

The area of the following described parcel lying within the South Half of the Northwest quarter of Section 36, Township 1 North, Range 4 East, Gila and Salt River Base Meridian is 0.621 acre.

Description

A strip of land 25 feet in width located in the Northwest quarter of Section 36, Township 1 North, Range E East, said strip lying adjacent to and on the right side counting forward from the initial point of the left boundary line thereof, the said left boundary being described (based on assumed bearing of East for

the West half of the North line of said Section 36) as follows, to wit:

Beginning at a point on the North and South center line of said Section 36, distant 40 feet South 1 degree 48 minutes West; thence South 89 degrees 52 minutes West a distance of 192 feet; thence along a curve to the left having a radius of 50 feet; a distance of 73.4 feet measured along 25 foot chords; thence South 4 degrees 49 minutes West a distance of 638.6 feet; thence along a curve to the right having a radius of 100 feet a distance of 95.3 feet measured along 25 foot chords; thence

South 59 degrees 37 minutes West a distance of 881.5 feet; thence South 66 degrees 51 minutes West a distance of 573.3 feet; thence along a curve to the right having a radius of 100 feet; a distance of 53.9 feet measured along 25 foot chords; thence North 82 degrees 09 minutes West a distance of 493.2 feet; thence along a curve to the right having a radius of 100 feet a distance of 74.8 feet; measured along 25 foot chords; thence North 39 degrees 11 minutes West a distance of 432.8 feet; thence along a curve to the right, having a radius of 100 feet a distance of 71.9 feet measured along 25 foot chords; thence North 2 degrees 08 minutes East a distance of 231.0 feet; thence on a curve to the left, having a radius of 61 feet a distance of 86.7 feet; measured along 25 foot chords; thence on a curve to the right, having a radius of 98.5 feet a distance of 140.8 feet measured along 25 foot chords, to a point 30 feet East of the West line of said Section 36; thence North 2 degrees 14 minutes East parallel to the West line of said Section 36 a distance of 562.2 feet to a point South 2 degrees 14 minutes West at a point on the North line of said Section 36 distant 30 feet East of the Northwest corner thereof.

The parcel will be offered for sale through competitive bidding process. The sale will be held at Bureau of Reclamation, Central Arizona Project, 23636 North Seventh Street, Phoenix, Arizona 85024, Main Conference Room on August 24, 1984, at 10:00 a.m. Reclamation may accept or reject any and all offers, or withdraw any land or interest in land for sale, if, in the opinion of the Authorized Officer, consummation of the sale would not be fully consistent with the Act of February 2, 1911 (36 Stat. 895, 43 U.S.C. 374), or other applicable laws.

The parcel is located approximately ½ mile south of Williams Field Road, and ¼ mile east of McClintock Road, within the incorporated city of Chandler, County of Maricopa, State of Arizona, and has a potential for urban-suburban development. The sale is consistent with Sale River Project and Bureau of Reclamation land use planning and it was determined that the public interest would best be served by offering these lands for sale; the parcel listed and platted is offered for sale "as is" and "where is."

Resource clearances consistent with NEPA requirements have been completed and approved. A categorical exclusion for Cultural Resources and a Land Report has been completed and approved, and is available for public review at Bureau of Reclamation, Central Arizona Project Office, 23636 North Seventh Street, Phoenix, Arizona 85024.

The patents issued for the parcel sold will be subject to a right-of-way for ditches and canals constructed by the authority of the United States in accordance with the Act of August 30, 1890 (26 Stat. 391, 86 U.S.C. 945), and reservations for public road and utility easements identified by the city of Chandler and the County of Maricopa. This land sale will be for surface estates only.

From the date of this notice until August 23, 1984, interested parties may submit comments to Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005. Any adverse comments will be evaluated by the Regional Director who may vacate or modify this Realty Action and issue a final determination. In the absence of any action by the Regional Director, this Realty Action will become the final determination of the Department of the Interior.

Dated: June 19, 1984.

N. W. Plummer,

Regional Director.

Chandler Land Sale

August 24, 1984.

Introduction

Action: The Bureau of Reclamation is offering Federal Land in the City of Chandler for Sale at Public Auction.

Date: August 24, 1984, Bidder Registration begins at 9:00 a.m., Auction begins at 10:00 a.m.

Location: Central Arizona Project Office, Main Conference Room, 23636 North Seventh Street, Phoenix, Arizona 85024.

Price: No bid will be accepted for less than the appraised Fair Market Value of the parcel.

Appraised Fair Market Value (minimum bid)— $20,000.00

Patent (Title) Reservations

(1) The parcel shall be sold subject to a right-of-way for ditches and canals constructed by authority of the United States in accordance with the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

(2) The reservation of all rights-of-way and easements of record.

(3) The reservation to the United States of any and all mineral interests.

Location

This land is located south of Tempe, Arizona, in the western city limits of Chandler, Arizona, north of the Gila River Indian Reservation. Approximately ½ mile south and east of the road intersection of Williams Field Road nd McClintock Road. Although the legal description is provided above, it is recommended that prospective bidders inspect the parcel of land before bidding.

Access

Physical and legal access to this land is via Williams Field Road and McClintock Road. Southerly and easterly respectively.

Topography

Generally flat, previously leveled and previously cultivated.

Flood Potential

This land has been placed in the Zone B Flood Zone category as defined by the Department of Housing and Urban Development on its July 16, 1980, Flood Insurance Rate Map. Zone B is between limits of the 100 year flood and the 500 year flood. Certain areas are subject to 100-year floods with average depths of less than 1 foot where the contributing drainage area is less than 1 square mile. Any future development of these lands would be subject to compliance with city codes and regulations.

Vegetation

Vegetation is sparce and low shrubs. The parcel has been a part of a larger previously leveled and cultivated field, and has been fallow for a number of years.

Utilities

Electric power, domestic water, sanitary sewage, telephone and natural gas facilities are available on the southern perimeter of the parcel. The appropriate utility entity or service company can provide installation costs to the parcel.

Land Use-Subject Parcel and Adjacent Lands

The subject parcel is located in the corporate limits of the city of Chandler, Arizona, and is presently zoned PAD, which is for Planned Area Development.

The adjacent land in Section 36, Township 1 South, Range 4 East, north of the subject parcel is for light industrial.

The adjacent land in Section 36, Township 1 South, Range 4 East, south of the subject parcel is zoned PAD which is for Planned Area Development.

Sale Procedures

The auction will begin at 10:00 a.m. and will proceed continuously until the parce has been sold. No preference rights are recognized in this sale.

Should the parcel remain unsold, it may be reoffered for sale at 10:00 a.m. on August 31, 1984, at the same address as indicated above.

No conveyance of land will be made to Federal employees or their dependents who might reasonably be expected to have information with regard to the property or its uses which is not readily available to members of the public, or who participate in the decision to dispose of this property, or in this sale itself.

Federal law limits sale of this land to United States citizens (18 years of age or older), corporations subject to the law of any State or of the United States, and any entity legally capable of conveying and holding lands or interest therein under the laws of the State within which the lands to be conveyed are located. The purchaser is deemed to be the individual(s) or corporation that will actually take title to the land from the Government. The citizenship limitation does not apply to agents who bid on behalf of an associate, client, or employer.

Registration

On the day of the sale, anyone intending to bid on the offered land must register and obtain a bidder's identification card, and registration will be conducted by a Bureau of Reclamation registration official at a registration table at which time a certified check, cash, postal money order, cashiers check for the appraised Fair Market Value (identified above) will be deposited with the Registrar. Registration will begin at 9:00 a.m. Bidders may register anytime during the sale; however, they must be registered before bidding. The bidder identification card is merely a numbered card which must be displayed when offering a bid, so the auctioneer can conduct an orderly bidding process.

Bidding Information and Instructions

Bids may be made either by sealed bids or by oral bidding at the sale.

Sealed bids sent by mail or personally delivered will only be considered if received prior to the close of business on August 23, 1984, at the following address:

Bureau of Reclamation, Central Arizona Project Office, P.O. Box 9980, Phoenix, Arizona 85068. Attention: Chandler Land Sale

Sealed bids must be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Reclamation for not less than the appraised fair market value, and must be in a separate sealed envelope enclosed with the transmittal envelope. The sealed bid envelope must be marked conspicuously on the face of the envelope as follows:

Sealed Bid
Chandler Section 36 Land Sale
Sale No. SRP-84-1
Sale To Be August 24, 1984

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid id announced. The highest sealed bid for the parcel will then become the base price for the oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately the appraised fair market value by cash, money order, bank draft, cashier's or certified check, or any combination of those, and all deposits may be unsuccessful bidders will be returned. Failure to deposit the appraised fair market value by the high bidder will result in disqualification as the high bidder. The authorized officer shall determine whether to accept the highest bid, withdraw the parcel from the market, or reoffer the parcel of land for sale at a later date.

The authorized officer reserves the right to reject any or all bids and to waive technical defects in bids as may be in the best interest of the United States. In order to promote full and free competition, a certificate of independent price determination must accompany each sealed bid. Regarding oral bids and as a condition of award, the successful bidder is required to sign a certificate to the effect that " the bid was arrived at by the bidder or offeror independently and was tendered without collusion with any other bidder or offeror." The form and content of the said certificate is as follows:

Chandler Land Sale

Invitation # _____

Representation and Certification of

Name and Address of Bidder (Street, City, State, Zip Code).

Date of Bid: August 24, 1984.

In this Realty Action "bid" and "bidder" shall be construed to mean "offer" and "offeror."

The bidder makes the following representations and certifications as part of the bid identified above.

1. Small Business

He — is, or — is not, a small business concern. (A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operations in which it is bidding on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria as prescribed by the Small Business Administration. For additional information see governing regulations of the Small Business Administration (13 CFR Part 121)).

2. Minority Business Enterprise

He — is, — is not a minority business enterprise. A minority business enterprise is defined as a "business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American-Aleuts."

3. Contingent Fee

(a) He — has, — has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure this land offer and (b) he — has, — has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this offer and agrees to furnish information relating to (a) and (b) above as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Subpart 1-1.5).

4. Type of Organization

He operates as an — individual, — partnership, — joint venture, — corporation, incorporated in State of _____

5. Independent Price Determination

(a) By submission of this bid, each bidder certifies, and in the case of a joint bid each party thereto certifies as to his own organization, that in connection with this procurement:

(1) The prices in this bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, in the case of a bid, or prior to award, in the case of a proposal, directly or indirectly to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.

(b) Each person signing this bid certifies that:

(1) He is the person in the bidder's organization responsible within that organization for the decision as to the prices being bid herein, but that he has been authorized in writing to act as an agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

(c) This certification is not applicable to a foreign bidder submitting a bid for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

(d) A bid will not be considered for award where (a)(1) through (a)(3), or (b) above, has been deleted or modified. Where (a)(2) above, has been deleted or modified, the bid will not be considered for award unless the bidder furnishes with the bid a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

Note.—Bids must be set forth full, accurate, and complete information as required by this initiation for bids (including attachments). The penalty for making false statements in bids is prescribed in 18 U.S.C. 100

6. Equal Opportunity

He — has, — has not, participated in a previous contract or subcontract subject to the Equal Opportunity Clause herein, the clause originally contained in Section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; he — has, — has not, filed all required compliance reports; and representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards.

(The above representations need not be submitted in connection with contracts or subcontracts which are exempt from the equal opportunity clause.)

7. Parent Company and Employer Identification Number

Each bidder shall furnish the following information by filing in the appropriate blocks:

(a) Is the bidder owned or controlled by a parent company as described below?—Yes—No. (For the purpose of this bid, a parent company is defined as one which either owns or controls the activities and basic business policies of the bidder. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company, such ownership is not required; if another company is able to formulate, determine, or veto basic business policy decisions of the bidder, such other company is considered the parent company of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.)

(b) If the answer to (a) above is "Yes," bidder shall insert in the space below the name and main office address of the parent company.

Name of Parent Company ——————
Main Office Address (No., Street, City, State, and ZIP Code) ——————

(c) Bidder shall insert in the applicable space below, if he has no parent company, his own Employer's Identification Number (E.I. No.) (Federal Social Security Number used on Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941), or, if he has a parent company, the E.I. No. of his parent company.

Employer Identification Number of——————
Parent Company ——————
Bidder ——————

Bids in amounts less than the appraised fair market value will be rejected.

All sealed bids shall be accompanied with a Sealed Bid Form of the following form and format:

Offer No. ——————

Sealed Bid Form

Name and Location of Project ——————
Bidder's Name and Address (Include ZIP Code, Type or Print) ——————
Telephone Number ——————
Date ——————
To ——————

In compliance with the above-dated Bid Offering, the undersigned hereby submits the bid price of ———— as due consideration for the following identified parcel of land.

A parcel lying within the South Half of the Northwest quarter of Section 36, Township 1 North, Range 4 East, Gila and Salt River Base Meridian is 0.621 acre.

Description

A strip of land 25 feet in width located in the Northwest quarter of Section 36, Township 1 North, Range 4 East, said strip lying adjacent to and on the right side counting forward from the initial point of the left boundary line thereof, the said left boundary being described (based on assumed bearing of East for the West half of the North line of said Section 36) as follows, to wit:

Beginning at a point on the North and South center line of said Section 36, distant 40 feet South 1 degree 48 minutes West; thence South 89 degrees 52 minutes West a distance of 192 feet; thence along a curve to the left having a radius of 50 feet; a distance of 73.4 feet measured along 25 foot chords; thence South 4 degrees 49 minutes West a distance of 638.6 feet; thence along a curve to the right having a radius of 100 feet a distance of 95.3 feet measured along 25 foot chords; thence South 59 degrees 37 minutes West a distance of 881.5 feet; thence South 66 degrees 51 minutes West a distance of 573.3 feet; thence along a curve to the right having a radius of 100 feet; a distance of 53.9 feet measured along 25 foot chords; thence North 82 degrees 09 minutes West a distance of 493.2 feet; thence along a curve to the right having a radius of 100 feet a distance of 74.8 feet; measured along 25 foot chords; thence North 39 degrees 11 minutes West a distance of 432.8 feet; thence along a curve to the right, having a radius of 100 feet a distance of 71.9 feet measured along 25 foot chords; thence North 2 degrees 08 minutes East a distance of 231.0 feet; thence on a curve to the left, having a radius of 61 feet a distance of 86.7 feet; measured along 25 foot chords; thence on a curve to the right, having a radius of 93.5 feet a distance of 140.8 feet measured along 25 foot chords, to a point 30 feet East of the West line of said Section 36; thence North 2 degrees 14 minutes East parallel to the West line of said Section 36 a distance of 562.2 feet to a point South 2 degrees 14 minutes West of a point on the North line of said Section 36 distant 30 feet East of the Northwest corner thereof.

Signature ——————

——————

——————

——————

Post Sale Information and Instructions

The declared high bidder, whether by sealed or oral bid, will be required to submit the remainder of the land payment in cash, certified check, bank draft, money order, cashier's check, or any combination of these by close of business 5:00 p.m. on the day of the auction.

If final payment is not received within the time frame required above, the deposit amount is forfeited, and the land may be reoffered. The authorized official shall determine whether to offer the land to the second bidder, subject to the same terms and conditions, or to reoffer the parcel of land for sale at a later date.

Upon payment of the entire purchase price, the authorized official shall cause a quitclaim deed to be issued granting all the right, title and interest of the United States in and to the property to the purchaser, subject, however, to the following reservations, limitations, and conditions:

(a) The reservation covenant or burden running with the land releasing all claims for damages against the United States which may be sustained by such land.

(b) Title of the land transfers when the United States issues a patent (deed) to the purchaser. Patents issued for the parcel sold will be subject to a right-of-way for ditches and canals constructed by the authority of the United States in accordance with the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. § 945), certain reservations for public roads and utility easements, and other reservations required by law.

(c) A reservation of all rights-of-way and easements of record.

(d) A reservation to the United States of any and all mineral interests.

Once the patent is issued the purchaser will be responsible for complying with all applicable laws regarding zoning and land uses.

The authorized officer may set aside the sale of the parcel at any time prior to the issuance of patent if it is determined that a sale should not be completed for any reason.

No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this sale or to any benefit that may arise therefrom, unless it be made with a corporation for its general benefit.

[FR Doc. 84-17049 Filed 6-25-84; 8:45 am]
BILLING CODE 4310-C9-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30483]

Boston and Maine Corporation and Providence and Worcester Railroad Company—Exemption From 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11343, (a) the purchase by Providence and Worcester Railroad Company (P&W) of a one-mile segment of line in Gardner, MA and a four-mile segment of line in Worcester, MA, from Boston and Maine Corporation (B&M); (b) the acquisition by B&M of trackage rights from P&W over the above-described one- and four-

mile segments of line; (c) the acquisition of trackage rights by B&M from P&W over the rail line of P&W running between the above-described one-mile and four-mile segments of line; and (d) the lease by P&W of B&M's line between Worcester and Lancaster, MA.

DATES: These exemptions will be effective on July 26, 1984. Petitions for reconsideration must be filed by July 16, 1984. Petitions to stay must be filed by July 6, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30483 to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioners' representatives:
James E. Howard, 1500 Oliver Building, Pittsburgh, PA 15222
Joseph R. DiStefano, One Depot Square, Woonsocket, RI 02895

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: June 19, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioner Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84-16917 Filed 6-25-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.
The title of the form.
The OMB and Agency form numbers, if applicable.
How often the form must be filled out.
Who will be required to or asked to report.
Whether small businesses or organizations are affected.
An estimate of the number of responses.
An estimate of the total number of hours needed to fill out the form.
The number of forms in the request for approval.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Mine Safety and Health Administration

Electrically Operated Mining Equipment Field Approval
Application (Coal Operator): 1219-0002
On occasion
Businesses and other for profit; small businesses or organizations 12 applications; 4 hours

Requires coal mine operators to submit an application (MSHA Form 2000-38) to obtain MSHA approval of electrically operated mining equipment which is built or assembled by the mine operator.

Air Volume Measurements, Gassy Mines: 1219-0031

Weekly
Businesses and other for profit; small businesses or organizations
800 responses; 6,400 hours

Requires that air volume measurements be taken weekly in metal and nonmetal mines which have been classified as gassy. Records are required to be kept of the measurements.

Main Fan Maintenance Records: 1219-0012

Weekly
Businesses and other for profit; small businesses or organizations
707 recordkeepers; 601 hours

The regulation requires that records be kept of the maintenance performed on the main fans at underground metal and nonmetallic mines.

Reinstatement

Employment and Training Administration

Forms for the Interstate Clearance Program of Services to Migratory Workers and Employers: 1205-0134; ETA 790, ETA 795, ETA 785, ETA 785A.
On occasion
State or local governments
22,000 responses; 13,000 hours; 4 forms

Forms are used by State Employment Security Agencies in servicing agricultural employers to ensure that their labor needs for domestic migratory agricultural workers are met; in servicing domestic agricultural workers to assist them in locating jobs expeditiously and orderly; to ensure exposure of employment opportunities to domestic agricultural workers before certification for employment of foreign workers.

Signed at Washington, D.C., this 21st day of June 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84-17005 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-30-M, 4510-43-M

Mine Safety and Health Administration

[Docket No. M-84-171-C]

Eastern Associated Coal Corp., Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, One PPG Place, Pittsburgh, Pennsylvania 15222 has filed a petition to modify the application of 30 CFR 75.1714-2(e)(3) (self-contained self-rescue devices; use and location requirements) to its Keystone No. 5 Mine (I.D. No. 46-02067) located in Raleigh County, West Virgina. The petition is filed under section 101(c) of

the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that self-contained self-rescuers (SCSRs) may not be placed more than 25 feet away from miners on mantrips into and out of the mine.

2. Miners ride covered mantrip cars from the slope bottom to the 2 West boom. From this point, belts are used for mantrips, which prohibit implementing a full-time underground storage plan because of the requirement that SCSRs be within 25 feet during mantrips.

3. As an alternate method, petitioner proposes to store the SCSRs while miners use the belts for mantrips, as follows:

a. Each track vehicle will store a number of SCSRs to match the seating capacity;

b. Each work area will have a storage area within five minutes travel time that will store enough SCSRs to match a full crew plus spares for personnel who occasionally visit the section or work area;

c. Section belt conveyors used for mantrips will have storage areas at ten-minute intervals in numbers consistent with section storage;

d. Main belt conveyors used for mantrips will have storage areas at ten-minute intervals for the maximum number of people that may have occasion to ride the belt at any time; and

e. Stored SCSRs will be inspected each 24 hours.

4. Petitioner states that the proposed alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office or or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17009 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-111-C]

Empire Energy Corp.; Petition for Modification of Application of Mandatory Safety Standard

Empire Energy Corporation, P.O. Box 68, Craig, Colorado 81626 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Eagle No. 5 Mine (I.D. No. 05-01370) located in Moffat County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries.

2. As an alternate method, petitioner proposes to use the belt lines for intake airways. In support of this request, petitioner states that:

a. Low-level continuous carbon monoxide (CO) monitoring devices will be installed in the belt lines, and located to monitor at each belt drive and tailpiece and at 2,000 foot intervals between. The specific location of each monitor will be shown on the certified map;

b. The monitoring device will automatically provide a warning when the level of CO at any location exceeds 10 ppm above the ambient level of the mine;

c. The monitoring system will be capable of providing either a visual or audible alarm signal at either a continuously manned location on the section or a continuously manned location on the surface where there is a two-way communications with the miners on the sections;

d. The monitoring system will be able to identify any activated sensor within the belt haulage entry. This system will also have a map or schematic which will identify all monitors and belt locations;

e. If a surface monitoring station is used, the persons stationed there will be trained in the operation of the system and the proper procedures to follow in the event of an emergency;

f. At any time the CO monitoring system has been deenergized, for reasons such as power outages or routine maintenance, the belt conveyor may continue to operate if the belt entry is continuously patrolled and physically monitored by a qualified person with CO detector tubes or equivalent means. The automatic monitoring system will be put back into operations as soon as possible.

g. The CO monitor and sensor will be visually examined at least once every 24 hours to ensure proper functioning. The unit will be inspected by a qualified person for proper operation at least every seven days. This inspection will ensure that the required maintenance as recommended by the manufacturer is performed. The monitor will be calibrated with known quantities of CO and air mixtures at least evey 30 calendar days. An inspection record will be maintained on the surface and made available to all interested persons. The inspection record will show the date, the time of each weekly inspection, calibration of the monitor, and all maintenance performed, whether at the time of the weekly inspection or otherwise; and

h. Belt entries used as intake entries will be monitored for methane at the tailpiece. This will be done either by a continuous monitoring system installed as indicated above, or by manually making readings with an approved detector every 20 minutes when the belt is in operation.

3. Petitioner further states that with an additional intake, the air available at the last open crosscut will be significantly increased. This will provide an improved working environment for the miners at the face areas by decreasing the respirable dust exposure.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17012 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-170-C]

Johnson Brothers Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Johnson Brothers Coal Company, 109 Broad Bottom Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 15-12077) located in Pike County, Kentucky.

The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the No. 2 Elkhorn seam and ranges from 38 to 42 inches in height, with consistent ascending and descending grades creating dips throughout the coal bed.

3. Petitioner states that the canopies can strike and dislodge roof supports, creating the potential of a roof fall. The canopies also restrict and cramp the operator's seating position and limit visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17007 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-150-C]

M. C. Mining Corp., Petition for Modification of Application of Mandatory Safety Standard

M. C. Mining Corporation, P.O. Box 409, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 44-05527) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the constant rise and fall of the mine floor and the rolls and dips encountered make the use of canopies on the mine's electric face equipment dangerous. The canopies strike roof bolts loose, creating the potential of a roof fall. The canopies also restrict the equipment operator's visibility, causing the operator to lean out from the canopy, increasing the chances of an accident.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17006 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-156-C]

Peabody Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, St. Louis, Missouri 63102 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Sinclair No. 2 Mine (I.D. No. 15-07166), Star North Mine (I.D. No. 15-03161), and its Star South Mine (I.D. No. 15-11265), all located in Muhlenberg County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all power connection points outby the last open crosscut be in intake air.

2. Petitioner seeks a modification from the requirement that power connection points for water pumps used to pump water from behind sealed areas be on the surface.

3. As an alternate method, petitioner proposes to use a submersible pump, as follows:

a. A grounded phase protection system, such as the Mindel Shok-Blok No. 21-7000-30 will be installed with the pump. The breaker will be interrupted when 30 milliamps is detected between any one phase and ground;

b. The copper conductors, power, grounding and ground check will be stranded annealed-coated copper. The cable will be #4 AWG with a minimum 259 strands, 0.075 inch insulation thickness and 0.25 inch jacket insulation. Metallic shielding braid will provide a minimum coverage of 84 percent. There will be no cable splices in the borehole;

c. The borehole will be drilled into the floor of the mine to ensure that the pump motor and power connection points be immersed at all times;

d. The discharge switch will have a flapper-type power disconnection switch; and

e. Petitioner will continue a regular program of safety instruction, with specific emphasis on electrical hazards, incorporating instructions on the submersible pump.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17010 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-132-C]

Ray Coal Co., Petition for Modification of Application of Mandatory Safety Standard

Ray Coal Company, P.O. Box 5002, Hazard, Kentucky 41701 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Mine No. 49 (I.D. No. 15-14057) located in Leslie County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air from belt haulage entries be used to ventilate active working places.

2. The mine will be developed on a seven entry system. This is the

maximum number of entries practical due to high overburden in places (900 feet) and a substantial thickness of soft fireclay bottom, creating a potential hazard of a "squeeze" or "bottom upheaval" The portals of the mine are located approximately 15 feet of elevation below drainage. Some areas of the mine will extend as far as four miles from the portals. Therefore, all entries must be utilized to the fullest extent in the circulation of air to the working places. In order to most efficiently ventilate the working places and to maintain a bleeder system workable in all phases of the mining operation, a split system of face ventilation will be used with intakes up the middle entries and returns on the outside entries. Due to high quartz content in the strata common to this region, there are inherent problems with dust concentrations. A split air system with line brattice exhausting at the face is best suited to controlling respirable dust at the face.

3. As an alternate method, petitioner proposes to use air from belt haulage entries to ventilate the active working places. In support of this request, petitioner proposes to install low level carbon monoxide (CO) monitoring devices in all belt entries used as intake air courses. Petitioner further states that:

a. The devices will give early warning automatically when a fire occurs in the belt entry and provide both audible and visual signals that permit rapid location of the fire;

b. The automatic fire detection system will be calibrated to activate the warning signals should the carbon monoxide concentration reach 10 p.p.m. above ambient;

c. The automatic fire detection system will, upon activation, provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. The automatic fire detection system will provide identification of any activated sensor. In addition, the detector located at or near the section loading point will activate when carbon monoxide is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire in the belt entry, will be immediately withdrawn from the endangered area of the mine to a safe area;

d. The person at the manned location on the surface will be trained in the operation of the CO monitoring system and in the proper procedures to follow in the event of an emergency;

e. The CO monitoring devices will be located so that the air is monitored at each belt drive, tail piece, and other locations as may be required by the District Manager to ensure safety of the miners;

f. The details for the fire detection system, including but not limited to type of monitor, sensor location, alarm system, maintenance and calibration schedule will be included as a part of the ventilation system and methane and dust control plan required by § 75.316;

g. Should the automatic fire detection system be affected by a power interruption or other malfunction, the belt conveyors can continue to operate if a qualified person is stationed at each malfunctioning sensor to continuously monitor for carbon monoxide with a suitable instrument;

h. Each carbon monoxide monitor and sensor will be visually examined at least once each 24 hours to ensure proper functioning. The units will be checked weekly for proper operation of the built-in safety features and other checks recommended by the manufacturer. At least every 30 calendar days, the monitors will be checked for operating accuracy with a known concentration of carbon monoxide gas and calibrated as necessary. A record will be kept of these tests and be made available to all interested persons;

i. The construction of the stoppings separating the belt haulage entry from the intake escapeway will be of concrete blocks, cinder blocks, brick or tile with mortared joints. The blocks may be stacked providing the stoppings are plastered on both sides with a material having the same strength as that of mortared joints;

j. Low level carbon monoxide sensors will not be used where the velocity of the air current in the belt conveyor entry is less than 50 feet a minute or where the air current does not have a definite and distinct directional movement; and

k. The velocity of the air current in the belt entry will not exceed 300 feet per minute.

4. In conclusion, petitioner states that this requested modification to allow the use of air from belt haulage entries to ventilate the active working places is a vital part of the overall ventilation system for the health and safety of the miners, as this is the best source for improving the quantity of intake air reaching the active working places.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17011 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-139-C]

Southern Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Ohio Coal Company, P.O. Box 490, Athens, Ohio 45701 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Meigs No. 1 Mine (I.D. No. 33-01172) and its Meigs No. 2 Mine (I.D. No. 33-01173), both located in Meigs County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines.

2. As an alternate method, petitioner proposes to use metal locking devices, each consisting of a fabricated metal bracket and a metal locking device (harness snap) in lieu of padlocks to secure battery plugs to machine-mounted battery receptables on permissible, mobile, battery-powered machines. The metal locking device will be designed, installed and used to prevent the threaded rings securing the battery plugs to the battery receptacles from unintentionally loosening. The fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets. The locking device will be securely attached to the brackets to prevent accidental loss of the locking devices.

3. Petitioner states that the harness snaps will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the

proper use of the locking device, trained in the hazards of breaking battery-plug connections under load, and trained in the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1984. Copies of the petition are available for inspection at that address.

Dated: June 19, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-17008 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-70; Exemption Application No. D-3604 et al.]

Grant of Individual Exemptions; Third Revised Profit Sharing and Retirement Plan of International Rectifier Coporation et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments in the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, setion 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713), October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Third Revise Profit Sharing and Retirement Plan of International Rectifier Corporation et al. (the Pan) Located in Los Angeles, California

[Prohibited Transaciton Exemption 84-70; Exemption Application No. D-3604]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the continuation past June 30, 1984, of the leases of five parcels of real property (the Properties) by the Plan to International Rectifier Corporation (the Employer), the sponsor of the Plan, provided that (1) the terms and conditions of the leases are at least as favorable to the Plan as the Plan could obtain in similar transactions with unrelated parties; and (2) after December 31, 1987 the aggregate value of the Properties leased to the Employer at anytime will not exceed 25 percent of the assets of the Plan.

Effective Date: The effective date of this exemption, is July 1, 1984.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 1, 1984 at 49 18636.

For Further Information Contact: Louis Campagna of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Bruce J. Rice, M.D., and Barry R. Weiss, M.D., Inc. Employees' Money Purchase Pension Plan and Trust and Bruce J. Rice, M.D., and Barry R. Weiss, M.D., Inc. Employees' Profit-Sharing Plan and Trust (collectively, the Plans) Located in Oakland, California

[Prohibited Transaction Exemption 84-71; Exemption Application Nos. D-3986 and D-3987]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The sale by the individual participant accounts (the Accounts) of Bruce J. Rice (Rice) and Cathie Davis in the Plans of certain residential real property to Rice, a party in interest with respect to the Plans; and (2) the extension of credit by the Accounts to Rice, provided that the price paid in such sale is no less than the fair market value of the subject property at the time of such sale, and provided that such extension of credit is on terms at least as favorable to the Accounts as could be expected in dealing with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17609.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Stair Cargo Services, Inc. Employees Profit-Sharing Plan (the Plan) Located in Miami, Florida

[Prohibited Transaction Exemption 84-72; Exemption Application No. D-4419]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The sale of a parcel of real estate (the Property) from the Plan to Stair Realty (Stair), a party in interest with respect to the Plan,

at the higher of (a) its appraised fair market value or (b) the total expenditures incurred by the Plan in connection with the acquisition and holding of the Property through the date of sale. In addition, Stair will assume the unpaid balance due on the land contract (the Contract) which encumbers the Property; and (2) the possible assignment of the Contract by the Plan to Stair.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 1, 1984 at 49 FR 18641.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

New England Nuclear Corporation Pension Plan and Trust (the Plan) Located in Boston, Massachusetts

[Prohibited Transaction Exemption 84-73; Exemption Application No. D-4648]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale in 1981 by the Plan to E. I. du Pont de Nemours & Company, a party in interest with respect to the Plan, of 358 shares of Conoco Inc. common stock, provided that the amount received was no less than the fair market value of the stock on the date of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17612.

Effective Date: The exemption is effective July 24, 1981.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Carvel Retirement Trust Plan (the Plan) Located in Yonkers, New York

[Prohibited Transaction Exemption 84-74; Exemption Application No. D-4653]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchases by the Plan of customer notes with remaining terms of 36 to 48 months (the Additional Notes) from the Carvel Corporation (Carvel), the sponsor of the Plan; provided the following conditions are met:

A. All conditions of Prohibited Transaction Exemption 79-9 (PTE 79-9, 44 FR 17819, March 23, 1979) shall be satisfied except for the condition relating to the remaining term of customer notes secured by tangible personal property other than heavy equipment or motor vehicles.

B. Prior to the purchase by the Plan of any Additional Notes, the Independent Fiduciaries (as identified in the notice of proposed exemption) of the Plan must review such proposed purchase and approve such purchase only after a specific determination that the purchase will be for the exclusive benefit of the Plan and in the best interests and protective of the participants and beneficiaries of the Plan.

C. Any Additional Notes purchased by the Plan must yield an annual return of no less than 10%.

D. The Plan shall not purchase any Additional Note if, after such purchase, more than 5% of the Plan's total assets would be invested in the customer notes of any one Carvel dealer.

E. At any time after the purchase by the Plan of an Additional Note, the Employer shall repurchase any Additional Note from the Plan at the request of both of the Independent Fiduciaries and shall bear all expenses related thereto.

F. This exemption shall expire five years from the date of grant.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 1, 1984 at 49 FR 18642.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Garrett Book Company Employee Pension Trust (the Plan) Located in Ada, Oklahoma

[Prohibited Transaction Exemption 84-75; Exemption Application No. D-4602]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale, on October 15, 1982, of certain real property (the Real Property) by the Plan to Mr. and Mrs. Lionel Garrett for the cash amount of $20,000, provided the price paid for the Real Property was not less than its fair market value at the time the sale was consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 17, 1984 at 49 FR 15162.

Effective Date: This exemption is effective October 15, 1982.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Colorado Automobile Dealers Association Insurance Trust (the Trust) Located in Denver, Colorado

[Prohibited Transaction Exemption 84-76; Exemption Application No. D-4839]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the purchase by the Trust of an automobile from a new car dealer who is a member of the Colorado Automobile Dealers Association, the sponsor of the Trust; provided that the terms of the proposed transaction are on terms not less favorable to the Trust than those available in transactions with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17616.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Profit Sharing Plan and Trust of Northern Wire and Cable, Inc. and Pension Plan and Trust of Northern Wire and Cable, Inc. (the Plans) Located in Troy, Michigan

[Prohibited Transaction Exemption 84-77; Exemption Application Nos. D-4866 and D-4867]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plans of certain unimproved real property to Northern Wire and Cable, Inc., the sponsor of the Plans, provided that such sale is on terms which are at least as favorable to the Plans as those

which the Plans could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17616.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Atlas Industries, Inc. Employees Stock Ownership Plan (the Plan) Located in Carnegie, Pennsylvania

[Prohibited Transaction Exemption 84-78; Exemption Application No. D-4926]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the proposed loan (the Loan) by the Plan to Atlas Industries, Inc. (the Employer), the sponsor of the Plan; and (2) the personal guarantee of the obligation of the Employer in such Loan by Mr. William A. Bayer, a party in interest with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17620.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

Berton A. Lowell, D.D.S., P.A. Profit Sharing Plan and Trust (the Plan) Located in Ft. Lauderdale, Florida

[Prohibited Transaction Exemption 84-79; Exemption Application No. D-4959]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale, for $150,000 in cash, of certain real property (the Real Property) by the Plan to Dr. and Mrs. Berton Lowell, provided the sales price of the Real Property is not less than its fair market value at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 1, 1984 at 49 FR 18649.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Delong's, Inc. Profit Sharing Trust Plan (the Plan) Located in Jefferson City, Missouri

[Prohibited Transaction Exemption 84-80; Exemption Application No. D-5113]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of a parcel of improved real property located at 1811 Industrial Drive, Jefferson City, Missouri, by the Plan to Delong's, Inc. for $77,500 in cash, provided that this amount is not less than the fair market value at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17625.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

San Marino Ophthalmological Medical Clinic, Inc. Defined Benefit Pension Plan (the Plan) Located in San Marino, California

[Prohibited Transaction Exemption 84-81; Exemption Application Nos. D-5248, D-5249 and D-5250]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan for two years of $71,058 by the Plan to San Marino Ophthalmological Clinic, Inc., which employs Plan participants, provided the terms of the transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 24, 1984 at 49 FR 17626.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction;

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 21st day of June, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-16989 Filed 6-25-84; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Federal Employees; Review of Agency Actions Taken Under 5 U.S.C. 4303; Opportunity To File Amicus Briefs in Board Proceedings

AGENCY: Merit Systems Protection Board.

ACTION: Notice of opportunity to file amicus briefs in certain appeals of agency actions taken under 5 U.S.C. 4303.

SUMMARY: The Merit Systems Protection Board provides an opportunity to file amicus briefs on significant issues of law common to a number of cases pending before the Board involving appeals of agency actions taken under 5 U.S.C. 4303.

DATE: Amicus briefs submitted in response to this notice shall be filed with the Acting Secretary of the Board on or before July 26, 1984.

ADDRESS: All briefs shall be captioned "Chapter 43 Appeals, No. 48 FR 000 (1984)" and entitled "Amicus Brief." All briefs shall also contain separate, numbered headings for each issue discussed. The original and fourteen (14) copies of each amicus brief submitted in response to this notice shall be filed with the Office of the Secretary of the Board and addressed to Paula A. Latshaw, Acting Secretary, Merit Systems Protection Board, Attn: Chapter 43 Appeals, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Paula A. Latshaw, Acting Secretary, Merit Systems Protection Board, (202) 653-7200. For copies of the Initial Decisions in the referenced cases, contact Kathleen O'Sullivan, Director, Research Services Divisions, Merit Systems Protection Board, (202) 653-7132.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board currently has before it numerous petitions for review of initial decisions issued by the Board's regional offices in appeals taken under 5 U.S.C. 4303. The Board has identified several cases, listed below, which address significant issues of law common to a large number of these appeals and finds it appropriate to provide an opportunity for the filing of amicus briefs addressing these issues. These cases include the following:

Thomas J. Griffin v. *Department of the Army*, MSPB Docket No. CH0752821063 (April 8, 1983);

Montine B. Callaway v. *Department of the Army*, MSPB Docket No. PH04328310029 (August 3, 1983);

Jack L. Larrimore v. *Department of the Treasury*, MSPB Docket No. AT04328310090 (October 24, 1983);

Leroy Sandland v. *General Services Administration*, MSPB Docket No. PH04328310205 (November 22, 1983);

Lenwood L. Buggie v. *Department of Health and Human Services*, MSPD Docket NO. NY04328210249 (July 9, 1982);

Dze K. Kao v. *Department of the Army*, MSPB Docket No. SE04328310109 (January 31, 1984);

Moses B. Sanchez v. *Department of the Air Force*, MSPB Docket No. DE04328310102 (June 27, 1983);

Janet Hill v. *Department of Health and Human Services*, MSPB Docket No. DC04328310306 (September 26, 1983). (A petition for review is not pending in this case but the case is before the Board pursuant to the Board's remand motion, which was granted by the U.S. Court of Appeals for the Federal Circuit.)

This notice represents the Board's offer to receive and consider amicus briefs from interested parties on the issues relevant to these appeals including:

I. Proof of a Performance Appraisal System Reviewed and Approved by the Office of Personnel Management (OPM)

A. Whether the agency's compliance with 5 U.S.C. 4304 (which requires OPM to review each agency's performance appraisal system and determine whether it meets statutory requirements) and 5 CFR 430.301 (1983) (which required agencies to implement approved performance appraisal systems by October 1, 1981) is an element of proof in an action taken under 5 U.S.C. 4303?

B. If so, what burden of proof and evidentiary standards are applicable to the issue of the agency's compliance with 5 U.S.C. 4304 and 5 CFR 430.301 (1983)? [For example, is compliance with these provisions an element of the agency's *prima facie* case, a rebuttal presumption, or an affirmative defense subject to one of the standards in 5 U.S.C. 7701(c)(2); and what evidentiary standard is applicable?]

C. When an agency brings an action under 5 U.S.C. 4303 after October 1, 1981 [the date agencies were required by 5 CFR 430.301 (1983) to implement an OPM-approved performance appraisal system], under what circumstances, if any, should the Board consider the action under the standards of 5 U.S.C. Chapter 75 in the absence of proof of compliance with these provisions?

II. Absolute Performance Standards

A. Under what circumstances, if any, does a performance standard which is absolute (i.e., allows for no errors or deviations) violate the provision of 5 U.S.C. 4302(b)(1) requiring the establishment of performance standards "which will, to the maximum extent feasible, permit accurate evaluation of job performance on the basis of objective criteria "?

B. If the Board finds that an agency action is partly based on an absolute performance standard which does not comply with 5 U.S.C. 4302(b)(1), should the Board consider the lack of compliance under the harmful procedural error standard [5 U.S.C. 7701(c)(2)(A)], or should the Board find that the agency's charges based on that standard cannot be considered because the action is not in accordance with law under 5 U.S.C. 7701(c)(2)(C)?

C. If an agency action is based solely on an absolute standard or standards found not in compliance with 5 U.S.C. 4302(b)(1), under what circumstances, if any, should the Board consider the agency action under the standards of 5 U.S.C. Chapter 75?

III. Multiple Standards Describing Minimally Acceptable Performance for a Critical Element

A. Where a performance standard which describes minimally acceptable performance for a critical element contains several components, does a sustained charge of unacceptable performance on one component constitute proof that the employee's performance on the standard or critical element as a whole was unacceptable?

B. If not, what factors should the Board consider in determining whether or not unacceptable performance on a component of the standard constitutes unacceptable performance on the standard or critical element as a whole?

IV. Proof of an Opportunity To Demonstrate Acceptable Performance Under 5 U.S.C. 4302(b)(6)

A. Whether the agency's compliance with 5 U.S.C. 4302(b)(6) (which requires the agency to provide an employee with an opportunity to demonstrate acceptable performance) is an element of proof in an action taken under 5 U.S.C. 4303?

B. If so, what burden of proof and evidentiary standards are applicable to the issue of the agency's compliance with 5 U.S.C. 4302(b)(6)? [For example, is compliance with this provision an element of the agency's *prima facie* case, a rebuttal presumption or an affirmative defense subject to one of the standards in 5 U.S.C. 7701(c)(2); and what evidentiary standard is applicable?]

C. When an agency brings an action under 5 U.S.C. 4303, under what circumstances, if any, should the Board consider the action under the standards of 5 U.S.C. Chapter 75 in the absence of proof of compliance with 5 U.S.C. 4302(b)(6)?

V Modification of Agency Actions

A. Whether the Board has the authority to modify removal or demotion actions taken pursuant to 5 U.S.C. 4303?

B. If so, under what standards?

C. Whether the Board may modify such removal or demotion actions to suspensions or other actions?

Dated: June 21, 1984.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 84-16965 Filed 6-25-84; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Demonstration Section) to the National Council on the Arts will be held on July 18-19, 1984, from 9:00 a.m.—5:30 p.m. in room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

June 19, 1984.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-16901 Filed 6-25-84; 8:45 am]

BILLING CODE 7537-01-M

Design Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Communication Section) to the National Council on the Arts will be held on July 12-13, 1984, from 9:00 a.m.-5:30 p.m. in room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

June 19, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84-16900 Filed 6-25-84; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on May 22, 1984 (49 FR 21581). Individual authorities established or revoked under Schedules A, B, or C between May 1, 1984 and May 31, 1984 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

Department of the Army

One scientific and professional research position in the U.S. Army Research and Technology Laboratories, the duties of which require specific knowledge of aviation technology in non-allied nations. Effective May 24, 1984.

Department of Commerce

Not to exceed 20 professional and scientific positions at grades GS-9 through GS-12 in the Bureau of the Census filled by participants in the ASA research trainee program. Employment of any individual under this authority may not exceed 2 years. Effective May 14, 1984.

Department of the Navy

One Director of Academic Planning, Naval Postgraduate School. Effective May 14, 1984.

Schedule B

No exceptions were established or revoked in Schedule B during the month of May.

Schedule C

The following exceptions are established:

Department of Agriculture

One Director, Office of Information. Effective May 14, 1984.

One Private Secretary to the Assistant Secretary for Administration. Effective May 15, 1984.

One Private Secretary to the Deputy Assistant Secretary for Science and Education. Effective May 23, 1984.

Department of Commerce

One Special Assistant to the Deputy Assistant Secretary for the Economic Development Administration. Effective May 4, 1984.

One Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy, International Trade Administration. Effective May 8, 1984.

One Congressional Liaison Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 17, 1984.

Department of Defense

One Special Assistant to the Principal Deputy Assistant Secretary (Public Affairs). Effective May 15, 1984.

One Private Secretary to the Deputy Under Secretary of Defense for

Research and Engineering (International Program and Technology). Effective May 15, 1984.

One White House Director of Television Services to the President/Director of Support Services, White House Support Group. Effective May 30, 1984.

Department of Education

One Executive Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective May 2, 1984.

One Special Assistant to the Deputy Assistant Secretary for Higher Education Programs. Effective May 4, 1984.

One Special Assistant to the Deputy Under Secretary for Planning, Budget and Evaluation. Effective May 15, 1984.

Department of Energy

One Confidential Assistant to the Inspector General. Effective May 2, 1984.

One Private Secretary to a Member, Federal Energy Regulatory Commission. Effective May 4, 1984.

One Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy. Effective May 24, 1984.

Department of Health and Human Services

One Staff Assistant to the Secretary. Effective May 2, 1984.

One Confidential Staff Assistant to the Chief of Staff. Effective May 4, 1984.

One Confidential Staff Assistant to the Assistant Secretary for Planning and Evaluation. Effective May 4, 1984.

One Director, Office of Intergovernmental Communications, Social Security Administration. Effective May 15, 1984.

One Special Assistant to the Assistant Secretary for Legislation. Effective May 15, 1984.

One Special Assistant to the Executive Administrative Assistant to the Secretary. Effective May 18, 1984.

One Special Assistant to the Senior Advisor to the Secretary. Effective May 23, 1984.

Department of Housing and Urban Development

One Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs. Effective May 23, 1984.

One Special Assistant to the Deputy Assistant Secretary for Operations and Management. Effective May 24, 1984.

One Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation and Congressional Relations. Effective May 30, 1984.

One Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs. Effective May 31, 1984.

Department of the Interior

One Special Assistant to the Assistant Secretary for Land and Minerals Management. Effective May 15, 1984.

One Special Assistant to the Counselor to the Secretary. Effective May 17, 1984.

One Special Assistant to the Counselor to the Secretary. Effective May 17, 1984.

Department of Justice

One Special Assistant to the Assistant Attorney General, Antitrust Division. Effective May 23, 1984.

One Confidential Assistant and Private Secretary to the Chairman, Foreign Claims Settlement Commission. Effective May 30, 1984.

Department of Labor

One Staff Assistant to the Deputy Under Secretary for International Affairs. Effective May 23, 1984.

One Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration. Effective May 29, 1984.

Department of State

One Deputy to the Ambassador-at-Large and Special Advisor to the Secretary. Effective May 17, 1984.

One Special Assistant to the Ambassador-at-Large and Special Advisor to the Secretary. Effective May 18, 1984.

One Deputy Assistant Secretary for Congressional Relations to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective May 18, 1984.

One Protocol Officer (Visits) to the Chief of Protocol. Effective May 23, 1984.

One Staff Assistant to the Ambassador-at-Large and Special Advisor to the Secretary. Effective May 23, 1984.

One Secretary (Typing) to the Assistant Secretary for the Bureau of International Organization Affairs. Effective May 23, 1984.

One Public Affairs Specialist to the Deputy Assistant Secretary for Public Affairs. Effective May 23, 1984.

Department of Transportation

One Private Sector Initiatives Coordinator to the Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration. Effective May 23, 1984.

One Special Assistant to the Deputy Secretary. Effective May 23, 1984.

One Special Assistant to the Administrator, Urban Mass Transportation Administration. Effective May 29, 1984.

One Staff Assistant to the Director, Office of Commercial Space Transportation. Effective May 31, 1984.

Department of the Treasury

One Special Assistant to the Assistant Secretary for Public Affairs. Effective May 2, 1984.

One Special Assistant to the Assistant Secretary for Legislative Affairs. Effective May 17, 1984.

One Executive Assistant to the Assistant Secretary for Legislative Affairs. Effective May 18, 1984.

One Confidential Assistant to the Assistant Secretary for Legislative Affairs. Effective May 18, 1984.

One Staff Assistant to the Executive Secretary. Effective May 18, 1984.

One Staff Assistant to the Director of Revenue Sharing. Effective May 23, 1984.

One Staff Assistant to the Commissioner, United States Customs Service. Effective May 29, 1984.

ACTION

One Special Assistant to the Executive Officer. Effective May 23, 1984.

Agency for International Development

One Confidential Assistant to the President, African Development Foundation Effective May 7, 1984.

One Special Assistant to the President, African Development Foundation. Effective May 10, 1984.

One Special Assistant to the Assistant Administrator, Bureau for Private Enterprise. Effective May 17, 1984.

One Special Assistant to the Assistant Administrator, Bureau for Latin America and the Caribbean. Effective May 17, 1984.

One Congressional Liaison Officer to the Director, Office of Legislative Affairs. Effective May 29, 1984.

One Congressional Liaison Officer to the Director, Office of Legislative Affairs. Effective May 29, 1984.

One Congressional Liaison Officer to the Director, Office of Legislative Affairs. Effective May 29, 1984.

Commission on Civil Rights

One Confidential Secretary to a Commissioner in San Antonio, Texas. Effective May 2, 1984.

One Confidential Secretary to the Staff Director. Effective May 18, 1984.

One Special Assistan to the Staff Director. Effective May 18, 1984.

Consumer Product Safety Commission

One Special Assistant to the Chairman. Effective May 31, 1984.

Environmental Protection Agency

One Special Assistant to the Director, Office of Public Affairs. Effective May 2, 1984.

One Special Assistant to the Executive Assistant to the Administrator, Office of the Administrator. Effective May 17, 1984.

One Congressional Liaison Specialist to the Director of Congressional Liaison. Effective May 30, 1984.

Equal Employment Opportunity Commission

One Special Assistant to the Chairman. Effective May 2, 1984.

One Staff Assistant to the Chairman. Effective May 17, 1984.

Exective Office of the President

One Legislative Assistant to the Assistant Director for Legislative Affairs, Office of Management and Budget. Effective May 2, 1984.

Federal Emergency Management Agency

One Special Assistant to the Director, Office of the Director. Effective May 23, 1984.

Federal Trade Commission

One Director, Office of Public Affairs. Effective May 15, 1984.

Interstate Commerce Commission

One Confidential Assistant to a Commissioner. Effective May 29, 1984.

International Trade Commission

One Staff Assistant (Economics) to a Commissioner. Effective May 15, 1984.

One Staff Assistant (Legal) to a Commissioner. Effective May 15, 1984.

Office of Personnel Management

One Staff Clerk (Typing) to the Confidential Assistant to the Director, Office of the Director. Effective May 18, 1984.

Pension Benefit Guaranty Corporation

One Secretary (Typing) to the Deputy Executive Director for Resource Management, Office of the Executive Director. Effective May 17, 1984.

Securities and Exchange Commission

One Secretary to the Director, Division of Corporation Finance. Effective May 15, 1984.

One Executive Aide (Typing) to the Executive Assistant to the Chairman. Effective May 24, 1984.

Small Business Administration

One Confidential Assistant to the Regional Administrator in New York, New York. Effective May 2, 1984.

One Staff Assistant to the Administrator. Effective May 2, 1984.

One Deputy Assistant Administrator for Congressional and Legislative Affairs. Effective May 15, 1984.

One Special Assistant to the Associate Deputy Administrator for Management and Administration. Effective May 17, 1984.

One Special Assistant to the Associate Deputy Administrator for Special Programs. Effective May 21, 1984.

One Executive Assistant to the Administrator. Effective May 24, 1984.

Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Congressional and Intergovernmental Affairs. Effective May 29, 1984.

One Confidential Assistant to the Director of Intergovernmental Affairs. Effective May 30, 1984.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-16951 Filed 6-25-84 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Request for Review of Part B Medicare Claim.

(2) Form(s) submitted: G-790, G-791.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 4,100.

(7) Annual reporting hours: 1,025.

(8) Collection description: The Board administers the Medicare program for persons covered by the railroad retirement system. The requests provide the means for obtaining reviews of the determinations made by Travelers on claims for Part B Medicare benefits.

Additional information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 84-16887 Filed 6-25-84; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23336; 70-6989]

Alabama Power Co. and the Southern Co., Proposal by Subsidiary To Sell Existing Transmission Line to Nonaffiliate

June 20, 1984.

The Southern Company, 64 Perimeter Center East, Atlanta, Georgia 30346 a registered holding company, and its wholly owned subsidiary, Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, has filed a declaration with this Commission under Section 12(d) of the Public Utility Holding Company Act of 1935 and Rule 44 thereunder.

Alabama proposes to sell a transmission line, known as the Wiregrass-ECI-Bay Springs tap in Geneva County, Alabama to Alabama Electric Cooperative, Inc. ("AEC"), for $205,232.00 in cash. The conveyance includes a Trustee's release of the line from Alabama's first mortgage indenture lien. The sale will not affect an existing transmission service agreement, pursuant to which this line is now used by AEC to receive power from Alabama.

The declaration, and any amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 16, 1984 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at

law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A persons who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to degelated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16986 Filed 6-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23335; 70-6969]

The Columbia Gas System, Inc. and Columbia Gas Brokerage Corp., Proposal by Registered Holding Company To Acquire Common Stock of Subsidiary, Which Will Participate In Natural Gas Spot Market

June 20, 1984.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and its wholly owned subsidiary, Columbia Gas Brokerage Corporation ("CGB"), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, have filed an application-declaration with the Commission pursuant to Sections 6, 7, 9, 10, and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 16 and 43, thereunder.

The proposed transaction is intended to provide CGB with $200,000 in operating capital from the cash sale of common stock to Columbia, in the amount of 8,000 shares at $25 par value, to allow CGB to participate in U.S. Natural Gas Clearing House ("The Clearing House"). The Clearing House will be a limited partnership composed of a general partner (itself a partnership), and several limited partners, which will act as a broker in arranging purchases, sales and transportation of natural gas in the spot market.

CGB would participate, first, as a common stockholder in Clearing House Corporation, a member of the general partnership owned by participating affiliates of pipeline companies, and secondly, as a limited partner. Under the proposal, CGB would provide a *pro rata* share of The Clearing House's expenses, and the services of one employee on loan to CGB from an affiliate, at cost.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 16, 1984 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issue of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16333 Filed 6-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21071; SR-AMEX-84-17]

Self-Regulatory Organizations; American Stock Exchange; Filing and Order Granting Accelerated Approval of Proposed Rule Change

June 20, 1984.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 7, 1984, the American Stock Exchange, Inc. ("AMEX") 86 Trinity Place, New York, New York 10006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Amex Rule 904C to permit an increase in position and exercise limits for the Computer Technology Index ("XCI") from the current 4,000 contract limit to 8,000 contracts. Currently, the trading of narrow-based or industry index options on Amex is governed by a three-tiered position and exercise limit structure. Limits are set at 4,000, 6,000 or 8,000 contracts, depending on the degree of concentration of the index.[1] The position and exercise limits adopted by Amex are identical to ones approved by the Commission for other exchanges trading narrow-based index options.[2] Because a single component stock, International Business Machines ("IBM") constitutes more than fifty percent of the value of XCI, the index is subject to a 4,000 contract limit, the lowest position and exercise limit applicable to narrow based index options.

In its rule filing, Amex asserts that though XCI is presently being used in conjunction with numerous trading strategies (*e.g.*, hedging portfolios composed of various computer technology stocks), the present position and exercise limits imposed on XCI prevent market participants from fully utilizing the index, and thus have hindered the development of the index.

Originally, position and exercise limits for stock options were approved by the Commission to prevent the establishment of large options positions that might be used to manipulate the underlying market to benefit the options positions.[3] In addition to this concern, the Commission's original approval of three-tiered position and exercise limits for narrow-based index options addressed concerns with respect to the potential use of narrow-based index options to circumvent limits applicable to positions held in options on individual stocks. The Commission continues to believe that it is necessary to avoid conferring any regulatory advantage on narrow-based index options over individual stock options by approving position and exercise limits on narrow-based index options that are generally equivalent to those applicable to individual stock options.

At its current price and weight in the index, one XCI contract confers an equity position equivalent to roughly 50 shares of IBM. One IBM individual stock option establishes an equity position twice that large. Hence, the Commission does not find a doubling of the size of the XCI option position and exercise limits results in a competitive advantage over the IBM individual stock options contract. In addition, because of the substantial public float in IBM and the extremely deep and liquid markets that

[1] *See* Amex Rule 904C.

[2] *See, e.g.*, Chicago Board Options Exchange, Incorporated ("CBOE") Rule 24.4(b); New York Stock Exchange, Inc. ("NYSE") Rule 704(c), and Philadelphia Stock Exchange, Inc. ("Phlx") Rule 1001A, approved in Securities Exchange Act Release Nos. 20125, August 26, 1983, 48 FR 40048, September 2, 1983; 20683, February 17, 1984, 49 FR 7171, February 27, 1984; and 20437, December 2, 1983, 48 FR 55223, December 9, 1983, respectively.

[3] *See e.g.*, Securities Exchange Act Release No. 19375, July 15, 1983.

exist in IBM stock and IBM options, the Commission does not find that this proposal will result in materially increased manipulation or disruption concerns.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-Amex-84-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the rule change approved herein has been published in the Federal Register as part of SR-Amex-84-8 with adequate opportunity for public comment.[4] No comment letters have been received on that filing.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84-16934 Filed 6-25-84; 8:45 am]
BILLING CODE 8010-01-M

[4] *See* Securities Exchange Act Rel. No. 20946, May 9, 1984; 49 FR 20965, May 17, 1984.

[Release No. 34-21070; Filed No. SR-AMEX-84-19]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Miscellaneous Office Rule Amendments

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 6, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The American Stock Exchange, Inc. ("Amex" or the "Exchange") is proposing to amend Rules 300 and 301 to require the submission of all member firm partnership agreements and amendments; to amend Rule 341 to limit Exchange approval to certain corporate officers, and to delete Rule 344 to eliminate an out-of-date membership requirement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The Exchange is proposing a number of membership rule changes as part of its continuing program to ensure that the Exchange's rules remain up-to-date and are as uniform as possible with New York Stock Exchange rules. Each of the proposed changes is reviewed separately below.

Submission of Documents

To assure that member organizations comply with the requirements of the Amex Constitution and Rules, it is necessary for the Exchange to review all essential corporate and partnership documents. Amex Rule 310 requires the submission of principal corporate documents such as the certificate of incorporation. In contrast, Amex Rules 300 and 301, which apply to partnerships, provide that essential partnership documents need only be submitted upon the request of the Exchange. While it is Exchange policy to routinely request their submission, it is proposed that Rules 300 and 301 be amended to require that partnership agreements and amendments be submitted without the need for an Exchange request. This will conform Exchange requirements for partnerships and corporations, while providing better notice of our filing requirements.

Corporate Officers

The Exchange is proposing to amend Rule 341 to provide that only corporate officers who have authority to legally bind the corporation must file an allied member application and receive Exchange approval. This change will ease the administrative workload of member organizations and the Exchange while continuing to assure adequate regulation of corporate principals. The New York Stock Exchange recently amended its comparable Rule 345.

Nominal Employment

Rule 344 prohibits the nominal employment of any person by a member or member organization because of the business obtained by that person. This rule was adopted as anti-rebate provisions when fixed commission rates were in effect and this prohibition is no longer appropriate because fixed commission rates have been abolished. The NYSE recently deleted a comparable provision in its Rule 345. It is therefore proposed that Amex Rule 344 be deleted.

(2) *Basis.* The proposed amendments are consistent with Section 6(b) of the Exchange Act, in general, in that they are designed to ensure that the Exchange's rules remain up-to-date and as uniform as possible with New York Stock Exchange Rules, and are consistent with Sections 6(b)(1) and 6(b)(5), in particular, in that they help enforce compliance with Exchange rules and eliminate regulation not related to the purpose of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendments to Rules 300, 301 and 344 will not impose a burden on competition, while the proposed amendment to Rule 341 will eliminate a burden by alleviating member organizations' excess administrative workload.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determined whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., 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 in the caption above and should be submitted by July 17, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 20, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16335 Filed 6-25-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21067; SR-NYSE-84-2]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Partial Approval of Proposed Rule Change

June 19, 1984.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York, submitted on April 23, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to authorize the opening of new series of index options at a new higher (or lower) exercise price when the index value climbs (or falls) to a value 2.5 points lower (or higher) than the highest (or lowest) exercise price then trading. Current NYSE rules require that the index value actually reach the highest (or lowest) exercise price then trading before new series at a higher (or lower) exercise price may be added. In addition, the NYSE proposes to permit the introduction of series of index options up to the beginning of the calendar month in which the options series expires. Thus, it would permit the addition of series that have as few as 16 days left to expiration. Under current NYSE rules, new series of index options can only be added for options with at least 30 days left to expiration.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20911, April 30, 1984) and by publication in the Federal Register (49 FR 19426, May 7, 1984). No comments were received with respect to the proposed rule change.

The NYSE has consented to an extension of time to August 31, 1984, for Commission action pursuant to Section 19(b)(2) with respect to the portion of the filing that would allow the opening of new series of index options at a new higher (or lower) exercise price when the index value climbs (or falls) to a value 2.5 points lower (or higher) than the highest (or lowest) exercise price then trading.[1] The Commission, therefore, takes no action in this order with respect to that portion of the filing.

The remaining portion of the proposed rule change would allow the introduction of series of index options with as few as 16 days left to expiration.[2] The NYSE argues that the current 30 day rule prohibits the exchange from adding new exercise prices to the nearest term options, *i.e.*, the ones with one month or less left to expiration. In the past, the Commission traditionally has been concerned about the introduction of new options series in already trading expiration months that would have only a short period to expiration. While recognizing the utility of at-the-money options for investors, the Commission has questioned the need to introduce such series in nearby (as well as further out) expiration months in response to price changes in the underlying stock that occur shortly before expiration, particularly since there may be only limited liquidity because of the option's limited duration. At the same time, the Commission has recognized that options on stock indices have functioned as more short-term investment vehicles than options on individual stocks, particularly in its determination to permit index options to trade on a monthly expiration cycle.[3] For this reason, the Commission is satisfied that the benefits of making available to investors at-the-money index options in the expiring month, even if they have as few as 16 days to expiration, outweigh the concerns that

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[1] *See* letter dated June 8, 1984, from James E. Buck, Secretary, NYSE, to Michael Cavalier, Division of Market Regulation, SEC.

[2] Technically, the proposed rule change allows the introduction of new series of index options "other than for options expiring in the current month." Because options expire on the Saturday following the third Friday of the month, under the proposal no option could be added with less than 16 days to expiration.

[3] *See* Securities Exchange Act Release Nos. 20201 and 20414, September 20 and November 25, 1983; 48 FR 43747 and 54308, September 26 and December 1, 1983; where the Commission relied upon data indicating that trading in index options is concentrated in the nearest-to-expiration series to a far greater extent that is the case with individual stock options. While index options now expire in consecutive months, with the nearest term series never being more than 30 days away from expiration, individual stock options expire quarterly, so that the nearest term series is initially three months away from expiration. The cut-off date for the introduction of new exercise prices for individual stock options is 45 days before expiration. The instant proposal would, thus, make the cut-off date for the introduction of new exercise prices for index options in a sense symmetrical with the cut-off date used for individual stock options; both cut-off dates would be approximately the half-way point between the time when the option because nearest-to-expiration and the time when the option expires.

such options series may prove illiquid. The Commission also finds that the introduction of series of index options with as few as 16 days left to expiration is unlikely to lead to any substantial proliferation of index options series.[4] The Commission finds therefore, that this portion of the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned portion of the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16987 Filed 6-25-84; 8:45 am]

BILLING CODE 8010-01-M

[4] In this connection, the Commission notes that stock index values generally move much more slowly than do prices of individual stocks, so that the number of series of index options that might be added in any period of time due to movements in the value of the underlying index should be less than the number of series of individual stock options that might be added in that same time due to movements in the price of the underlying stock.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2151]

Missouri; Declaration of Disaster Loan Area

Jackson County in the State of Missouri constitutes a disaster area because of damage caused by tornadoes and flooding which occurred June 6, 1984. Applications for loans for physical damage may be filed until the close of business on August 20, 1984, and for economic injury until the close of business on March 20, 1985, at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, TX 75051, or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 215112 for physical damage and for economic injury the number is 618700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 20, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-16999 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Companies; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective *July 1, 1984,* and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is *13.395%* per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to Section 308(i) of the Small Business Investment Act, as amended by Section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: June 20, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-17000 Filed 6-26-84; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Investment Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Investment Policy Advisory Committee (the Advisory Committee) to be held Friday, July 13, 1984, from 10:00 a.m. to 12:00 noon in Washington D.C., will involve a review and discussion of current issues involving the investment and trade policies of the United States. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 84-16319 Filed 6-25-84; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 150—Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation above Flight Level 290 to be held on July 17-19, 1984 in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) approval of Minutes of the Sixth Meeting Held on April 26-27, 1984; (3) review of the Glossary; (4) review First Draft of the Committee Report; (5) report on Pacer Aircraft Calibration; (6) consideration of Draft Altimeter Specifications; (7) review and Discussion of Working Group Activities on System Performance Requirements, Altimetry System Errors, and Flight Technical Errors; (8) consideration of Initial Data Collection Planning; and (9) other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a

written statement to the committee at any time.

Issued in Washington, D.C., on June 18, 1984.

Karl F. Bierach,

Designated Officer.

[FR Doc. 84-16885 Filed 6-25-84; 8:45 pm]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Federal Accident Data Collection and Analysis Activities; Change of Meeting and Inquiry

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of change of date of public meeting, announcement of Federal Accident Data Collection and Analysis Activities, and request for comments.

SUMMARY: This notice announces a change of date of a public meeting (originally announced at 49 FR 20402, May 14, 1984) at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs, and at which NHTSA's accident data collection and analysis activities will be discussed. The public meeting, originally scheduled for July 11, 1984, will now be held on August 1, 1984. The agency seeks both written and oral comments on the use of federal accident data systems. The agency has chosen to combine the quarterly public meeting with a planned technical meeting on federal accident data activities to gain additional technical information on data collection and analysis as well as to reduce the costs which would be incurred if separate meetings were held.

DATES: Questions for the meeting relating to the agency's rulemaking, research, and enforcement programs, and submissions relating to accident data collection and analysis must be submitted in writing by July 11, 1984. The agency also seeks suggestions for future technical meetings. If sufficient time is available, questions received after the July 11 date may be answered at the meeting. The individual group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by July 11 and the issues to be discussed will be mailed to interested persons on or before July 23, and will be available at the meeting. A transcript of the meeting will be taken, copies of which will be available from the Docket Section. Requests to make a formal presentation at the accident data collection and analysis portion of the public meeting should be received on or before July 11. The public meeting will be held on August 1, 1984, beginning at 10:30 a.m.

ADDRESSES: Questions for the August 1 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW, Washington, D.C. 20590. The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan. Requests for participation in the accident data portion of the public meeting should be directed to the "Information Contact" specified below.

FOR FURTHER INFORMATION CONTACT: J. F Delahanty, NRD-30, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-1470).

SUPPLEMENTARY INFORMATION: On August 1, 1984, NHTSA will hold a meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs. The meeting will begin at 10:30 a.m., and will be held at EPA's laboratory facility in Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature.

At the close of the usual question and answer session a brief discussion of accident data collection and analysis activities will be held. Immediately thereafter (or on the following day, depending on available time), the agency will conduct a technical meeting at which presentations will be made regarding the accident data program. Several agency officials involved in the program will make presentations, and industry representatives and other interested individuals are invited to make similar technical presentations. Depending on the number of participants desiring to make presentations, the meeting may be carried over to August 2.

Issued on: June 20, 1984.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 84-16925 Filed 6-25-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. Public Debt Series No. 19-84]

Series F-1991; Treasury Notes

June 20, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,500,000,000 of United States securities, designated Treasury Notes of July 15, 1991, Series F-1991 (CUSIP No. 912827 QZ 8). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated July 9, 1984, and will bear interest from that date, payable on a semiannual basis on January 15, 1985, and each subsequent 6 months on July 15 and January 15 until the principal becomes payable. They will mature July 15, 1991, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available.

and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, July 3, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, July 2, 1984, and received no later than Monday, July 9, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in for the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in section 3.5., must be made or completed on or before Monday, July 9, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, July 5, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, July 9, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not

required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-16948 Filed 6-25-84; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circ. Public Debt Series No. 18-84]

Series M-1988; Treasury Notes

June 20, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,000,000,000 of the United States securities, designated Treasury Notes of June 30, 1988, Series M-1988 (CUSIP No. 912827 QY 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated July 2, 1984, and will bear interest from that date, payable on a semiannual basis on December 31, 1984, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1988, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regualtions governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, June 26, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 25, 1984, and received no later than Monday, July 2, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids.

Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for allotted securities must be made at the Federal Reserve Bank of Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, July 2, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, June 28, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, July 2, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-16949 Filed 6-25-84; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circ. Public Debt Series—No. 20-84]

Treasury Bonds of 2004

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Bonds of 2004 (CUSIP No. 912810 DK 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated July 10, 1984, and will bear interest from that date, payable on a semiannual basis on February 15, 1985, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 2004, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, July 5, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, July 4, 1984, and received no later than Tuesday, July 10, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7 Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Tuesday, July 10, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be

received from institutional investors no later than Friday, July 6, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, July 10, 1984. When payment has been submitted with the tender and the purchase price of allocated securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identifcation number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-16930 Filed 6-25-84; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 124
Tuesday, June 26, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:35 p.m. on Wednesday, June 20, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) adopt a resolution (A) making funds available for payment of insured deposits in Republic Bank of Kansas City, Kansas City, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Monday, June 18, 1984, (B) accepting the bid of Landmark Bank of Kansas City, Kansas City, Missouri, a newly-chartered State nonmember bank, for the transfer of the insured deposits of the closed bank, and (C) designating Landmark Bank of Kansas City as the agent for the Corporation for the payment of insured deposits of the closed bank; and (2) approve the applications of Landmark Bank of Kansas City, Kansas City, Missouri, for Federal deposit insurance and for consent to establish the sole branch of Republic Bank of Kansas City as a branch of Landmark Bank of Kansas City.

At the same meeting, the Board also considered a personnel matter.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters 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 matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 21, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-17002 Filed 6-22-84; 8:45 am]

BILLING CODE 6714-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

Meeting

June 21, 1984.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-4109), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: June 28, 1984, approximately 1:00 p.m. (following open meeting).

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Texas Gas Transmission Corporation and Lawrenceburg Gas Transmission Corporation, Docket No. CP84-209-000.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone: (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17041 Filed 6-22-84; 10:53 am]

BILLING CODE 6717-01-M

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FEDERAL ENERGY REGULATORY COMMISSION

NOTICE

June 21, 1984.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: June 28, 1984, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone: (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

794th Meeting—June 28, 1984, Regular Meeting (10:00 a.m.)

CAP-1: Project No. 814-004, Utah Power and Light Company
CAP-2: Project No. 3858-003, Idaho Renewable Resources, Inc., City of Ashton, Idaho
CAP-3: Project No. 6015-004, Charles D. Howard
CAP-4: Project No. 6955-002, Pan Pacific Hydro, Inc.
CAP-5: Project No. 7719-000, Myron and Nola Jones, Larry and Christie Oja
CAP-6: Project No. 7742-000, Long Shoals Hydro, Inc.
CAP-7: Project No. 7806-000, Richard and Georgenia Wilkinson
CAP-8: Project No. 7932-000, Donald A. Smith and Margaret E. Evans, d.b.a. Eastman Brook Hydro
CAP-9: Project No. 8013-000, Small Hydro East
CAP-10:
Project No. 7512-001, Granite Associates
Project No. 7834-001, WP, Inc.
CAP-11: Project No. 7640-001, WP, Inc.
CAP-12: Project No. 7833-001, WP, Inc.
CAP-13: Project No. 5363-003, Warrensburg Board and Paper Corp.
CAP-14:
Project Nos. 3493-003 and 006, Town of Summersville, West Virginia,
Project Nos. 8170-000 and 001, Southeastern Renewable Resources, Inc.
CAP-15:
Project Nos. 3749-000 and 009, Mitex, Inc.
Project Nos. 4210-000 and 002, Energenics Systems, Inc.
Project Nos. 5006-000 and 002, Central Montana Electric Generation and Transmission Corporation, Inc.
CAP-16: Project No. 4503-002, City of Westernport, Maryland

CAP-17:
Project No. 5293-000, Hydro Resource Company
Project No. 5324-000, Capital Development Company
Project No. 5950-001, Public Utility District No. 1 of Lewis County, Washington
Project No. 6194-000, Western Hydro Electric, Inc.
CAP-18: Project No. 7659-002, WP, Inc.
CAP-19: Project No 82-008, Alabama Power Company
CAP-20: Project No. 7030-002, Dryden Hydro Associates
CAP-21: Project No. 3321-004, Joseph M. Keating
CAP-22: Omitted
CAP-23: Project No. 7338-000, Yakima-Tieton Irrigation District
CAP-24: Project No. 7337-000, Yakima-Tieton Irrigation District
CAP-25: Omitted
CAP-26:
Project No. 4301-000, City of Gridley, California
Project No. 4490-001, Richvale Irrigation District, Sutter Extension Water District, Butte Water District and Biggs-West Gridley Water District
CAP-27: Docket No. ER82-481-010, Arizona Public Service Company
CAP-28: Docket No. ER79-150-012, Southern California Edison Company
CAP-29: Docket No. ER84-355-001, Virginia Electric and Power Company
CAP-30: Docket No. ER84-450-000, Arizona Public Service Company
CAP-31: Docket No. ER84-420-000, Connecticut Yankee Atomic Power Company
CAP-32: Docket No. ER84-270-000, New England Power Company
CAP-33: Docket No. ER81-779-009, Pennsylvania Power Company
CAP-34: Docket No. QF84-169-000, John W. Savage
CAP-35: Docket No. ER84-38-000, Otter Tail Power Company
CAP-36: Docket No. ER83-646-000, Union Electric Company
CAP-37: Docket No. ER83-652-000, Niagara Mohawk Power Corporation
CAP-38: Docket No. ER83-672-000, Baltimore Gas and Electric Company
CAP-39: Docket Nos. ER83-655-000, EL83-5-000 and EL83-25-000, Wisconsin Public Service Corporation
CAP-40: Docket No. EL83-4-000, Wabash Valley Power Association Inc. v. Northern Indiana Public Service Company
CAP-41: Docket No. ER82-211-003, Utah Power & Light Company

Consent Miscellaneous Agenda

CAM-1: Docket No. FA84-2-000, Eastern Edison Company
CAM-2: Docket Nos. RM84-6-000, 001 and 002, Refunds Resulting From Btu Measurement Adjustments
CAM-3: Docket Nos. RM84-8-000 and 001, Petition of Ashland Oil Inc., et al., for Expedited Establishment of Procedures for the Collection of Excess Royalty Payments
CAM-4: Docket No. RM79-76-088 (Texas-15), High-Cost Gas Produced From Tight Formations
CAM-5: Docket No. GP84-4-001, United Gas Pipe Line Company
CAM-6:
Docket No. GP80-24-002, Transcontinental Gas Pipe Line Corporation
Docket No. GP80-11-005, Columbia Gas Transmission Corporation
Docket No. GP80-15-004, Michigan Wisconsin Pipe Line Company
Docket No. GP80-23-002, Texas Gas Transmission Corporation
Docket No. GP80-16-000, Mid-Louisiana Gas Company
Docket No. GP80-17-000, Mississippi River Transmission Corporation
Docket No. GP80-5-002, Natural Gas Pipeline Company of America
Docket No. GP80-19-001, Panhandle Eastern Pipe Line Company
Docket No. GP80-33-000, South Texas Natural Gas Company
Docket No. GP80-20-001, Tennessee Gas Pipeline Company
Docket No. GP80-22-000, Texas Gas Pipeline Corporation
Docket No. GP80-25-001, Transeastern Pipeline Company
Docket No. GP80-26-002, Trunkline Gas Company
Docket No. GP80-41-033, United Gas Pipe Line Company
Docket No. GP80-42-001, Sea Robin Pipeline Company
Docket No. GP80-36-000, Northwest Pipeline Company
Docket No. GP80-32-000, Montana-Dakota Utilities Company
Docket No. GP80-21-002, Texas Eastern Transmission Corporation
Docket No. GP80-6-003, Arkansas Louisiana Gas Company
Docket No. GP80-28-000, Cimarron Transmission Company
Docket No. GP80-31-001, Cities Service Gas Company
Docket No. GP80-8-001, Colorado Interstate Gas Company
Docket No. GP80-45-000, Eastern Shore Natural Gas Company
Docket No. GP80-40-001, El Paso Natural Gas Company
Docket No. GP80-29-001, Florida Gas Transmission Company
Docket No. GP80-13-001, Kansas-Nebraska Natural Gas Company
Docket No. GP80-30-000, Mountain Fuel Supply Company
CAM-7: Docket No. GP80-23-001, Texas Gas Transmission Corporation
CAM-8: Docket No. RO82-72-001, Billy Bridewell, William J. Cobb, Burt E. Cobb, Eugene Jeffers and G. Vernon Whyte
CAM-9: Docket No. RA81-76-000, Navajo Refining Company
CAM-10: Docket Nos. RM83-1-000 and 001, Rules of Practice and Procedure: Reconsideration of Initial Decisions

Consent Gas Agenda

CAG-1: Docket Nos. TA82-2-33-023 and TA83-1-33-012 (Affiliated Entities), El Paso Natural Gas Company
CAG-2: Docket No. RP78-78-013, Natural Gas Pipeline Company of America
CAG-3: Docket Nos. RP83-30-019 and RP84-51-001, Transcontinental Gas Pipe Line Corporation
CAG-4: Docket No. RP82-14-005, Mountain Fuel Resources, Inc.
CAG-5: Docket No. TA84-2-29-003 (PGA84-2a, IPR84-2a), Transcontinental Gas Pipe Line Corporation
CAG-6: Docket No. RP84-86-000, Locust Ridge Gas Company
CAG-7: Docket Nos. RP84-82-000 and 001, Tarpon Transmission Company
CAG-8: Omitted
CAG-9: Omitted
CAG-10: Docket No. TA84-2-2-000, East Tennessee Natural Gas Company
CAG-11: Docket No. TA84-2-5-001 (PGA84-3 and IPR84-2), Midwestern Gas Transmission Company
CAG-12: Docket Nos. TA84-2-6-000 and 001, Sea Robin Pipeline Company
CAG-13: Docket Nos. TA84-2-9-000, TA84-2-9-001 (PGA84-2, GRI84-2, IPR84-2) and RP84-84-000, Tennessee Gas Pipeline Company
CAG-14: Docket No. TA84-2-11-000, United Gas Pipe Line Company
CAG-15: Omitted
CAG-16: Docket No. TA84-2-13-000, Gas Gathering Corporation
CAG-17: Docket No. TA84-2-22-001 (PGA84-4), Consolidated Gas Transmission Corporation
CAG-18: Docket No. TA84-2-55-000, Mountain Fuel Resources, Inc.
CAG-19: Docket Nos. TA84-1-16-003 (PGA84-1) and GP84-17-002, National Fuel Gas Supply Corporation
CAG-20:
Docket No. RP84-43-001, Southwest Gas Corporation v. Northwest Pipeline Corporation
Docket No. RP82-56-015, Northwest Pipeline Corporation
Docket Nos. ST83-700-001, ST83-701-001, ST83-702-001, ST83-703-001, ST83-704-001 and ST83-705-001, Northwest Pipeline Corporation
CAG-21: Docket No. RP78-62-013, Panhandle Eastern Pipe Line Company
CAG-22: Docket No. TA82-1-59-005, Northern Natural Gas Company
CAG-23: Docket No. TA84-2-33-000, El Paso Natural Gas Company
CAG-24: Docket No. TA84-54-000, Louisiana Nevada Transit Company
CAG-25: Docket No. TA84-2-56-000, Valero Interstate Transmission Company
CAG-26: Docket No. TA84-2-43-001, Northwest Central Pipeline Corporation
CAG-27:
Docket No. RP83-85-000, Northwest Central Pipeline Corporation v. Arkansas Louisiana Gas Company, a Division of Arkla, Inc.
Docket No. TA83-2-31-005, Arkansas Louisiana Gas Company, a Division of Arkla, Inc.
CAG-28: Docket No. RP81-130-000, et al., and RP83-25-000, Transwestern Pipeline Company
CAG-29: Docket No. RP81-20-002, U-T Offshore System
CAG-30: Docket Nos. ST83-17-000 and ST83-17-001, Pantera Energy Corporation

CAG-31: Docket No. CI84-339-001, Mesa Petroleum Company
CAG-32:
Docket No. CI78-782-001, Vsea, Inc.
Docket No. CI78-784-001, Ecee, Inc.
Docket Nos. CI78-785-001 and CI78-787-001, Pinto, Inc.
CAG-33: Docket No. CI83-12-044, Gas Producing Enterprises, Inc. (Costal Oil & Gas Corporation)
CAG-34: Docket Nos. RI74-188-030, RI74-188-032, RI75-21-025 and RI75-21-027, Independent Oil & Gas Association of West Virginia
CAG-35: Docket Nos. CP81-302-007 Through 014, CP81-303-006, 008 and 009, CP81-494-003 and 004, CP82-392-001, 002 and 004 and CP83-429-000, Natural Gas Pipeline Company of America
CAG-36: Docket No. CP84-119-002, Texas Eastern Transmission Corporation, ANR Pipeline Company and Chevron U.S.A., Inc.
CAG-37: Docket No. CP84-426-002, Trunkline Gas Company, Panhandle Eastern Pipe Line Company and Transcontinental Gas Pipe Line Corporation
CAG-38: Omitted
CAG-39: Docket No. CP84-437-003, Colorado Interstate Gas Company
CAG-40: Docket No. CP84-302-000, Trunkline Gas Company
CAG-41: Docket No. CP84-93-000, Northwest Pipeline Corporation
CAG-42: Docket No. CP84-255-000, the River Gas Company
CAG-43: Docket No. CP83-469-000, Kentucky West Virginia Gas Company
CAG-44: Docket Nos. RP81-130-012, RP83-25-011, TA83-1-42-005 and TA82-2-42-013, Transwestern Pipeline Company
CAG-45: Docket Nos. GT84-14-001 and RP81-49-013, Natural Gas Pipeline Company of America
CAG-46: Omitted

I. Licensed Project Matters

P-1:
Project No. 3654-001, Pacific Hydro, Inc., and City of Tenino, Washington
Project Nos. 4441-001 and 002, Pacific Power and Light Company, et al.
Project No. 4702-000, City of Centralia, Washington
P-2: Project Nos. 2959-003, 004 and 005, City of Seattle, Washington

II. Electric Rate Matters

ER-1: Docket No. ER84-416-000, Nevada Power Company
ER-2. Omitted

Miscellaneous Agenda

M-1: Docket No. RM84-16-000, Methodology for Sales of Electric Power to Bonneville Power Administration
M-2: Reserved
M-3: Reserved
M-4. Docket No. RM83-66-000, Revisions to Public Utility and Natural Gas Company Classification Criteria, Uniform Systems of Accounts, Form Nos. 1, 1-F, 2 and 2-A and Related Regulations
M-5: Docket No. SA80-40-004, RJB Gas Pipeline Company

Gas Agenda

I. Pipeline Rate Matters

RP-1: Omitted
RP-2: Omitted
RP-3: Docket No. OR84-2-000, Hydrocarbon Trading and Transport Company, Inc., v. Texas Eastern Transmission Corporation
RP-4: Docket Nos. TA80-2-21-008, 009, 010 and 011, et al., Columbia Gas Transmission Corporation, et al.
RP-5: Docket No. CP80-22-007 Through 010, Northern Natural Gas Company
RP-6: Omitted

II. Producer Matters

CI-1: Reserved

III. Pipeline Certificate Matters

CP-1: Docket No. TC83-6-000, Arkansas Louisiana Gas Company
CP-2: Docket No. CP83-502-003, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-17042 Filed 6-22-84; 10:59 am]
BILLING CODE 6717-01-M

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FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, July 2, 1984.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Eligibility issues regarding Federal Reserve Bank and Branch directors.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-17100 Filed 6-22-84; 3:45 pm]
BILLING CODE 6210-01-M

5

INTERNATIONAL TRADE COMMISSION

TIME AND PLACE: 2:30 p.m., Thursday, July 5, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
a. Disintegration of urinary calculi (Docket No. 1060).
b. Compound action metal-cutting snips and components thereof (Docket No. 1061).
c. Portable calculators (Docket No. 1062).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-17165 Filed 6-22-84; 3:54 pm]
BILLING CODE 7020-02-M

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SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 25, 1984, at 450 Fifth Street, NW., Washington, D.C.

An open meeting will be held on Wednesday, June 27, 1984, at 10:00 a.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway, Cox and Marinaccio voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting schedule for Wedensday, June 27, 1984, at 10:00 a.m., will be:

1. Consideration of whether to adopt revised regulations related to the preservation of records under the Public Utility Holding Company Act of 1935. For further information, please contact Grant G. Guthrie at (202) 272-7677.
2. Consideration of whether to adopt temporary rules and forms necessary to implement the EDGAR Pilot project. The proposed temporary rules and forms would adapt current rules to accommodate the electronic submission of documents to be filed by volunteer companies in the Pilot. The EDGAR Pilot is a project to develop and test, using actual filings, an electronic disclosure system, designated "EDGAR" for Electronic Data Gathering, Analysis and Retrieval. For further information, please contact Leslie A. Murphy at (202) 272-2589.

3. Consideration of whether to adopt a temporary new Rule 202.3a, which would offer filers the option to remit filing fees via mail or wire transfer to a lockbox depository located at the Mellon Bank, Pittsburgh, Pennsylvania. For further information, please contact Carol K. Scott at (202) 272-2474.

The subject matter of the closed meeting schedule for Wednesday, June 27, 1984, following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Wescoe at (202) 272-2092.

June 20, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-16983 Filed 6-21-84; 8:45 am]

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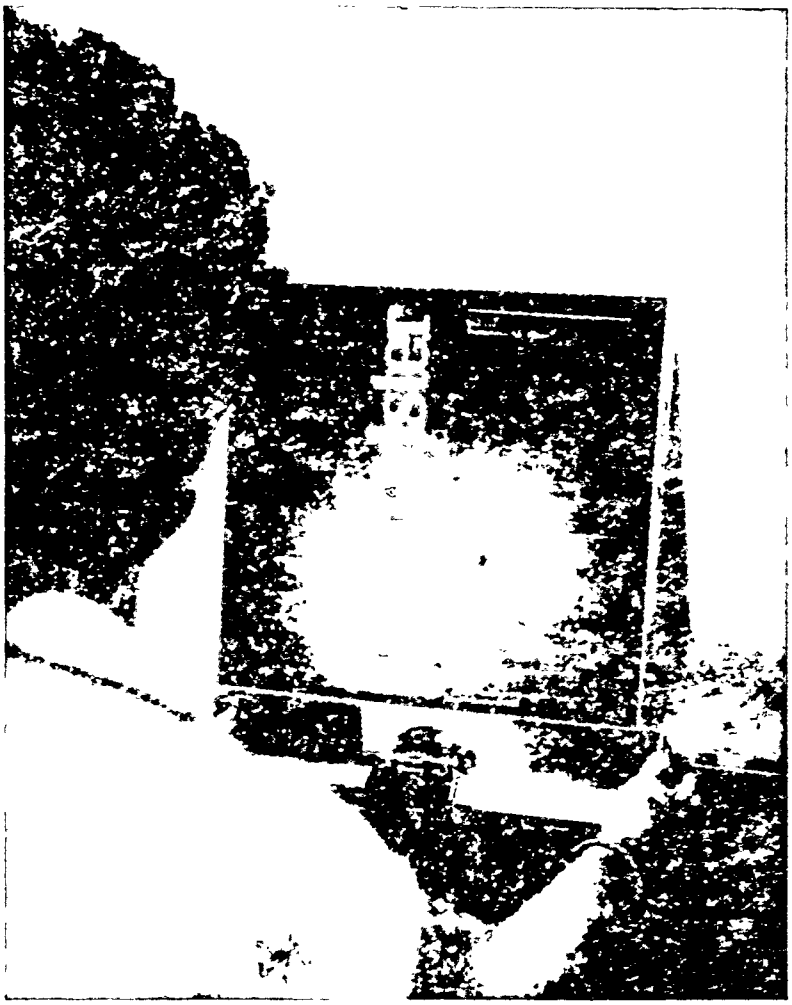

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