In § 92.2, paragraph (i) is amended to add a new subparagraph (2)(v) to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) * * *

(2) * * *

(v) Horses which have been temporarily exported from the United States to any country listed in paragraph (i)(1) of this section for a period not to exceed 60 days and have not been bred to any animal during the 60-day period are eligible for return to the United States without meeting the requirements of paragraph (i)(2)(iv) of this section if:

(A) They are accompanied at the time of entry and inspection at the port of entry by: (*1*) A copy of the United States health certificate issued for the exportation of the horse from the United States and endorsed in accordance with the export regulations in Part 91 of this chapter; (*2*) An import permit issued in accordance with § 92.4 of the regulations in this Part at the time of exportation; (*3*) A certificate signed or endorsed by a salaried veterinarian of each CEM-affected country which the animals have entered since their departure from the United States stating that during the time they were in each such country:

(*i*) The horses have been held separate and apart from all other horses except for the time they were actually participating in an event or were being exercised by their trainers;

(*ii*) The premises on which such horses were held were not used for any equine or horse breeding purpose;

(*iii*) That the horses were not bred nor had any other sexual contact or genital examination while in such country; and

(*iv*) That all transport while in such country was carried out in cleaned and disinfected vehicles in which no other horses were transported since such cleaning and disinfection.

(B) They are examined by a Veterinary Services inspector at the United States port of entry and are determined by him to be the identical animals covered by the health certificate, the import permit and the certificate signed by the appropriate salaried veterinarian of the foreign country, and are determined by the inspector to be free of communicable disease and exposure thereto; and

(C) They are quarantined and tested at the port of entry as provided in § 92.11(d) of this part prior to release.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, and 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments relieve certain restrictions presently imposed and should be made effective promptly to be of maximum benefit to affected persons. Further, the outdoor exhibition season for horses will begin shortly and therefore, in order to facilitate the return of horses to the United States without undue restrictions, these regulations should be placed into effect immediately. Also, it does not appear that notice and public participation with respect to these amendments would make additional relevant information available to the Department which would alter the decision in this matter.

Accordingly, the Department finds that notice of proposed rulemaking and other public participation regarding these amendments are impracticable, unnecessary and contrary to the public interest and accordingly under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 19th day of June 1978.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-17242 Filed 6-22-78; 8:45 am]

[3410-34]

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

Change in Disease Status of Brazil Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document designates Brazil as a country in which African swine fever, a contagious and infectious disease of swine, exists. Notice has been received that an outbreak of African swine fever has occurred in Brazil. The intended effect of this amendment is to restrict the entry into the United States of pork and pork products from Brazil, in order to protect domestic swine.

EFFECTIVE DATE: June 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. James D. Roswurm, USDA, APHIS, VS, Room 819, Federal Building, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus of African swine fever is highly virulent and may be present in pork and pork products originating in countries where the disease exists. The only known practical method of destroying the disease virus in pork and pork products is by heat treatment.

The Department has been informed that Brazil has announced the existence of African swine fever in that country. Therefore, this document amends § 94.8 of the regulations (9 CFR 94.8), which designates those countries where African swine fever exists, to include Brazil. This designation restricts the entry into the United States of pork and pork products from Brazil to pork and pork products which have been commercially sterilized by heat in hermetically sealed containers, or which are allowed controlled entry into the United States for further processing by heat.

Accordingly, Title 9, Part 94, Code of Federal Regulations is hereby amended in the following respect:

In § 94.8, at the end of the introductory paragraph, the name of Brazil is added after the reference to "All countries of Africa." and before "Cuba."

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141)

This amendment is of an emergency nature and must be made effective immediately to protect domestic swine against the introduction of African swine fever from Brazil. It excludes except with respect to in transit shipments of pork and pork products that are aboard a carrier moving to the United States at the time of issuance hereof. Such in transit shipments, upon arrival in the United States, shall either be allowed entry or be disposed of only under such specific requirements and in such a manner as the Administrator may determine, in each specific case, to be necessary and adequate to safeguard against the introduction or dissemination of African swine fever into the United States. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring the preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-17487 Filed 6-22-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

Extension of the Implementation Period for QA Program Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Effective rule.

SUMMARY: The U.S. Nuclear Regulatory Commission extends until January 1, 1979, the date for filing a description of a quality assurance program for transport packages. The original deadline of July 1, 1978 appeared in amendments published in the FEDERAL REGISTER on August 1, 1977. This extension is in response to requests from interested persons to delay implementation of the quality assurance criteria.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Doda, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, phone 301-443-6910.

SUPPLEMENTARY INFORMATION: On August 4, 1977, the Nuclear Regulatory Commission published effective amendments to its regulations in 10 CFR Part 71. These amendments included a requirement to file a description of a quality assurance (QA) program satisfying the criteria of Appendix E by July 1, 1978 (42 FR 39364). Although written comments or suggestions to these amendments were invited at that time, none were received.

The Commission has since received letters from interested persons questioning the applicability of these QA requirements to Agreement State licensees. Also, the Commission has received requests to delay implementation of the Appendix E criteria.

The Commission is in the process of addressing the question of the applicability of these QA requirements to Agreement State licensees. Because of this effort, and having considered other factors involved, the NRC has determined that a delay of 6 months in implementing the Appendix E criteria appears justified. A short-term delay will have no significant adverse effect on public health and safety because of existing specific QA provisions in Part 71 and the requirement for a QA program, which the staff imposes for approval of packagings for shipping irradiated fuel, high level waste, and plutonium. Accordingly, the Commission is amending its regulations by extending the date for filing a description of a QA program in § 71.51 to January 1, 1979.

Because this amendment relates solely to procedural matters, the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective upon publication in the FEDERAL REGISTER.

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 Title 10, Chapter I, Code of Federal Regulations, Part 71 is published as a document subject to codification.

In § 71.51, paragraphs (a), (b) and (c) are amended by deleting "July 1, 1978" and substituting therefor "January 1, 1979".

(Secs. 53, 62, 81, 161; Pub. L. 83-703, 88-489; 68 Stat. 930, 932, 935, 948, 78 Stat. 602 (42 U.S.C. 2073, 2092, 2111, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Bethesda, Md. this 21st day of June 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-17682 Filed 6-22-78; 10:04 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

SUBCHAPTER A—GENERAL RULES

[Docket No. RM78-15]

PART 1b—RULES RELATING TO INVESTIGATIONS

Establishment, Final Rule

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Federal Energy Regulatory Commission (Commission) sets forth the Commission's policy and procedures relating to investigations of persons and matters subject to its jurisdiction. The regulations adopted today are intended to state clearly the Commission's policy and procedures for investigations conducted under the statutes it administers.

EFFECTIVE DATE: June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomson vonStein, 825 North Capitol Street, Washington, D.C. 20426, 202-275-1832.

BACKGROUND: Notice is hereby given that the Federal Energy Regulatory Commission (the Commission) is amending Subchapter A of Title 18, Code of Federal Regulations, by establishing a new Part 1b, Rules Relating to Investigations, effective immediately.

The Commission has broad authority to investigate matters subject to its jurisdiction. Sections 5(b), 6(a), and 14 of the Natural Gas Act, Sections 206(b), 208(a) and 307, of the Federal Power Act, and Section 12 of the Interstate Commerce Act all authorize the Commission to investigate matters and persons subject to its jurisdiction. For example, Sections 14(a) of the Natural Gas Act and 307(a) of the Federal Power Act broadly authorize the Commission to—

> * * * investigate any acts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provisions of this Act or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this Act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation.

In addition, Section 12(i) of the Interstate Commerce Act, gives this

Commission the authority to "inquire into and report on the management of the business of all (oil pipelines) subject to the provisions of this chapter." This authority was transferred to this Commission by the establishment of the Department of Energy.

The Commission has not previously promulgated a set of regulations specifically designed to cover investigations. Rather, it has generally conducted investigations pursuant to its statutory authority on an ad hoc basis and where appropriate to applicable provisions of its rules of practice and procedure. The regulations adopted today are intended to state clearly the Commission's policy and procedures for investigations conducted under the statutes it administers.

These regulations, which are summarized below, are similar to rules relating to investigations used by other Federal agencies with regulatory mandates similar to those of the Commission. Regulations used by those agencies have been in use for a number of years, and are promulgated under statutory authority similar to that provided by the statutes administered by the Commission.

Summary of Part 1b

Section 1b.1 of Part 1b defines certain terms used in Part 1b.

Section 1b.2 states that the rules apply only to investigations and not adjudicative proceedings.

Section 1b.3 states the Commission may investigate any matters subject to its jurisdiction, which investigative authority is set out in Sections 206, 208, and 307 of the Federal Power Act, Sections 5, 6, and 14 of the Natural Gas Act and Section 12 of the Interstate Commerce Act.

Section 1b.4 provides that the Commission may, in its discretion, conduct either preliminary or formal investigations, which may be private or public. This formalizes established Commission policy, and provides for private investigations, which are appropriate in certain situations, such as when evidence of possible violations or knowing and willful violations, if made public before the investigation is complete or other action is taken, may prejudice the rights of witnesses or potential defendants, or may delay the investigation.

Section 1b.5 states that the Commission has the discretion to order a formal investigation, in which case it issues an Order of Investigation which will outline the basis for the investigation, the matters to be investigated, names the officer(s) who will have the authority to conduct the investigation, and their authority. The particular authority of officers conducting an investigation is derived from Section 307 of the Federal Power Act, Section 14 of the Natural Gas Act and Section 12 of the Interstate Commerce Act.

Formal investigations are appropriate when preliminary investigations indicate that compulsory process may be necessary to obtain information.

Section 1b.6 states that the Commission or its staff may, in its discretion, conduct preliminary investigations without formal order of the Commission. If a preliminary investigation indicates a need for a formal investigation or if compulsory process is required, the Commission may then initiate a formal investigation.

Section 1b.7 states that when it appears there has been a violation or may be a violation of the statutes administered by the Commission, or of the Commission's rules or orders, the Commission may take various actions including instituting administrative proceedings, seeking an injunction, or referring the matter to another governmental authority.

Section 1b.8 makes clear that anyone may request an investigation and that there are no formalities for such requests. This is designed to encourage as wide as possible a flow of information to the Commission from the public about matters it is concerned with. It is similar to § 1.6 of the rules of practice and procedure which concerns complaints. The requirements for requesting an investigation, however, are less formal than those for filing a complaint.

Section 1b.9 states that, unless otherwise made public by the Commission, or unless made public under the Freedom of Information Act, all information or documents obtained by the Commission in the course of an investigation shall not generally be available to the public.

Section 1b.10 describes the particular officers who may conduct a formal investigation.

Section 1b.11 distinguishes between the rights of intervenors or parties in adjudicative administrative proceedings and investigations where there are no respondents or parties as such. Administrative investigations have long been held not to require the full panoply of judicial procedures such as the right to participate and cross-examine. "Hannah v. Larch" 363 U.S. 420 (1960).

Section 1b.12 provides that only an official reporter may transcribe testimony given in an investigation and provides that witnesses may obtain copies of their testimony unless the director of the Office responsible for the investigation for good cause determines that they may not. In any case, witnesses may inspect their testimony. This supersedes § 1.21(b) of the rules of practice and procedure for purposes of Part 1b.

Section 1b.13 describes the particular actions which officers conducting formal investigations may take and parallels Section 14(b) of the Natural Gas Act and Section 307(b) of the Federal Power Act.

Section 1b.14(a) describes how subpoenas may be served. Section 1b.14 (b) and (c) establishes procedures to encourage compliance with subpoenas by requiring a subpoenaed party to explain why any subpoenaed documents were not produced in compliance with the subpoena and requires documents withheld under claim of attorney-client privilege to be listed so that the validity of the claim can be verified.

Section 1b.15 states that the Commission may enforce its subpoenas if necessary and that criminal penalties may also be used to enforce subpoenas.

Section 1b.16(a) states that on request witnesses must be shown the Commission's Order of Investigation and, if appropriate, may be furnished a copy of such order. Section 1b.16(b) states that persons giving evidence in an investigation may be represented by counsel but establishes procedures for disclosing possible conflicts of interest of attorneys who represent more than one person involved in an investigation. Section 1b.16(c) regulates the conduct of witnesses and counsel at hearings. It provides that witnesses may, at their discretion, make any statement they wish at the end of an investigative hearing.

Section 1b.17 makes the Commission's rule of practice relating to the representation and conduct of attorneys applicable to investigations.

Section 1b.18 states that persons involved in an investigation may submit any statement they wish during an investigation.

Section 1b.19 sets up a procedure whereby defendants in potential injunctive proceedings may, where appropriate in the interest of the proper administration of the law, be given the right to have their position presented to the Commission whenever the office responsible for the investigation recommends an enforcement action against such persons.

Finally, § 1b.20 deals with requests for confidential treatment of information furnished to the Commission in an investigation.

Effective Date

The Commission makes these regulations effective without prior notice and public procedure. Because they are interpretative rules, statements of policy and rules of agency procedure and practice, notice and public procedure thereon are not required under applicable administrative requirements, and the Commission considers it unnecessary to defer implementation awaiting public comment.

Although the Commission is making these regulations effective immediately, we welcome interested parties to submit comments or suggestions with respect to the regulations. The Commission will evaluate any information received and will consider appropriate revisions to the regulations. An original and 14 copies should be filed by July 24, 1978, with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426. All comments should reference Docket No. RM78-15.

For the foregoing reasons, Subchapter A of Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Subchapter A of Title 18, Code of Federal Regulations, is amended by adding a new Part 1b, to read as follows:

AUTHORITY: Natural Gas Act, 15 U.S.C. 717 *et seq.*, Federal Power Act, 16 U.S.C. 792 *et seq.*, Interstate Commerce Act, 49 U.S.C. § 1 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.

§ 1b.1 Definitions.

For purposes of this part—

(a) "Formal investigation" means an investigation instituted by a Commission Order of Investigation.

(b) "Preliminary Investigation" means an inquiry conducted by the Commission or its staff, other than a formal investigation.

(c) Investigating officer means the individual(s) designated by the Commission in an Order of Investigation as Officer(s) of the Commission.

§ 1b.2 Scope.

This part applies to investigations conducted by the Commission but does not apply to adjudicative proceedings.

§ 1b.3 Scope of investigations.

The Commission may conduct investigations relating to any matter subject to its jurisdiction.

§ 1b.4 Types of investigations.

Investigations may be formal or preliminary, and public or private.

§ 1b.5 Formal investigations.

The Commission may, in its discretion, initiate a formal investigation by issuing an Order of Investigation. Orders of Investigation will outline the basis for the investigation, the matters to be investigated, the officer(s) designated to conduct the investigation and their authority. The director of the office responsible for the investigation may add or delete Investigating Officers in the Order of Investigation.

§ 1b.6 Preliminary investigations.

The Commission or its staff may, in its discretion, initiate a preliminary investigation. In such investigations, no process is issued or testimony compelled. Where it appears from the preliminary investigation that a formal investigation is appropriate, the staff will so recommend to the Commission.

§ 1b.7 Procedure after investigation.

Where it appears that there has been or may be a violation of any of the provisions of the acts administered by the Commission or the rules, opinions or orders thereunder, the Commission may institute administrative proceedings, initiate injunctive proceedings in the courts, refer matters, where appropriate, to the other governmental authorities, or take other appropriate action.

§ 1b.8 Requests for Commission investigations.

(a) Any individual, partnership, corporation, association, organization, or other Federal or State governmental entity, may request the Commission to institute an investigation.

(b) Requests for investigations should set forth the alleged violation of law with supporting documentation and information as completely as possible. No particular forms or formal procedures are requested.

(c) It is the Commission's policy not to disclose the name of the person or entity requesting an investigation except as required by law, or where such disclosure will aid the investigation.

§ 1b.9 Confidentiality of investigations.

All information and documents obtained during the course of an investigation, whether or not obained pursuant to subpoena, and all investigative proceedings shall be treated as nonpublic by the Commission and its staff exept to the extent that (a) the Commission directs or authorizes the public disclosure of the investigation; (b) the information or documents are made a matter of public record during the course of an adjudicatory proceeding; or (c) disclosure is required by the Freedom of Information Act, 5 U.S.C. 552. Procedures by which persons submitting information to the Commission during the course of an investigation may specifically seek confidential treatment of information for purposes of Freedom of Information Act disclosure are set forth in 18 CFR Part 3b and § 1b.20. A request for confidential treatment of information for purposes of Freedom of Information Act disclosure shall not, however, prevent disclosure for law enforcement purposes or when disclosure is otherwise found appropriate in the public interest and permitted by law.

§ 1b.10 By whom conducted.

Formal Commission investigations are conducted by the Commission or by an individual(s) designated and authorized in the Order of Investigation. Investigating Officers are "officers" within the meaning of the statutes administered by the Commission and are authorized to perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Investigating Officers shall have such duties as the Commission may specify in an Order of Investigation.

§ 1b.11 Limitation on participation.

There are no parties, as that term is used in adjudicative proceedings, in an investigation under this Part and no person may intervene or participate as a matter of right in any investigation under this part. Section 2.72 of the rules is specifically not applicable to private investigations conducted by the Commission or its staff.

§ 1b.12 Transcripts.

Transcripts, if any, of investigative testimony shall be recorded solely by the official reporter, or by any other person or means designated by the investigating officer. A witness who has given testimony in an investigation shall be entitled, upon written request, to procure a transcript of the witness' own testimony on payment of the appropriate fees, except that in a nonpublic formal investigation, the office responsible for the investigation may for good cause deny such request. In any event, any witness or his counsel, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony. This provision supersedes § 1.21(b) of the rules of practice.

§ 1b.13 Powers of persons conducting formal investigations.

Any member of the Commission or the Investigating Officer, in connection with any formal investigation ordered by the Commission, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records relevant or material to the investigation.

§ 1b.14 Subpoenas.

(a) Service of a subpoena upon a person named therein shall be made be the investigating officer (1) by personal delivery, (2) by certified mail, (3) by leaving a copy thereof at the principle office or place of business of the person to be served, (4) or by delivery to any person designated as agent for service or the person's attorney.

(b) At the time for producing documents subpoenaed in an investigation, the subpoenaed party shall submit a statement stating that, if true, such person has made a diligent search for the subpoenaed documents and is producing all the documents called for by the subpoena. If any subpoenaed document(s) are not produced for any reason, the subpoenaed party shall state the reason therefor.

(c) If any subpoenaed documents in an investigation are withheld because of a claim of the attorney-client privilege, the subpoenaed party shall submit a list of such documents which shall, for each document, identify the attorney involved, the client involved, the date of the document, the person(s) shown on the document to have prepared and/or sent the document, and the person(s) shown on the document to have received copies of the document.

§ 1b.15 Non-compliance with compulsory processes.

In cases of failure to comply with Commission compulsory processes, appropriate action may be initiated by the Commission or the Attorney General, including but not limited to actions for enforcement or the imposition of penalties.

§ 1b.16 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or testimony in a formal investigation shall, upon request, be shown the Commission's Order of Investigation. Copies of Orders of Investigation shall not be furnished, for their retention, to such persons requesting the same except with the express approval of the director of the office responsible for the investigation. Such approval shall not be given unless the director of the office responsible for the investigation, in the director's discretion is satisfied that there exist reasons consistent with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation.

(b) Any person compelled to appear, or who appears in person at a formal investigation by request or permission of the Investigating Officer may be accompanied, represented and advised by counsel, as provided by § 1.4 of the rules of practice and these rules, except that all witnesses shall be sequestered and, unless permitted in the discretion of the Investigating Officer, no witness or the counsel accompanying any such witness shall be permitted to be present during the examination of any other witness called in such proceeding. When counsel does represent more than one person in an investigation, for example, where the counsel is counsel to the witness and his employer, said counsel shall inform the Investigating Officer and each client of said counsel's possible conflict of interest in representing that client and, if said counsel appears with a witness giving testimony on the record in an investigation, counsel shall state on the record all persons said counsel represents in the investigation.

(c) Any witness may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise the witness, in confidence, upon his initiative or the witness' with respect to any question, and if the witness refuses to answer a question, then the witness or counsel may briefly state on the record the legal grounds for such refusal.

(2) Where it is claimed that the witness has a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(3) Following completion of the examination of a witness, such witness may make a statement on the record and his counsel may on the record question the witness to enable the witness to clarify any of the witness' answers or to offer other evidence.

(4) The Investigating Officer shall take all necessary action to regulate the course of the proceeding to avoid delay and prevent or restrain obstructionist or contumacious conduct or contemptuous language. Such officer may report to the Commission any instances where an attorney or representative has refused to comply with his directions, or has engaged in obstructionist or contumacious conduct or has used contemptuous language in the course of the proceeding. The Commission may thereupon take such further action as the circumstances may warrant, including suspension or disbarment of counsel from further appearance or practice before it, in accordance with § 1.4 of the Commission's rules of practice, and § 1100.11 of the rules of practice of the Interstate Commerce Commission, or exclusion from further participation in the particular investigation.

(d) Unless otherwise ordered by the Commission, in any public formal investigation, if the record shall contain implications of wrongdoing by any person, such person shall have the right to appear on the record; and in addition to the rights afforded other witnesses hereby, he shall have a reasonable opportunity of cross-examination and production of rebuttal testimony or documentary evidence. "Reasonable" shall mean permitting persons as full an opportunity to assert their position as may be granted consistent with administrative efficiency and with avoidance of undue delay. The determinations of reasonableness in each instance shall be made in the discretion of the investigating officer.

§ 1b.17 Appearance and practice before the Commission.

The provisions of § 1.4 of the Commission's rules of practice are specifically applicable to all investigations.

§ 1b.18 Right to submit statements.

Any person may, at any time during the course of an investigation, submit documents, statements of facts or memoranda of law for the purpose of explaining said person's position or furnishing evidence which said person considers relevant regarding the matters under investigation.

§ 1b.19 Submissions.

When the Investigating Officer determines it is appropriate in the interest of the proper administration of the law, he may inform any person that a recommendation may be made to the Commission that said person be a defendant in a civil action to be brought by the Commission. In such case, said person may submit a statement of fact, argument, and/or memorandum of law, with such supporting documentation as said person chooses showing why said person should not be a defendant in any civil action brought by the Commission. The investigating officer shall inform said potential defendant of the date by which such statement may be submitted to said officer, and if such statement is submitted by such date, it shall be presented to the Commission together with any recommendation for enforcement action by the office responsible for the investigation.

§ 1b.20 Request for confidential treatment.

Any person compelled to produce documents in an investigation may claim that some or all of the information contained in a particular document(s) is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure. In such case, the person making such claim shall, at the time said person produces the document to the officer conducting the investigation shall also produce a second copy of the document from which has been deleted the information for which the person wishes to claim confidential treatment. The person shall indicate on the original document that a request for confidential treatment is being made for some or all of the information in the document and shall file a statement specifying the specific statutory justification for non-disclosure of the information for which confidential treatment is claimed. General claims of confidentiality are not sufficient. Sufficient information must be furnished for the officer conducting the investigation, or other appropriate official, to make an informed decision on the request for confidential treatment. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, the person shall include a statement specifying why the information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the Officer conducting the investigation may assume that there is no objection to public disclosure of the document in its entirety. The Commission retains the right to make the determination with regard to any claim of confidentiality. Notice of the decision by the investigating Officer or other appropriate official to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality no less than 5 days before its public disclosure.

[FR Doc. 78-17376 Filed 6-22-78; 8:45 am]

[6740-02]

PART 3—ORGANIZATION, OPERATION, INFORMATION, AND REQUESTS

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Order Discontinuing Requirements to File FPC Form 69 for Respondents Who Submit Data on EIA Form 50

JUNE 14, 1978.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order.

SUMMARY: This order discontinues the requirement for interstate natural gas pipeline companies to file FPC Form 69. EIA has developed Form EIA-50 to collect the data previously reported on Form 69.

EFFECTIVE DATE: The order will become effective with the promulgation of Form EIA-50 by EIA.

FOR FURTHER INFORMATION:

FPC Form 69, contact: Randolph Mathura, Room 7312, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4489.

EIA-50, contact: June A. Wolfrey, Energy Information Administration, Washington, D.C. 20461, 202-254-8461.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act, Pub. L. 95-91, approved August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 *et seq.* (DOE Act), and Executive Order No. 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC), which, as an independent regulatory commission within the Department of Energy, was activated on October 1, 1977.[1] The "savings provisions" of section 705(a) of the DOE Act provide that all rules and regulations issued by any Federal agency in the performance of functions which are transferred under the DOE Act to the Department of Energy or the FERC after the date of enactment of the DOE Act, and which are in effect at the time the DOE Act takes effect, shall continue in effect until modified, terminated, superseded, set aside or revoked by the Secretary of Energy or the FERC, or by operation of law.

The Secretary of Energy by Delegation Order No. 0204-1, effective October 1, 1977 (42 FR 55637, October 18, 1977), delegated and assigned to the FERC the authority to carry out functions under section 10 of the Natural Gas Act relating to annual and periodic or special reports "as FERC determines appropriate to perform its vested or delegated functions". The Delegation Order directs the FERC to consult with the Administrator of the Energy Information Administration (EIA) of the Department of Energy with respect to the exercise of functions under section 10 of the Natural Gas Act "as EIA considers appropriate". Section 0.4(h) of Part O of Chapter I, Title 18 of the Code of Federal Regulations, which was promulgated by the FERC's Order No. 1, Docket No. RM78-1, issued October 6, 1977 (42 FR 55450, October 17, 1977), provides that all persons or jurisdictional entities required to file periodic or other reports with any agency or commission whose functions were transferred under the DOE Act to the FERC shall file such reports relating to the transferred functions with the FERC and provides further that the FERC affirms, adopts and continues in effect all previously approved forms for making periodic or other reports.

[1] The term "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

On June 25, 1973, the Commission issued Order No. 531 setting forth a new Form No. 69 which was the result of a coordinated effort undertaken with the Federal Energy Administration (FEA), other governmental agencies and the National Association of Regulatory Utility Commissioners. The Commission issued Order No. 531-A on July 9, 1975, and Order No. 531-C on May 19, 1976, each revising and clarifying Form No. 69 in order to make it fully conform with the FEA's concurrent Form No. G-101-A-2.

The EIA has been utilizing Form Nos. G-101-A-2 and 69, as amended, to accumulate the information needed to determine the type and quantities of alternate fuels that will be required in order to offset the loss of natural gas due to the curtailment of deliveries by interstate pipelines and the general dwindling supply of that resource.

The FERC uses the information to perform its duties under the Natural Gas Act in determining that pipeline company curtailment plans are in the public interest.

The EIA now proposes to issue a new Form, EIA-50, which will provide the data that have been called for on Form G-101-A-2 and FPC Form No. 69 with these minor changes:

(a) Some of the instructions have been rearranged.

(b) Two new definitions have been added:

Alternate Fuels: Any fuel purchased by an end-use customer to offset natural gas curtailments by his supplier. Included as alternate fuels are gaseous fuels purchased under FERC Order 533 and self-help procedures such as exist in the State of Ohio.

Supplemental Gaseous Fuels: Gaseous fuels, either purchased or produced by the supplier, distributed through mains to end-use customers in order to supplement natural gas.

(These additions represent the formalization of definitions that have been in general use by respondents.)

(c) The identification of the person to contact has been moved to the first page of the form.

(d) Verification procedures for Part II C have been added.

These minor revisions do not change the reporting burden.

The Commission finds: (1) Because Form EIA-50 includes only minor revisions in the form of Form 69, rather than new substantive requirements, this matter is procedural, and accordingly notice and public procedure under 5 U.S.C. 553 are not required.

(2) Because the consolidation of the two forms will minimize reporting requirements, good cause exists that Form EIA-50 should replace FPC Report Form No. 69 as soon as it is officially issued by EIA, and that interstate natural gas pipeline companies should file Form EIA-50 directly with the EIA.

(3) On Form EIA-50 EIA will collect data formerly supplied on FPC Form 69 and will be able to provide the same statistical summaries as well as the same detailed statistics.

(4) Data on curtailments and alternate fuels as needed by the FERC will be available from the EIA.

(5) Statistics on Form EIA-50 will be available to the public to the same extent as they have been on FPC Form No. 69.

(6) Form EIA-50 does not increase the reporting burden of any respondent who has been filing FPC Form No. 69.

(7) This action does not set a precedent for future handling of FPC forms.

(8) This change in reporting requirements is appropriate for the Administration of the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly section 16 and section 10 thereof (52 Stat. 826, 830; 15 U.S.C. 717; and 717o), *orders:*

(A) FPC Form No. 69 as promulgated by section 260.15 and section 3.170 of Title 18 of the Code of Federal Regulations is accordingly no longer required from interstate natural gas pipeline companies that file Form EIA-50 with the EIA.

(B) This change in reporting requirement shall be effective for any respondent with his filing of Form EIA-50 as noted in Paragraph (A) above.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-17426 Filed 6-22-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart Q—Referral for Rehabilitation Services, Other Benefits, Other Services, and Assistance

Referral of Blind or Disabled Individuals for Appropriate Rehabilitation Services

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: This rule reflects recent legislation which requires the Secretary of Health, Education, and Welfare to (1) refer blind or disabled individuals age 16 or over and under age 65 who are receiving Supplemental Security Income benefits to the appropriate State Agency administering the State plan for vocational rehabilitation, and (2) to refer blind and disabled children under age 16 who are receiving Supplemental Security Income benefits, to the agency administering the State plan for crippled children's services under title V of the Social Security Act or to another agency (which administers programs providing services to disabled children and which the Governor of the State has determined is capable of administering the State plan in a more efficient and effective manner) for appropriate services. Also, the law as amended no longer requires that blind and disabled persons under age 16 accept vocational rehabilitation services in order to be eligible for benefits. The proposed amendments to the regulations reflect these changes in the law.

DATES: The amendments shall be effective June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip Berge, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7452.

SUPPLEMENTARY INFORMATION: On October 12, 1977, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (42 FR 54953 and 54954). The notice made known the proposed amendments to Subpart Q, Regulations No. 16 (20 CFR Part 416) regarding the referral of blind and disabled individuals for appropriate rehabilitation services.

Regulations relating to rehabilitation services for children under age 16 who are disabled or blind and the criteria for approval of State plans and any other regulations necessary for the proper administration of the program were published by the Public Health Service, Department of Health, Education, and Welfare on December 16, 1977, in the FEDERAL REGISTER (42 FR 63568-63572).

Prior to enactment of Pub. L. 94-566 on October 20, 1977, title XVI of the Social Security Act (Supplemental Security Income For The Aged, Blind, and Disabled (SSI)) provided for referral of all individuals (including children) receiving SSI benefits because of blindness or disability, to the State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act of 1973 (29 U.S.C. Chapter 16). There was no provision in the law for rehabilitation services suitable for children under age 16.

In response to the Notice of Proposed Rule Making (NPRM), comments were received from four organizations. The comments and suggestions received with regard to this NPRM, the responses and changes in the proposed amendments are summarized below.

1. One comment questioned the requirement of universal referral of disabled individuals since many disabled people are not proper recipients for rehabilitation. It was recommended that the referral of recipients to vocational rehabilitation agencies be made an advisable action rather than a required action. The suggested change was not adopted. The law requires that all disabled individuals be referred for rehabilitation. Therefore, the suggested change is beyond the scope of these regulations.

However, it is our understanding that although the names of all disability recipients are referred to the appropriate rehabilitation agency, not all recipients are actually contacted regarding possible services. For example, an individual disabled to the extent that he does not have the capabilities for rehabilitation would not be contacted.

2. A second comment suggesting that the proposed regulations make it difficult for the referral of recipients under age 16 to another agency upon attainment of age 16. The instructions and procedures relating to the referral of recipients by individual State agencies are not appropriately included in this regulation. However, this comment does surface a potential problem and has been referred to the proper component for consideration.

3. A third comment suggested that additional language be added to