immediately May 29, 1979. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraph (a)(31) to § 200.30-3, as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation

* * * * *

(a) * * *

(31) Pursuant to Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), to extend for a period not exceeding 90 days from the date of publication of notice of the filing of a proposed rule change pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), the period during which the Commission must by order approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved.

* * * * *

(Pub. L. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2))

By the Commission.

George A. Fitzsimmons,

Secretary.

May 18, 1979.

[FR Doc. 79-16547 Filed 5-25-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 270

Rate Schedules and Tariffs; Rules Generally Applicable to Regulated Sales of Natural Gas; Order on Rehearing of Order No. 23

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on rehearing.

SUMMARY: On March 13, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 23. That order addressed the question of the contractual authority to collect a maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA), and the Commission's responsibility under that act and the Natural Gas Act (NGA) to examine questions of contractual authority. Eighteen applications for rehearing of Order No. 23 were filed.

The Commission denies these applications for rehearing and takes this opportunity to expand and further clarify its position.

EFFECTIVE DATE: May 11, 1979.

ADDRESSES: All filings should reference Docket No. RM79-22 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Philip Yates, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, (202) 275-4212.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 13, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 23. (44 FR 16895, March 20, 1979) That order addressed the question of the contractual authority to collect a maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA), and the Commission's responsibility under that act and the Natural Gas Act (NGA) to examine questions of contractual authority. The Commission has previously responded to two requests for clarification,[1] and a motion for emergency procedural relief [2] filed herein.[3] Additionally, eighteen applications for rehearing or Order No. 23 were filed.

This Order denies these applications for rehearing.[4]

II. Discussion

Excluding questions of procedure, the petitions for rehearing raise no matters of factor or arguments of law which would cause the Commission, acting within the narrow confines of its substantive review, to change the basic findings of Order No. 23. However, although this order denies the applications for rehearing insofar as they relate to the substance of Order No. 23, the Commission takes this opportunity to expand and further clarify its position. This expression is limited to the two major concerns which appear to have caused the most confusion among the applicants for rehearing: the scope of the Commission's duty to examine contracts, and the applicable rules of law which will be applied to those contracts which the Commission does examine.

A. *Scope of the Commission duty to examine contractual authority.*—The Commission's statutory responsibility to examine contracts covering gas subject to the NGA was established by the Supreme Court.[5] The rule laid down by the Court, which has come to be known as the "*Mobile-Sierra* doctrine", has two components: (1) the NGA does not give a natural gas company the power to make a unilateral rate change filing absent contractual authority (*Mobile*); and (2) the NGA does not authorize the collection of a "just and reasonable" rate absent contractual authority (*Sierra*). Thus, the *Mobile-Sierra* doctrine plainly applies to contracts for the sale of natural gas subject to the jurisdiction of the Commission under the NGA. Just as plainly the *Mobile-Sierra* doctrine does not apply to contracts for the sale of gas not subject to the Commission's jurisdiction under the NGA.[6]

However, natural gas, which is not subject to our NGA jurisdiction, is nonetheless subject to our jurisdiction under the NGPA. And, for certain categories of "non-NGA" gas, NGPA Title I ceiling prices are based on contractural provisions.[7] For these categories of gas, the Commission is not the proper forum to adjudicate contractual disputes. Those parties who wish to resolve contractual disputes involving gas covered by sections 105 or 106(b), or gas which is otherwise not covered by the NGA, should petition the appropriate state or federal court. The Commission will limit its involvement in these matters to the statutory enforcement responsibility imposed by Title V of the NGPA.

B. *Order 23 and Contract Law.*—Several applications on rehearing, citing cases which adhere to the "plain meaning rule" of contract interpretation, contended that our *administrative* view, that "great weight must be given to the intent of the parties to the contract", is erroneous as a matter of contract law. That rule holds that, if contract language is clear and unambiguous, the contract must be interpreted by reference to the

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[1] The New York Public Service Commission, joined by Associated Gas Distributors, requested clarification.

[2] The Associated Gas Distributors filed this motion.

[3] Order Extending Time to File Protests and Clarifying Prior Order, issued April 30, 1979.

[4] The parties who filed applications for rehearing are listed in the Appendix. To the extent the applications for rehearing raise procedural issues, the Commission will consider them as if they were made in response to our Notice of Inquiry issued herein on May 2, 1979.

[5] *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[6] Order No. 23, at page 14, stated: "Accordingly, the *Mobile-Sierra* doctrine requires the Commission to determine whether contractual authorization exists for the collection of the maximum lawful prices established by the Natural Gas Policy Act." That sentence should be further modified to indicate that the *Mobile-Sierra* requirement does *not* apply to gas which is no longer subject to the Commission's jurisdiction under the NGA. *See, e.g.*, section 601(a)(1)(B) of the NGPA.

[7] See sections 105 and 106(b).

contract alone, and extrinsic evidence is inadmissible.

The viability of this view has been challenged by a more modern theory which permits a contract to be interpreted by reference to evidence of the commercial context in which it was drafted.[8] The Commission adopts this mode of analysis in this instance. Accordingly, where the Commission must rule on the proper interpretation of a contract clause, references will be made not only to the "four corners" of the contract, but also to the circumstances surrounding the execution of the contract.[9]

The Commission orders: The applications for rehearing of the Commission's Order No. 23, issued March 13, 1979, are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix

Applications for rehearing of Order No. 23 were filed by:

1. Associated Gas Distributors.
2. State of California and the Public Utilities Commission of the State of California.
3. Indicated Producers, Exxon, *et al.*
4. Gas Consumers Group.
5. Gulf Oil Corporation.
6. Congressman Andrew Maguire.
7. The People's Counsel of Maryland.
8. Memphis Light, Gas and Water Division, City of Memphis, Tennessee.
9. The State of Michigan and the Michigan Public Service Commission.
10. New England State Commissions.
11. Natural Resources Corporation.
12. The Public Service Commission of the State of New York.
13. Pacific Gas and Electric Company.
14. The South Dakota Public Utilities Commission and the Minnesota Public Service Commission.
15. Shell Oil Company.
16. Tenneco Oil Company, *et al.*
17. Terra Resources, Incorporated.
18. The Wisconsin Public Service Commission.

[8] *See: Whitebird* v. *Eagle-Picher Co.*, 390 F.2d 831 (10th Cir. 1969); Uniform Commercial Code, § 2-202; Restatement (Second) of Contracts, § 246 (Tent. Draft 1973).

[9] Part of the "commercial context" which the Commission will consider is the limitation imposed upon the parties by § 154.93 of the Commission's regulations. This limitation was not before the Supreme Court when it decided *Texas Gas Corp.* v. *Shell Oil Co.*, 363 U.S. 263 (1959). In *Texas Gas*, the Court found that the producer had drafted broader "most favored nation" clauses in other contracts, and that the most "reasonable explanation" for the narrower provision in the contract under dispute was an intent to distinguish between events which would or would not trigger the clause. Based on this "explanation", the Court found that the clause was not triggered. However, any contract executed on or after April 2, 1962 cannot contain an escalator clause broader than that permitted by § 154.93 of the Commission's regulations. The regulatory prohibition against broader escalator clauses may "reasonably explain" why area rate clauses were drafted as they were after April 2, 1962.

[FR Doc. 79-16677 Filed 5-25-79; 8:45 am]
BILLING CODE 6450-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Ch II and XIII

Redesignation of Chapter

Editorial Note.—18 CFR Chapter II—Tennessee Valley Authority (Parts 300–399) is hereby redesignated as Chapter XIII—Tennessee Valley Authority (Parts 1300–1399). This redesignation of chapter and parts is being made by the Director of the Office of the Federal Register with the concurrence of the Tennessee Valley Authority in order to conform with 1 CFR 8.2—"to assure orderly development of the Code of Federal Regulations along practical lines."

BILLING CODE 6820-27-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 455

[Docket No. 78N-0312]

Certain Other Antibiotic Drugs; Miscellaneous Amendments; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction of Final rule.

SUMMARY: In FR Doc. 79-5210 appearing at page 10377 in the issue of February 20, 1979, paragraph 16 on page 10380, which amends § 455.410 concerning chloramphenicol, is deleted because the amendment made therein inadvertently failed to reflect a previous revision of § 455.410 published in the **Federal Register** of January 30, 1979, on page 5881.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

Dated: May 18, 1979.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 79-16580 Filed 5-25-79; 8:45 a.m.]
BILLING CODE 4110-03-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 772

Procedures for Abatement of Highway Traffic Noise and Construction Noise

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment defers the proposed implementation date for revised procedures by which FHWA will approve traffic noise level prediction methods for use on Federal-aid highway projects.

EFFECTIVE DATE: May 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Reagan, Environmental Quality Division, Office of Environmental Policy, 202-426-4836, or Mr. Thomas P. Holian, Office of the Chief Counsel, 202-426-0761, Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 772.25 of Title 23, Code of Federal Regulations, had specifically approved two prediction methods and provided for submission of other methods or variations to FHWA's headquarters office for approval prior to use. This section was amended by publication of an "Amendment to final rule" in the **Federal Register** on Wednesday, October 4, 1978 (43 FR 45838). That amendment revised § 772.25 to indicate that any method which is consistent with the FHWA Highway Traffic Noise Prediction Model, and which uses noise emission levels obtained from approved FHWA Procedures, was approved for use. The amendment further provided that the two approved prediction methods listed in the preamendment version of § 772.25, and all other methods approved pursuant to that section, would remain approved for use on Federal-aid projects until July 1, 1979. Any noise analysis performed after that date was to comply with the revised procedures. The present amendment would change this implementation date from July 1, 1979, to December 31, 1979.

The July 1, 1979, date was based upon the expectation that noise prediction methodologies meeting the basic requirements of § 772.25(a) would be available by that date. It was expected that Report FHWA-RD-77-108, The FHWA Highway Traffic Noise Prediction Model, and the two computer programs that implement this prediction model, would be available for general distribution by January 1, 1979. This would have provided a minimum of 6 months as a transition period from the older obsolete prediction models to the revised methodology.

During consultation meetings with the various States concerning this new methodology many States responded to FHWA's representation that the new methodology would be available by January 1, 1979, by indicating that they would await availability of this new model in final form and adopt it for their use. However, because of printing problems and contractual difficulties associated with the computer programs, the FHWA noise prediction model will not be available in final form until July 1979.

As a result of this delay, should FHWA not amend the implementation date for use of new models under revised § 772.25, many States which relied upon FHWA's representations would be unable to comply with the revised requirements of § 772.25 on, or soon after, July 1, 1979. Therefore, the FHWA is now amending this implementation date by deferring it until December 31, 1979. This will provide the States with a period of time which is adequate for an orderly transition to the use of the new methodology.

This amendment will not result in substantial costs nor will it result in unusual impacts. Further, since the new methodology is a refinement of older available methods and reflects advancements in technology, the deferment until December 31, 1979, will not result in any significant adverse impacts upon the environment during the period of that deferment.

Accordingly, 23 CFR 772.25(d) is amended to read as follows:

§ 772.25 Traffic noise level prediction methods.

* * * * *

(d) Traffic noise prediction methods approved pursuant to prior requirements of this part (41 FR 16936, Apr. 23, 1976) remain approved until December 31, 1979. Any noise analysis performed after December 31, 1979, must comply with the requirements of paragraph (a) of this section.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. A regulatory evaluation is available for inspection in the public docket any may be obtained by contacting Mr. Jerry Reagan of the program office at the address specified above.

(23 U.S.C. 101(e), 109(i), 315; 49 CFR 1.48(b).)

Issued on: May 17, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-16582 Filed 5-25-79; 8:45 am]

BILLING CODE 4910-22-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

[Docket No. FI-5491]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final Rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979)

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Pike	Valley City, village of	170559-A	May 14, 1979, emergency.	Dec. 17, 1973 and Mar 19, 1976.
Pennsylvania	Snyder	Perry, township of	422038	May 17, 1979, emergency.	Jan. 3, 1975.
Do	Mercer	Sandy Lake, township of	421874	do	Dec. 13, 1974.
Pennsylvania	Washington	Beallsville, borough of	422129-A	May 21, 1979, emergency.	Dec. 13, 1974 and July 16, 1976.
Do	Jefferson	Eldred, township of	422443	do	Jan. 17, 1975.
Do	Somerset	Milford, township of	422519	do	Jan. 3, 1975.
South Carolina	Florence	Unincorporated areas	450076	May 22, 1979	Apr 28, 1978.