Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Rule.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more from the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Operations affecting certain ARTCC's are as follows:

Intra-ARTCC: Albuquerque, Seattle, Salt Lake, and Washington

Inter-ARTCC: Seattle-Salt Lake City

5. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

FDC 2/2263 Cancel FDC 2/2040.

FDC 2/2390 Emergency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule effective September 30, 1982, 0600 Local Time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the General Aviation Reservation (GAR) rule with respect to certain operations. Beginning October 4, turboprop aircraft operations will be permitted in the Boston ARTCC airspace without reservations. On October 18, Jacksonville and Atlanta Centers will allow intra-ARTCC operations without reservations. On November 22, Memphis Center will accept intra-ARTCC operations without reservations. However, existing restrictions under the GAR rule remain in effect for operations from airports that are capacity controlled by SFAR No. 44–5.

Accordingly, pursuant to SFAR No. 44, as amended, and § 91.100 of the FARs, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more than the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Inter-ARTCC flights within the Seattle and Salt Lake City ARTCC airspace.

L. Intra-ARTCC flights—

(1) effective immediately, operations in the Albuquerque, Seattle, Salt Lake City, or Washington ARTCC airspace;

(2) effective October 4, 1982, 0600 local time, turboprop operations in the Boston ARTCC airspace;

(3) effective October 18, 1982, 0600 local time, operations in the Jacksonville or Atlanta ARTCC airspace;

(4) effective November 22, 1982, 0600 local time, operations in the Memphis ARTCC airspace.

5. For the purpose of this rule, the term intra-ARTCC flights does not mean flight from—

A. The William B. Hartsfield Atlanta International Airport (ATL).

B. General Edward Lawrence Logan International Airport (BOS).

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

Cancel FDC FDC 2/2200.

FDC 2/2552 Cancel FDC 2/1999.

FDC 2/2560 Cancel FDC 2/2147.

FDC 2/2797 Emergency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule effective November 29, 1982, 1645 Greenwich time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the General Aviation Reservation Rule (GAR) with respect to certain operations. On December 13, Kansas City ARTCC will accept intra-ARTCC operations without reservation. However, existing restrictions under the GAR rule remain in effect for operations from airports that are capacity controlled by SFAR No. 44–5.

Accordingly, pursuant to SFAR No. 44, as amended, and § 91.100 of the Federal Aviation Regulations, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more than the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Inter-ARTCC flights within the Seattle and Salt Lake City ARTCC airspace.

L. Intra-ARTCC—

(1) effective immediately, flights in the Albuquerque, Memphis, Jacksonville, Atlanta, Seattle, Salt Lake City, or Washington ARTCC airspace;

(2) effective immediately, turboprop flights in the Boston ARTCC airspace; and

(3) effective December 13, 1982, 0600 local time, flights in the Kansas City ARTCC airspace;

5. For the purpose of this rule, the term intra-ARTCC flights does not mean flight from—

A. The William B. Hartsfield Atlanta International Airport (ATL).

B. General Edward Lawrence Logan International Airport (BOS).

C. Lambert-St. Louis International Airport (STL).

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

Cancel FDC NOTAM 2/2390.

FDC 2/2824 Cancel FDC 2/2037.

Issued in Washington, DC, on December 15, 1982.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 82-34710 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23472; Amdt. No. 1232]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective February 17, 1983*

Galena, AK—Galena, VOR Rwy 25, Amdt. 8.

Galena, AK—Galena, VOR/DME or TACAN Rwy 7, Amdt. 5

King Salmon, AK—King Salmon, VOR or TACAN Rwy 11, Amdt. 11

King Salmon, AK—King Salmon, VOR/DME or TACAN Rwy 29, Amdt. 8

Paris, IL—Edgar County, VOR/DME-A, Amdt. 3

Lafayette, IN—Aretz, VOR-C, Original

Louisville, KY—Bowman Field, VOR Rwy 14, Amdt. 6

Maryville, MO—Maryville Meml, VOR/DME Rwy 36, Amdt. 1

Sikeston, MO—Sikeston Meml Muni, VOR Rwy 20, Amdt. 1

Galion, OH—Galion Muni, VOR Rwy 23, Amdt. 9

Marion, OH—Marion Muni, VOR Rwy 24, Amdt. 2

Millersburg, OH—Holmes County, VOR-A, Amdt. 3

Aberdeen, SD—Aberdeen Regional, VOR/DME or TACON Rwy 13, Amdt. 8

Aberdeen, SD—Aberdeen Regional, VOR Rwy 31, Amdt. 16

* * * *Effective February 3, 1983*

Hawesville, KY—Hancock Airfield, VOR Rwy 15, Amdt. 3

Hawesville, KY—Hancock Airfield, VOR Rwy 33, Amdt. 2

Aburn-Lewiston, ME—Auburn-Lewiston Muni, VOR/DME-A Original

Boston, MA—General Edward Lawrence Logan Intl, VOR Rwy 33L, Amdt. 17

Ogallala, NE—Searle Field, VOR Rwy 8, Amdt. 1

Ogallala, NE—Searle Field, VOR Rwy 26, Amdt. 1

Ardmore, OK—Downtown Ardmore, VOR-A, Amdt. 9

Allentown, PA. Allentown Queen City Muni, VOR-B, Amdt. 4

Culpeper, VA—Culpeper Muni T. I. Martin Field, VOR-A, Amdt. 3

* * * *Effective December 10, 1982*

Mt. Holly, NJ—Burlington County Airpark, VOR Rwy 26, Amdt. 1

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective February 17, 1983*

King Salmon, AK—King Salmon, LOC/DME (BC) Rwy 29, Amdt. 1
Moline, IL—Quad-City, LOC Rwy 27, Amdt. 3
Aberdeen, SD—Aberdeen Regional, LOC/DME BC Rwy 13, Amdt. 5

* * * *Effective January 20, 1983*

Indianapolis, IN—Eagle Creek Airpark, LOC Rwy 21, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective February 17, 1983*

Galena, AK—Galena, NDB-A, Amdt. 14
King Salmon, AK—King Salmon, NDB Rwy 11, Amdt. 2
Moline, IL—Quad-City, NDB Rwy 9, Amdt. 25
Paris, IL—Edgar County, NDB Rwy 27, Amdt. 5
Hutchinson, KS—Hutchinson Muni, NDB Rwy 13, Amdt. 12
Thief River Falls, MN—Thief River Falls Regional, NDB Rwy 31, Original
Thief River Falls, MN—Thief River Falls Regional, NDB Rwy 31, Amdt. 1, cancelled
Brookfield, MO—Brookfield Memorial, NDB Rwy 35, Amdt. 1
Brookfield, MO—Brookfield Memorial, NDB-A, Amdt. 1
Charleston, MO—Mississippi County, NDB Rwy 36, Amdt. 2
Maryville, MO—Maryville Meml, NDB Rwy 14, Original
Marion OH—Marion Muni, NDB Rwy 12, Amdt. 7
Millersburg, OH—Holmes County, NDB Rwy 27, Amdt. 2
Aberdeen, SD—Aberdeen Regional, NDB Rwy 31, Amdt. 6
Britton, SD—Britton Muni, NDB Rwy 13, Amdt. 1
Miller, SD—Miller Muni, NDB Rwy 13, Amdt. 1

* * * *Effective February 3, 1983*

Clanton, AL—Gragg-Wade Field, NDB Rwy 26, Original
Michigan City, IN—Michigan City, NDB Rwy 20, Amdt. 11, cancelled
Michigan City, IN—Michigan City, Muni NDB Rwy 23, Amdt. 3, cancelled
Lexington, KY—Blue Grass, NDB Rwy 4, Amdt. 14
Gaithersburg, MD—Montgomery County Arpk, NDB-A, Amdt. 1
Detroit, MI—Willow Run, NDB Rwy 5R, Amdt. 7
Ludington, MI—Mason County, NDB Rwy 25, Amdt. 5
Ogallala, NE—Searle Field, NDB Rwy 8, Amdt. 4
Ogallala, NE—Searle Field, NDB Rwy 26, Amdt. 3
Ardmore, OK—Downtown Ardmore, NDB Rwy 35, Amdt. 1

* * * *Effective January 20, 1983*

Indianapolis, IN—Eagle Creek Airpark, NDB Rwy 21, Original
Platteville, WI—Grant County, NDB Rwy 25, Original
Platteville, WI—Grant County, NDB Rwy 25, Amdt. 4, cancelled

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective February 17, 1983*

King Salmon, AK—King Salmon, ILS Rwy 11, Amdt. 14
Moline, IL—Quad-City, ILS Rwy 9, Amdt. 25
Hutchinson, KS—Hutchinson Muni, ILS Rwy 13, Amdt. 12
Thief River Falls, MN—Thief River Falls Regional, ILS Rwy 31, Original
Aberdeen, SD—Aberdeen Regional, ILS Rwy 31, Amdt. 6

* * * *Effective February 3, 1983*

Lexington, KY—Blue Grass, ILS Rwy 4, Amdt. 8
Lexington, KY—Blue Grass, ILS Rwy 22, Amdt. 4

* * * *Effective January 20, 1983*

Norfolk, VA—Norfolk Intl, ILS Rwy 5, Amdt. 18

* * * *Effective December 10, 1982*

Charlotte Amalie, St. Thomas, VI—Harry S. Truman, ILS Rwy 9, Amdt. 6

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective February 17, 1983*

Moline, IL—Quad-City, RADAR-1, Amdt. 5

* * * *Effective February 3, 1983*

Des Moines, IA—Des Moines Muni, RADAR-1, Amdt. 14
Lexington, KY—Blue Grass, RADAR-1, Amdt. 7

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective February 17, 1983*

Moline, IL—Quad-City, RNAV Rwy 30, Amdt. 7

* * * *Effective February 3, 1983*

Clinton, IA—Clinton Muni, RNAV Rwy 21, Amdt. 6, cancelled
Houma, LA—Houma-Terrebonne, RNAV Rwy 17, Amdt. 1
Houma, LA—Houma-Terrebonne, RNAV Rwy 35, Amdt. 1
Ardmore, OK—Downtown Ardmore, RNAV Rwy 17, Amdt. 1
Ardmore, OK—Downtown Ardmore, RNAV Rwy 35, Amdt. 1
Allentown, PA—Allentown Queen City Muni, RNAV Rwy 7, Orignial

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

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. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on December 17, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 82-34708 Filed 12-22-82; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of staff interpretative position.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing an interpretative letter which sets forth the position of the staff of its Divison of Trading and Markets regarding the availability of the Commission's no-action position with respect to certain applicants for registration as associated persons ("APs"). The Commission recently determined not to take any enforcement action against any applicant for registration as an AP, based solely on the failure to be registered as such, if the individual's application for registration was received by the Commission on or before November 18, 1982 and if certain other specified conditions are met, including that the Futures Commission Merchant (FCM) with whom the applicant will be associated as an AP is currently registered with the Securities and Exchange Commission ("SEC") as a broker or dealer and is also a member of the National Association of Securities Dealers, Inc. ("NASD"). 47 FR 53764 (November 29, 1982). Specifically, the letter expresses the Division's view that the availability of the Commission's no-action position is not affected solely because the FCM with whom an applicant will be associated as an AP through an agent of the FCM upon being granted registration is not currently registered with the SEC as a broker or dealer and is not currently a member of the NASD where, among other things, the agent of the FCM meets those two conditions. The Commission is publishing the Division's interpretative

position in the **Federal Register** to provide affected persons and the public with notice thereof.

FOR FURTHER INFORMATION CONTACT: Theodore W. Urban, Deputy Director, or David S. Mitchell, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On December 17, 1982, the Division of Trading and Markets issued the following letter which sets forth its view regarding the availability of the Commission's recently adopted no-action position with respect to certain applicants for registration as APs:

Re: *Petition for Exemption from a Requirement of the Commission's No-action Position*

Dear: ———: This is in response to your letter dated December 9, 1982 to Ms. Andrea M. Corcoran. Pursuant to Rule 3.12(g), 17 CFR 3.12(g) (1982), your request, on behalf of "X", a registered futures commission merchant ("FCM"), that an exemption be granted from one of the requirements of the Commission's recently adopted no-action position with respect to certain applicants for registration as associated persons ("APs").[1] This request was incorporated in the written certification required for such a no-action position with respect to "Y," an applicant for registration as an AP, who you stated will be associated with "X" as an AP of a designated agent of the firm, "Z."

As you know, the Commission has determined not to take any enforcement action with respect to an applicant for registration as an AP, based solely on the failure to be registered as such, if the individual's application for registration was received by the Commission on or before November 18, 1982 and if certain other specified conditions are met, including that the FCM with whom the applicant will be associated as an AP is currently registered with Securities and Exchange Commission ("SEC") as a broker or dealer and is also a member of the National Association of Securities Dealers, Inc. ("NASD").[2] In this connection, it appears that your letter sets forth each of the elements of the certification required for the no-action position, except as to the fact that "X" is not currently registered with the SEC as a broker or dealer and is not currently a member of the NASD.

This is to advise you of the Division's view that the availability of the Commission's no-action position with respect to "Y's" registration as an AP is not affected solely because "X," the FCM with whom he will be associated as an AP through "Z" (an agent of "X") upon being granted registration, is not currently registered with the SEC as a broker or dealer or a member of the NASD. This view is based upon, among other things, the facts that: (1) The Commission's no-action position is available to any applicant for registration as an AP who meets certain specified conditions, whether he will be associated with an FCM directly or with an FCM through an agent of the FCM [3]; (2) "Z," the agent of "X" with whom "Y" will be associated, is currently registered with the SEC as a broker or dealer and is a member of the NASD; (3) "Y" is currently a registered representative or registered principal of "Z"; and (4) "Y" (and "Z") have previously been determined by the NASD, under screening procedures similar to those of the Commission, to be fit to engate in the securities business and remain in good standing as registrants and/or members of the NASD. Accordingly, enclosed please find confirmation of the effectiveness of a no-action position with respect to "Y's" registration as an AP.

The view expressed in this letter is based upon the facts set forth in your December 9, 1982 letter and upon our understanding of those facts. Any changed, different or omitted facts might require us to reach a different conclusion. Also, the view expressed in this letter is solely that of the Division of Trading and Markets and does not necessarily represent the view of the Commission or that of any other unit of the Commission's staff.

Very truly yours,

Theodore W. Urban,

Deputy Director.

Dated: December 17, 1982.

By the Division of Trading and Markets.

Theodore W. Urban,

Deputy Director, Division of Trading and Markets.

[1] The Division has determined to treat your petition for an exemption as a request for an interpretative position.

[2] Item #3 of the written certification required for the no-action position provides in pertinent part that "the FCM is currently registered with the SEC as a broker or dealer and is also a member of the NASD * * *." 47 FR 53764 (November 29, 1982). (Footnote omitted.)

[3] In this connection, we note that Section 4k(1) of the Commodity Exchange Act, as amended, 7 U.S.C. 6K(1) (1976), which contains the requirement that an AP register with the Commission as such, recognizes that an AP may be associated with an FCM either directly or through an agent of the FCM.

[FR Doc. 82-34733 Filed 12-22-82; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

Separate Reports of Other Accountants; Amendments to Proxy Rules and Regulation S-X

CFR Correction

At 46 FR 40872, August 13, 1981, a document was published in the **Federal Register** revising paragraph (b)(1) of § 240.14a-3, and paragraph (a)(1) of § 240.14e-3. Each of these revised paragraphs were followed by two notes. In Title 17, Code of Federal Regulations, revised as of April 1, 1982, on pages 138 and 170, the second note was inadvertently omitted from § 240.14a-3(b)(1) and § 240.14c-3(a)(1) respectively. These two notes should appear as follows:

PART 240—[AMENDED]

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(b)(1) * * *

Note 2.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report, (c) the type of opinion expressed by the predecessor accountant and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted, however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10-K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

§ 240.14c-3 Annual report to be furnished security holders.

(a)(1) * * *

Note 2.—If the financial statements for a period prior to the most recently completed fiscal year have been examined by a predecessor accountant, the separate report of the predecessor accountant may be omitted in the report to security holders provided the registrant has obtained from the predecessor accountant a reissued report covering the prior period presented and the successor accountant clearly indicates in the scope paragraph of his report (a) that the financial statements of the prior period were examined by other accountants, (b) the date of their report (c) the type of opinion expressed by the predecessor accountant and (d) the substantive reasons therefor, if it was other than unqualified. It should be noted however, that the separate report of any predecessor accountant is required in filings with the Commission. If, for instance, the financial statements in the annual report to security holders are incorporated by reference in a Form 10-K, the separate report of a predecessor accountant shall be filed in Part II or in Part IV as a financial statement schedule.

* * * * *

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. PL83-1-000]

Take or Pay Provisions in Gas Purchase Contracts; Statement of Policy

Issued: December 16, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Statement of policy.

SUMMARY: Recognizing that take-or-pay contract obligations may be shielding the prices of deregulated and other higher cost gas from market constraints, the Commission is announcing its general policy by adding a new § 2.103 to its regulations regarding prepayments for natural gas pursuant to take or pay provisions in gas contracts and amendments thereto between producers and interstate pipelines which become effective December 23, 1982. With respect to such contracts, the Commission intends to apply a rebuttable presumption in general rate cases that prepayments to producers will not be given rate base treatment if the prepayments are made pursuant to take or pay requirements in such gas contracts or amendments which exceed 75 percent of annual deliverability.

DATE: Effective on December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357-8033.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) announces its general policy regarding prepayments for natural gas pursuant to take or pay provisions in natural gas purchase contracts and amendments thereto between producers and interstate pipelines which become effective on or after the effective date of this Statement of Policy. The Commission intends to apply a rebuttable presumption in general rate cases under sections 4 and 5 of the Natural Gas Act (NGA) that take or pay payments to producers which are made pursuant to requirements in such contracts in excess of 75 percent of annual deliverability are inappropriate and should not be given rate base treatment. In addition, the Commission will continue to review the extent of its other authority, if any, to deal with excessive take or pay payments under existing contracts.

The purpose of this policy statement is to provide guidance as to how the Commission intends to treat future prepayments in general section 4 or 5 rate cases. The Commission is mindful that a general policy statement does not have the force and effect of law. Rather, it is an articulation of the Commission's tentative intentions which will be followed unless circumstances demonstrate the policy to be inappropriate. In particular cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration. This general policy is being codified in Part 2 (General Policy and Interpretations) of the Commission's regulations by adding new § 2.103.

I. Introduction

The Commission is aware that currently, as a general matter, wholesale and retail gas prices are rising rapidly at the same time that demand for natural gas at the user level is falling. Numerous commenters in recent Commission proceedings [1] have stated that demand for natural gas has dropped due to a number of factors, including conservation and the state of the economy. They also allege that the current high prices for gas have prompted large industrial and commercial users who have the ability to use other energy sources to switch to cheaper, alternative fuels. At the same time, wholesale gas prices have only slowly and reluctantly responded to the decreased demand. Traditional economic theory of supply and demand would suggest a more rapid response than has occurred. Many commenters allege that the high take or pay obligations interstate pipelines have agreed to in gas purchase contracts for natural gas subject to section 107 of the Natural Gas Policy Act of 1978 (NGPA) have kept gas prices from responding to market forces.

The Commission is aware that many interstate pipelines have agreed to large take or pay obligations—as much as 95 percent of contract deliverability. This has particularly been the case with contracts for gas where the first sale price is deregulated pursuant to NGPA section 107(c)(1)-(4) or where the Commission has set an incentive price under section 107(c)(5). The Commission is also aware that the pricing provisions of conventional gas purchase contracts do not permit downward pricing flexibility. Since pipelines cannot respond to declining prices of competitive fuels as well as declining demand, additional load loss may well be expected. Under these circumstances, high take or pay obligations can also be expected to aggravate counter-market behavior by influencing pipelines to take and sell high cost gas while cutting back takes of lower cost gas. The result is higher prices for consumers, while reducing the take or pay liability for the pipeline. These behavioral expectations may well explain, at least in part, the counterintuitive phenomenon of falling demand, surpluses of supply, but rising prices. A recent GAO report describes this phenomenon as follows:

> [T]he pipeline can add the "pre-payments" to a specified account in its rate base and earn a rate of return on them. Therefore, to maintain cash flow, a pipeline may prefer to buy more expensive gas and recover its costs semi-annually, but incur any "pre-payments" on less expensive gas and recover these costs later. To the extent that "take-or-pay" and other contract clauses influence a pipeline to buy more expensive gas and forgo less expensive gas, such clauses will contribute to an increase in the pipeline's average gas costs.[2]

II. Future Prepayments

Because of its concern for problems such as those sketched above, the Commission recently ordered that a pipeline's purchasing practices should be considered an issue in a general section 4 rate case.[3] While the Commission notes with favor that a number of pipelines have recently exercised market-out provisions in gas purchase contracts for high cost gas or are renegotiating pricing and other contract terms, the Commission also believes that it should provide guidance as to the level of future prepayments that will be accorded rate treatment in general section 4 and 5 rate cases. With such guidance, parties presently involved in negotiating or renegotiating contracts will have the benefit of the Commission's preliminary judgments about the rate consequences of these new contracts.

With respect to such new contracts, the Commission intends to apply a rebuttable presumption in general rate cases that future prepayments to producers which meet the following

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[1] *See* comments submitted in response to the Notice of Inquiry, "Impact of NGPA on Current and Projected Natural Gas Markets," Docket No. RM82-26, issued April 28 1982 (NOI); comments submitted at the Public Conference, "Review of Off-System Sales Program," Docket No. GP82-47, November 4-5, 1982.

[2] GAO Report entitled "Natural Gas Price Increases: A Preliminary Analysis," GAO/RCED-83-76, December 9, 1982 at 20.

[3] Tennessee Gas Pipeline Company, Order Denying Rehearing, Docket Nos. TA82-2-9-000, *et al.*, issued October 1, 1982, 21 FERC ¶ 61,004.

criteria should not be given rate base treatment:

(1) The prepayments are made pursuant to take or pay requirements in gas purchase contracts or amendments which provide for take or pay liability in excess of 75 percent of annual deliverability from the relevant wells; and

(2) The gas purchase contract was entered into on or after the effective date of this Statement of Policy. Since the Commission's purpose is to encourage producer and pipeline cooperation in developing appropriate pricing and other contract terms which are sensitive to market factors, this general policy is limited to contracts or amendments which are entered into on or after the effective date of this Statement of Policy.

By selecting the 75 percent limitation, the Commission has attempted to balance the need for pipeline flexibility in responding to changing market conditions against the need to assure a cash flow to producers to cover their costs. However, the Commission's choice of 75 percent as the outside limit for affording rate base treatment to prepayments should *not* be construed as Commission policy that 75 percent is also a floor and that lower take or pay obligations are inappropriate. The Commission is aware that some pipelines and producers have agreed to lower take or pay requirements, and the Commisson encourages such actions.

III. Other Potential Commission Responses

In addition, the Commission will continue its ongoing investigation to determine the extent of its authority, if any, to deal with existing take or pay payments and to determine whether any action should be taken. For example, numerous commenters to the NOI argued that the Commission has authority under various sections of the NGPA and NGA to prevent the operation, or otherwise modify the treatment, of take or pay provisions in existing as well as future contracts. Some state that the Commission has interpreted its authority under section 601(c)(2) of the NGPA too narrowly and urge the Commission to expand its interpretation to hold that excessive take or pay requirements constitute an "abuse" of section 601(c)(2) and that the Commission, therefore, has authority to deny passthrough of purchased gas costs aasociated with those contract provisions.[4]

Others argue that the Commission has broad authority under sections 4, 5 and 7 of the NGA to override or limit the operation of contract terms if the Commission finds the terms to be contrary to the public interest.[5] An argument has also been made that take or pay payments violate the maximum lawful prices under Title I of the NGPA.[6]

On the other hand, many commenters argue that the Commission lacks authority to alter existing nonprice contractual terms, citing the "Mobile-Sierra" doctrine and other judicial precedents.[7] They also state that the Commission's current interpretation of its authority under NGPA section 601(c)(2) is accurate and that Congress did not intend the Commission to prevent the passthrough of maximum lawful prices except in very limited circumstances.[8]

The Commission has not come to any final conclusions as to whether it has authority to modify the operation of existing take or pay provisions or to affect the passthrough of costs associated with these contract provisions. Furthermore, the Commission has not determined whether any action would be appropriate, assuming such authority exists. Hence, at this time, the Commission is taking only those actions, as reflected in this Statement of Policy and other ongoing Commission proceedings, which are clearly within our authority.

It should be noted that as part of its continuing efforts to review the cost of gas to consumers, the Commission is also considering the propriety of revising its current procedures concerning pipeline treatment of prepayments generally. Pipelines are now permitted to include take or pay prepayments in Account 165, and they may be afforded rate base treatment over a period no longer than five years. By including these amounts in the rate base, pipelines are allowed a return and associated taxes on such amounts. This treatment may be more expensive to consumers[9] than if prepayments were financed through debt arrangements, and the pipelines were allowed to recover debt costs. We recognize that any change in our present rate treatment would at least require us to consider the practical consequences of regulatory lag and timing differences. However, we intend to pursue this option.

In accordance with section 553(b) of the Administrative Procedure Act (5 U.S.C. 553) (APA), the Commission finds that public notice and comment are unnecessary. In accordance with section 553(d) of the APA, this Statement of Policy is effective December 23, 1982.

(Natural Gas Act, 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3350, 15 U.S.C. 3301–3432)

List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas, Pipelines.

In consideration of the foregoing, Part 2 of Subchapter A, Chapter 1, Title 18 Code of Federal Regulations, is amended as set forth below, effective the date of publication in the **Federal Register.**

By the Commission.

Lois D. Cashell,
Acting Secretary.

PART 2—[AMENDED]

1. The Table of Contents for Part 2 is amended by adding a new § 2.103 to follow § 2.102 to read as set forth below:

2. Part 2 is amended by adding a new § 2.103 to read as follows:

§ 2.103 Statement of policy respecting take or pay provisions in gas purchase contracts.

(a) Recognizing that take or pay contract obligations may be shielding the prices of deregulated and other higher cost gas from market constraints, the Commission sets forth its general policy regarding prepayments for natural gas pursuant to take or pay provisions in gas contracts and amendments thereto between producers and interstate piplines which become effective December 23, 1982. The provisions of this policy statement do not establish a binding norm but instead provide general guidance. In particular

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[4] *See, e.g.*, comments filed in Docket No. RM82–26 by Consolidated Edison Company of New York, Inc. (at 5), Process Gas Consumers Group, *et al.* (at 70–76), the Public Service Commission of the District of Columbia (at 123), and the Pennsylvania Public Utility Commission (at 7–8).

[5] *See, e.g.*, comments filed in Docket No. RM82–26 by the Associated Gas Distributors (at 22–26), Terra Chemicals International, Inc. (at 7), Process Gas Consumers Group, *et al.*, (at 67–69), and the National Association of Regulatory Utility Commissioners (at 7–8).

[6] *See, e.g.*, comments filed in Docket No. RM82–26 by the American Gas Association (at 26–27), Associated Gas Distributors (at 17), Transcontinental Gas Pipe Line Corporation (at 4–5), and Public Power Group (at 23).

[7] *See, e.g.*, comments filed in Docket No. RM82–26 by Tennessee Gas Pipeline Company (at 25–27), Indicated Producers (at 96–121), and Northern Natural Gas Company (at 7–9).

[8] *See, e.g.*, comments filed in Docket No. RM82–26 by Transcontinental Gas Pipeline Corporation (at 15) and Columbia Gas Transmission Corporation (at 11–12).

[9] *See* comments filed in Docket No. RM82–26 by Process Gas Consumers Group (at 67–68).

cases, both the underlying validity of the policy and its application to particular facts may be challenged and are subject to further consideration.

(b) With respect to gas purchase contracts entered into on or after December 23, 1982, the Commission intends to apply a rebuttable presumption in general rate cases that prepayments to producers will not be given rate base treatment if the prepayments are made pursuant to take or pay requirements in such gas purchase contracts or amendments which exceed 75 percent of annual deliverability.

[FR Doc. 82-34670 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 3

Freedom of Information Act Fees; Correction

December 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; technical correction.

SUMMARY: This document makes technical corrections to the Final Rule issued May 19, 1982, in Docket No. RM81-40, that appeared in the **Federal Register** on May 27, 1982 (47 FR 23148). The action is necessary to conform the Freedom of Information Act Fees regulations to the redesignation of the Public Information and Requests regulations published on May 3, 1982 (47 FR 19014).

FOR FURTHER INFORMATION CONTACT: Maureen F. Thompson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8529.

SUPPLEMENTARY INFORMATION: The following technical corrections are made in FR Doc. 82-14377, beginning on page 23148 of the issue of May 27, 1982.

PART 3—[AMENDED]

§ 3.8 [Corrected]

1. In the parenthetical between the heading and the text of § 3.8, at 47 FR 23149, the reference to "§ 1.36" is corrected to read "Part 388."

2. In paragraph (k)(1)(i) of § 3.8, at 47 FR 23149, the reference to "§ 1.36" is corrected to read "Part 388."

3. In paragraph (k)(5)(iii) of § 3.8, at 47 FR 23150, the reference to "§ 1.36" is corrected to read "Part 388."

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34823 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-123 (Colorado-26)]

Colorado; High-Cost Gas Produced From Tight Formations; Correction

December 15, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects an earlier correction of a final rule that concerned high-cost gas produced from tight formations, Docket No. RM79-76-123 (Colorado-26). The final rule appeared in the **Federal Register** on September 3, 1982 (47 FR 38878), and contained an incorrect acreage description. The original correction to this final rule, which appeared in the **Federal Register** on September 28, 1982 (47 FR 42562), contained an incorrect cite to the Commission's Rules of Practice and Procedure, as well as errant page numbers.

FOR FURTHER INFORMATION CONTACT: Steven Ross, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20436, (202) 357-8571.

The following restates the acreage descriptions in FR Doc. 82-24358, appearing on page 38879, and in FR Doc. 82-26524, appearing on page 42562. On pages 38879 and 42562, § 271.703(d)(108)(i) should read as follows:

PART 271—[AMENDED]

§ 271.703 [Corrected]

* * * * *

(d) * * *

(108) * * *

(i) *Delineation of formation.* The Dakota-Lakota Formation is located in Boulder County, Colorado, in Township 1 North Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, and 27 through 34; Township 1 South, Range 70 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

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Kenneth F. Plumb,

Secretary.

[FR Doc. 82-34824 Filed 12-22-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-82-1036]

Annual Contributions for Operating Subsidy Performance Funding System

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends 24 CFR Part 890 to reinstate the Rolling Base Period in determining the Allowable Utilities Consumption Level (AUCL) to be utilized by public housing agencies (PHAs) in the Performance Funding System (PFS) calculation of the Utilities Expense Level. The Utilities Expense Level is a component of the PHA's calculation of its PFS operating subsidy eligibility.

DATES: Effective December 23, 1982. Comment due date: February 22, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: J. Milton Slifkin, Fiscal Management Division, Room 4218, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 426-1872. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: At the inception of the PFS, beginning with the PHA fiscal year beginning April 1, 1975, the AUCL was based upon the PHA's actual utility consumption experienced during a 36-month Rolling Base Period. The Rolling Base Period system was replaced by the Fixed Base Period