the **Federal Register.** This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until January 26, 1990, and this action needs to be effective for the regulatory week which begins on January 26, 1990. Further, handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Arizona, California, Marketing agreements, Navel oranges.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. Section 907.1004 is revised to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 907.1004 Navel Orange Regulation 704, Amendment 1.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from January 26 through February 1, 1990, is established as follows: (a) District 1: 1,702,000 cartons; (b) District 2: 287,000 cartons; (c) District 3: unlimited cartons; (d) District 4: 61,000 cartons.

Dated: January 26, 1990.

Robert O. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–2517 Filed 2–5–90; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1944 and 1955

Sale of Inventory Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on the sale of Single Family Housing (SFH) inventory property to include provisions for purchase by a public body or nonprofit organization to use for transitional housing for the homeless, to authorize pilot projects and to make other minor changes consistent with the authorizing statute. This action is taken to provide eligible organizations priority in purchasing SFH inventory property, a discount of the listed price on nonprogram property, repairs to decent, safe and sanitary standards, and favorable financing terms. Pilot projects will improve the agency's ability to evaluate various methods to improve the management and disposition of inventory property. The intended effect is to assist the homeless and to improve the agency's ability to efficiently dispose of inventory property.

EFFECTIVE DATE: March 8, 1990.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Senior Realty Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, U.S. Department of Agriculture, Room 5309, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or import markets. This action is not expected to substantially affect budget outlay or affect more than one Agency or to be controversial. The net result is to provide better service to rural communities.

Background/Discussion

On September 14, 1988, FmHA published an interim rule (53 FR 35638) which included revisions to farmer program (CONACT) portions of 7 CFR part 1955, implementing provisions of the Agricultural Credit Act of 1987. This action, except for the provisions on pilot projects and sealed bid sales, affects housing programs only and has no impact on the intent of revisions to 7 CFR part 1955 implementing the Agricultural Credit Act of 1987.

On July 25, 1988, FmHA published a proposed rule (53 FR 27863) on leasing SFH inventory property to community-based organizations to provide transitional housing for the homeless. Several comments suggested revisions to subpart C of 7 CFR part 1955 to facilitate the sale of SFH inventory property to certain organizations to provide transitional housing for the homeless. Based upon those comments, FmHA published a proposed rule (54 FR 17958) on April 26, 1989, and provided a 60-day comment period. Although comments had been made on the previous rulemaking, FmHA encouraged additional comments from housing advocacy groups, FmHA personnel and the public. Twelve comments were received: 2 from FmHA employees, 1 from a Department of Housing and Urban Development (DHUD) program official, 1 from a private individual, 1 from a limited profit housing rehabilitation organization, and the rest from 7 low-income housing advocacy groups. All comments were generally in support of the rule; however, several issues were raised over specific points of the proposal. The following is a discussion of the comments received:

Type of Property To Be Offered

Comment: FmHA should determine which properties are suitable for transitional housing and prepare a separate list to save an organization's time and effort looking at vacant lots or buildings which are not feasible.

Response: A list of SFH inventory property, indicating whether it is program or nonprogram, can be generated easily by field offices from the agency's Acquired Property Tracking System; therefore an organization can ask for such a breakdown when it decides to look at various properties. Because an organization's resources and requirements are unknown, FmHA should neither impose its own criteria, nor exclude any property from consideration.

Comment: Program property should be excluded fom the program.

Response: An organization eligible for this program is not a program applicant; however, its purpose, to provide transitional housing for the homeless, makes it worthy of equal access to program property.

Comment: Under this rulemaking, FmHA should provide for the disposition of properties that include large tracts of land to facilitate the establishment of Regional Homeless Training Centers (RHTC).

Response: This rulemaking is limited to SFH inventory property, therefore, addressing the facilitation of RHTC is beyond its scope. Larger tracts of land in FmHA inventory are available, subject to other provisions of subpart C of part 1955 of this chapter.

Eligibility of Organizations for Program Participation

Comment: FmHA should offer a Local Urban Homesteading Agency (LUHA) a 10 percent discount on any SFH inventory property to be used in the Urban Homesteading (UH) program.

Response: A LUHA is a community nonprofit corporation but it does not meet the required purpose identified for this program in the Memorandum of Understanding between USDA and Department of Health and Human Services (DHHS). The comment has merit, however, since similar consideration is given to a LUHA under DHUD or Veterans Administration (VA) inventory sale procedures. Therefore, § 1955.144(b) of 7 CFR part 1955 subpart C is amended to specify that a LUHA is authorized a 10 percent discount of the listed price on nonprogram property. In order to protect the ability of program applicants to compete for program property, no discount is authorized on program property.

Comment: FmHA should extend the program to limited profit or profit organizations which rent units to very-low-income families. Comments on the proposed rule on leasing inventory property also made this suggestion.

Response: The Memorandum of Understanding between USDA and DHHS limits this program to community nonprofit organizations interested in initiating shelter projects. Organizations which do not meet this definition may compete on the same terms with other nonprogram applicants for program or nonprogram property.

Method of Offering

Comment: The list of inventory property should be referred to DHUD in accordance with the terms of the McKinney Act.

Response: SFH inventory property is not subject to the reporting requirements of the McKinney Act because it is neither property which is subject to Federal Property and Administrative Services Act (FPASA) surveys, nor is it underutilized because it is prepared and offered for sale as soon as possible after acquisition. The above notwithstanding, FmHA is committed to assisting the homeless, consistent with the objectives of the Housing Act of 1949 and in accordance with the terms of the Memorandum of Understanding with DHHS. The proposed rule assures ample notice of property availability, without burdening agency resources, by providing interested organizations with a list of inventory property upon request.

Priority Order for Disposition of Property

Comment: FmHA should establish a priority order for disposition of inventory property, giving first and equal priority to program applicants and organizations to buy property for rental, cooperative or transitional housing; second priority to organizations to lease property for transitional housing; third priority to organizations to buy property for any public purpose; and last to any other buyers.

Response: The priorities suggested would not necessarily benefit the intended beneficiaries, the homeless. Additional levels of priority, with the implication of additional reservation periods required, could adversely impact the amount of time a property is retained in inventory, adding to the Government's cost of property disposition. The suggestion would also result in an inequitable position for an organization which may not be authorized or have the resources to buy property. We will continue to give priority to a program applicant, yet provide equal access to an eligible organization whose purpose is to provide transitional housing for the homeless. The organization has an advantage over a nonprogram applicant, by the withdrawal from the market upon notice of interest.

Program Purposes

Comment: Several comments suggested expanding program purposes to permit the use of the property for rental or cooperative housing or for any other public purpose. Comments on the proposed rule on leasing inventory property also suggested this.

Reponse: The intent of this action is to address the housing needs of the homeless within the framework of the Memorandum of Understanding between USDA and DHHS. It is not intended to facilitate the transfer of SFH inventory property to rental or cooperative housing nor to convert it from residential use, regardless of ownership, to any other public purpose.

Terms of Sale

Comment: FmHA should offer more than a 10 percent discount.

Response: A 10 percent discount of the listed price on nonprogram property is adequate. The listed price may already be 10 percent or 20 percent below appraised market value because of administrative price reductions, depending upon how long the property has been listed.

Comment: FmHA should extend the time for the organization to execute a sales contract or permit a lease with option to purchase, to allow time to obtain funding.

Response: FmHA proposed to withdraw a property from the market for 15 days to allow time to present a written contract. Although many of the requirements for an organization to enter into a contract could be met ahead of time, additional time might be required, therefore this period is extended to 30 days. FmHA leases nonprogram property under subpart B of part 1955 of this chapter; however, there is no cash rent to accumulate toward a purchase. Additional time to obtain funds should not be necessary because FmHA offers financing at favorable nonprogram terms.

Comment: FmHA financing at the proposed terms will not permit an organization to charge a fair market rent and cover mortagage payments, maintenance and insurance.

Response: The proposed terms included a 2 percent downpayment, with financing at the nonprogram interest rate, amortized over 20 years with a balloon payment due in 10 years. We cannot change the interest rate or provide interest credit subsidy to nonprogram applicants; however, we have eliminated the downpayment, and will permit amortization over thirty years to conform to nonprogram terms for owner/occupants.

Repairs to Property

Comment: FmHA should not repair a property for this program.

Response: FmHA will repair a property, if necessary, only to meet decent, safe and sanitary (DSS) standards, and then, only if it is feasible. This is to enable organizations without resources for essential repairs to provide housing which does not endanger the safety or health of the occupants. The price will be adjusted accordingly.

Comment: FmHA should make repairs to meet thermal performance standards.

Response: FmHA proposed to repair property to meet DSS standards, except for thermal performance standards. Section 510(e) of the Housing Act of 1949, as amended, requires that inventory property meet DSS standards, including thermal performance standards, before it is occupied for residential purposes; therefore, to meet all the criteria, the proposed rule is revised to reflect that FmHA repairs the property to DSS standards, including thermal performance standards.

Comment: The cost of repairs should have to exceed $15,000, not $7,500, before requiring prior approval from the Assistant Administrator.

Response: The agency has decided to repair property for this program under existing regulations; therefore, the need for prior approval from the Assistant Administrator has been eliminated.

Lease of Inventory Property

Several comments regarding the lease of inventory property, although beyond the scope of this rulemaking, are addressed here even though they may have been answered in the Final rule (54 FR 20518), published on May 12, 1989.

Comment: FmHA should allow lease of program property as well as nonprogram property.

Response: The public benefit of leasing program property and the cost of retaining property in inventory for an extended period cannot outweigh the value of the prompt turnover of program property. The agency mission for its single family housing program is to provide financial assistance to help applicants obtain adequate but modest homes of their own in rural areas. Inventory properties that can help meet the agency mission will be used for that purpose.

Comment: FmHA should publish the fact sheet on leasing inventory property for the homeless and the sample lease form for public comment.

Response: FmHA has determined the **Federal Register** publication of this information is not required because these materials merely implement the published rules are not themselves rules. These items are available to the public and all interested organizations at any FmHA office.

The following is a summary of the program features as amended by the comments received:

1. Upon request, FmHA provides a list of SFH inventory property to any public body or nonprofit organization which expresses an interest in buying it to provide transitional housing for the homeless. Upon written notice of intent to purchase, FmHA withdraws the property from the market for up to 30 days to allow time to execute a sales contract.

2. A 10 percent discount of the listed price is authorized on nonprogram property. No discount is authorized on program property.

3. If necessary, FmHA repairs the property, when feasible, to decent, safe, and sanitary (DSS) standards, including thermal performance standards. The price is adjusted to reflect any resulting change in value. The buyer is responsible for any cosmetic repairs.

4. No earnest money deposit or down payment is required. Financing is available for 30 years at the nonprogram interest rate.

Other minor editorial changes were made to clarify the instruction.

No comments were received regarding the five-day waiting period before FmHA considers offers for the purchase of SFH inventory property, assuring all real estate brokers equal opportunity to submit offers; therefore, § 1955.114(a)(1)(iv) is amended as proposed, except for minor editorial changes.

No comments were received regarding the State Director's authority to offer 20-year amortization on nonprogram financing, special effort sales bonuses and sealed bid sales to promote the sale of inventory property; therefore, § 1955.118(f), redesignated to paragraph (b)(6)(i)(B), § 1955.130(f) and § 1955.147 are amended as proposed, except special effort sales bonuses are limited to short terms not to exceed three months. Section 1955.118 is also amended to correct the designation of several paragraphs and to add instructions for closing a credit sale of more than one property to the same buyer. Although a separate note will still be taken for each property, only one mortgage will cover all the properties to discourage investors from defaulting on payments on those individual properties they no longer want.

No comments were received regarding the use of pilot projects; therefore § 1955.132 is amended as proposed, except for minor editorial changes.

No comments were received regarding the authorization of a maximum total loan amount in excess of the market value by one percent of the sale price, for a subsequent loan for closing costs with a credit sale or a transfer.

A minor editorial change was made to § 1944.17(d) of subpart A of part 1944 of this chapter; however, to clarify that the maximum loan amount is based on the market value or the sale price, whichever is less.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.404	Emergency Loans
10.405	Farm Labor Housing Loans
10.406	Farm Operating Loans
10.407	Farm Ownership Loans
10.410	Low Income Housing Loans
10.411	Rural Housing Site Loans
10.414	Resource Conservation and Development Loans
10.415	Rural Rental Housing Loans
10.416	Soil and Water Loans
10.417	Very Low Income Housing Repair Loan and Grants
10.418	Water and Waste Disposal Systems for Rural Communities
10.419	Watershed Protection and Flood Prevention Loans
10.421	Indian Tribes and Tribal Corporation Loans
10.422	Business and Industrial Loans
10.423	Community Facility Loans
10.427	Rural Rental Assistance Payments

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR part 2015, subpart V, the following programs are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials: 10.404—Emergency Loans; 10.406—Farm Operating Loans; 10.407—Farm Ownership Loans; 10.410—Low Income Housing Loans; 10.416—Soil and Water Loans; 10.417—Very Low Income Housing Repair Loan and Grants. However, this activity impacts the following programs which are subject to intergovernmental consultation with State and local officials: 10.405—Farm Labor Housing Loans and Grants; 10.411—Rural Housing Site Loans; 10.414—Resource Conservation and Development Loans; 10.415—Rural Rental Housing Loans; 10.418—Water and Waste Disposal Systems for Rural Communities; 10.419—Watershed Protection and Flood Prevention Loans; 10.421—Indian Tribes and Tribal Corporation Loans; 10.422—Business and Industrial Loans; 10.423—Community Facility Loans; 10.427—Rural Rental Assistance Payments.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1949, Public Law 91-190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5. U.S.C. 601–

612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a large number of small entities.

List of Subjects

7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural housing, Subsidies.

7 CFR Part 1955

Government acquired property, Sale of government acquired property, Surplus government property.

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

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

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

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

2. In § 1944.17, paragraph (d) is revised to read as follows:

§ 1944.17 Maximum loan amounts.

* * * * *

(d) When a subsequent loan for closing costs only is made simultaneously with a credit sale (as provided in § 1955.117(f) of subpart C of part 1955 of this chapter) or a transfer, the total indebtedness may exceed the sale price or market value of the security property, whichever is less, by no more than one percent.

* * * * *

PART 1955—PROPERTY MANAGEMENT

3. The authority citation for part 1955 continues to read as follows:

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

Subpart C—Disposal of Inventory Property

4. The title and text of § 1955.111 is revised to read as follows:

§ 1955.111 Sale of real estate for RH purposes (housing).

Sections 1955.112 through 1955.120 of this subpart pertain to the sale of acquired property pursuant to the Housing Act of 1949, as amended, (RH property). Single family units (generally which secured loans made under section 502 or 504 of the Housing Act of 1949, as amended) are referred to as SFH property. All other property is referred to as MFH property. Notwithstanding the provisions of §§ 1955.112 through 1955.118 of this subpart, § 1955.119 is the governing section for the sale of SFH inventory property to a public body or nonprofit organization to use for transitional housing for the homeless.

5. In § 1955.114, paragraph (a)(1)(iv) is revised to read as follows:

§ 1955.114 Sales steps for program property (housing).

(a) * * *

(1) * * *

(iv) An offer may be submitted any time after the effective date the property is available for sale or any price reduction; however, it is not considered until five business days after the effective date. An offer received during the five business day period is considered on the 6th day, at the same time as any offer received on the 6th day.

* * * * *

6. Section 1955.118 is amended by redesignating the introductory text as paragraph (a); redesignating the last sentence of paragraph (a), beginning with the words "The following provisions" as paragraph (b); by redesignating paragraphs (a) through (k) as paragraphs (b)(1) through (b)(11); in newly designated paragraph (b)(6) by redesignating subparagraphs (1)(i), (1)(ii) and (2) as (i), (i)(A), (i)(B) and (ii) respectively; in newly designated paragraph (b)(8), by redesignating subparagraphs (1), (2) and (3) as (i), (ii) and (iii) respectively; by revising redesignated paragraphs (b)(4) and (6)(i)(B) and adding paragraph (b)(8)(iv) to read as follows:

§ 1955.118 Processing cash sales or credit sales on NP terms (housing).

* * * * *

(b) * * *

(4) *Downpayment.* For credit sales, a downpayment will be collected at closing and will be remitted in accordance with FmHA Instruction 1951–B (available in any FmHA office). For SFH properties, purchases who fall into the category specified in § 1955.118(b)(6)(i)(A) of this subpart (owner/occupants), a downpayment of not less than 2 percent is required. For purchasers who fall into the category specified in § 1955.118(b)(6)(i)(B) of this subpart (nonoccupant/investors), a downpayment of not less than 5 percent is required. For MFH properties, a downpayment of not less than 10 percent is required.

* * * * *

(6) * * *

(i) * * *

(B) For purchasers who do not meet the criteria in paragraph (b)(6)(i)(A) of this section, the note amount will be amortized for not more than 10 years. However, if the State Director detetermines more favorable terms are necessary to facilitate the sale, the note amount may be amortized using up to a 20-year factor with payment in full (balloon payment) due not later than 10 years from the date of closing. The State Director may authorize 20-year amortization on a group, county, district or state-wide basis, if it appears necessary to facilitate the sale of nonprogram property.

* * * * *

(8) * * *

(iv) When more than one property is bought by the same buyer and the transactions are closed at the same time, a separate promissory note will be prepared for each property, but one mortgage will cover all the properties.

* * * * *

§ 1955.120 [Redesignated from § 1955.119]

7. § 1955.119 is redesignated as § 1955.120, and new § 1955.119 is added to read as follows:

§ 1955.119 Sale of SFH inventory property to a public body or nonprofit organization.

Notwithstanding the provisions of § 1955.111 through § 1955.118 of this subpart, this section contains provisions for the sale of SFH inventory property to a public body or nonprofit organization to use for transitional housing for the homeless. A public body or nonprofit organization is a nonprogram applicant.

(a) *Method of sale.* The method of sale is according to § 1955.112 of this subpart. Upon request from a public body or nonprofit organization, FmHA will provide a list of all SFH inventory property, regardless of whether it is listed for sale with real estate brokers. The list will indicate whether the property is program or nonprogram. Upon written notice of the organization's intent to buy a specific property, if it is not under a sale contract, FmHA will withdraw the property from the market for a period not to exceed 30 days to provide the organization sufficient time to execute Form FmHA 1955–45.

(b) *Price.* The price of the property will be established according to § 1955.113 of this subpart; however, a 10 percent discount of the listed price is authorized on nonprogram property. No discount is authorized on program property.

(c) *Decent, safe and sanitary (DSS) standards.* If an organization wants to buy a property which does not meet DSS standards, FmHA will repair it to meet those standards, including thermal performance standards, unless FmHA determines it is not feasible to do so according to § 1955.64(a)(1)(ii) of subpart B of part 1955 of this chapter. The price will be adjusted to reflect any resulting change in value. Cosmetic repairs, if needed, such as painting, floor covering, landscaping, etc., are the responsibility of the organization. Form FmHA 1955–44, itemizing the required repairs and FmHA's agreement to complete them before closing will be made a part of Form FmHA 1955–45, the sales contract, before it is signed. Required repairs must be completed before closing so DSS restrictions will not be required in the deed.

(d) *Approval and closing.* Processing cash sales or credit sales on nonprogram terms will be done according to §1955.118 of this subpart, except as follows:

(1) *Earnest money deposit.* No earnest money deposit is required.

(2) *Downpayment.* No downpayment is required.

(3) *Term of note.* The term of the note may not exceed 30 years.

8. In § 1955.130, a sentence is added to the end of paragraph (f)(2) to read as follows:

§ 1955.130 Real estate brokers.

* * * * *

(f) * * *

(2) * * * The State Director may authorize use of short-term (not to exceed three months) special effort sales bonuses on a group, county, district or state-wide basis, if it appears necessary to facilitate the sale of nonprogram property.

* * * * *

9. § 1955.132 is added under the undesignated heading "GENERAL" to read as follows:

§ 1955.132 Pilot projects.

FmHA may conduct pilot projects to test policies and procedures for the management and disposition of inventory property which deviate from the provisions of this subpart, but are not inconsistent with the provisions of the authorizing statute or other applicable Acts. A pilot project may be conducted by FmHA employees or by contract with individuals, organizations or other entities. Prior to initiation of a pilot project, FmHA will publish notice in the Federal Register of its nature, scope, and duration.

10. In § 1955.144(b), a sentence is added at the end of the paragraph, to read as follows:

§ 1955.144 Disposal of NP or surplus property to, through, or acquisition from other Agencies.

* * * * *

(b) * * * A Local Urban Homesteading Agency (LUHA) is authorized a 10 percent discount of the listed price on any SFH nonprogram property for the UH Program. No discount is authorized on program property.

11. In § 1955.147, a new sentence is added after the fifth senence in the introductory text to read as follows:

§ 1955.147 Sealed bid sales.

* * * When a group of properties is to be sold at one time, advertising may indicate that FmHA will consider bids on an individual property or a group of properties and FmHA will accept the bid or bids which are in the best financial interest of the Government. * * *

* * * * *

Dated: January 3, 1990.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 90–2694 Filed 2–5–90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 32

[Docket No. RM89–18–000; Order No. 518]

Deletion of Procedural Regulations for Transmission Electricity to a Foreign Country and for Emergency Connection of Facilities

Issued January 30, 1990.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is deleting §§ 32.20 through 32.62 under part 32 of its regulations because the Commission's jurisdiction over these matters was transferred to the Secretary of Energy by the Department of Energy Organization Act. Sections 32.20 through 32.62 established certain procedural requirements governing the filing of applications to transmit electric energy from the United States to a foreign country, and applications for emergency connections of facilities and emergency service. The Commission, however, is retaining §§ 32.1 through 32.4 under part 32 of its regulations because these sections implement the interconnection provisions of section 202(b) of the Federal Power Act, which were transferred to the Commission by the DOE Act.

EFFECTIVE DATE: This final rule is effective January 30, 1990.

FOR FURTHER INFORMATION CONTACT: Barry M. Smoler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Hearing Room A at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357–8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Hearing Room A, 825 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, and Jerry J. Langdon.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is deleting from its regulations certain procedural requirements governing the filing of applications to transmit electric energy from the United States to a foreign country, and applications for emergency connections of facilities and emergency service. These regulations are being deleted because the Commission's jurisdiction over these matters was transferred to the Secretary of Energy.

II. Background

The regulations being deleted herein were adopted by the Federal Power Commission (FPC) prior to 1977, to implement that Commission's jurisdiction: (1) Under section 202(e) of the Federal Power Act [1] to authorize the transmission of electric energy to a foreign country; (2) under Executive Order No. 10,485 [2] to approve the construction and operation of electric power transmission facilities located at the international boundaries of the United States; and (3) under sections 202(c) and 202(d) of the Federal Power Act to order temporary interconnections of electric transmission facilities during an emergency.

On October 1, 1977, the Department of Energy Organization Act (DOE Act) [3] became effective. It reconstituted the FPC as the Federal Energy Regulatory Commission, and transferred to it most, but not all, of the FPC's statutory authority. Pursuant to sections 301(b) and 402(a) of the DOE Act, the FPC's functions under sections 202(c), (d) and (e) of the Federal Power Act were transferred to the Secretary of Energy.[4] From 1977 to the present, the Secretary of Energy (through subordinate officers within the Department of Energy) has also exercised the function under Executive Order No. 10,485 of approving facilities at the international boundaries that are used to export electric power.

III. Discussion

Sections 32.30 through 32.38 of the Commission's regulations establish procedures for filing an application for authorization to transmit electric power to a foreign country. Sections 32.50 through 32.52 establish procedures for filing an application for construction, operation, maintenance, or connection at an international boundary of facilities for the transmission of electric power between the United States and a foreign country. Sections 32.20 through 32.23, and §§ 32.60 through 32.62, establish procedures for filing an application for emergency connection of facilities and for emergency service. By virtue of the DOE Act, the Commission lacks jurisdiction to act on any of these applications. Accordingly, the final rule deletes §§ 32.20 through 32.62 from the regulations.[5]

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [6] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission certifies that promulgating this rule does not represent a major Federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

V. Information Collection

The Office of Management and Budget's (OMB) regulations [7] require that OMB approve certain information collection requirements imposed by agency rule. The Commission is notifying OMB of the information collection and recordkeeping requirements deleted by this rule.

VI. National Environmental Policy Act Statement

The Commission concludes that promulgating this rule does not represent a major Federal action having significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[8] This rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations.[9] Consequently, neither an environmental impact statement nor an environmental assessment are required.

VII. Effective Date

This rule does not alter the substantive rights or interests of any interested persons, and it conforms the regulations to Commission practice. Therefore, prior notice and comment under section 4 of the Administrative Procedure Act (APA) [10] are unnecessary. Since the purpose of this final rule is to delete certain procedural requirements in the Commission's regulations that are no longer pertinent, the Commission finds good cause to make this rule effective immediately upon issuance. This rule therefore is effective January 30, 1990.

List of Subjects in 18 CFR Part 32

Electric utilities, Foreign relations, Reporting and recordkeeping requirements.

Accordingly, the Commission amends part 32, chapter I, title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 32—[AMENDED]

1. The authority citation for part 32 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E. O. No. 12,009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a–825r (1988); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1988).

2. The title of part 32 is revised to read as follows:

PART 32—INTERCONNECTION OF FACILITIES

§§ 32.20 through 32.62 [Removed]

3. Sections 32.20 through 32.62 and undesignated center headings preceding them are removed.

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18 CFR Part 272

[Docket No. RM88-10-001]

Revision of Definition of Natural Gas Produced From Devonian Shale; Order Clarifying Order No. 501

Issued January 30, 1990.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule; clarification.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is clarifying Order No. 501, Docket No. RM 88–10–000, 53 FR 28,192 (July 27, 1988), which amended the Commission's regulations defining Devonian shale to allow producers to measure Devonian shale from a selected interval within the Devonian age stratigraphic interval. The Commission is clarifying that the gamma ray index should be calculated for the entire Devonian age interval when the producer is seeking to qualify the well under § 272.103(e)(1)(i) or for the selected interval when the producer is

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[1] 16 U.S.C. 824a(e) (1988).

[2] Performance of Functions respecting Electric Power and Natural Gas Facilities Located on United States Borders, Exec. Order No. 10,485, Sept. 3, 1953, 18 FR 5397, 3 CFR 1049–1953 Comp. p. 970.

[3] 42 U.S.C. 7101 *et seq.* (1982).

[4] The Department of Energy has implemented this authority through adoption of its own regulations. *See* 10 CFR 205.300–205.309 and 205.370–205.379 (1989).

[5] Sections 32.1 through 32.4 of the regulations are retained because they implement the interconnection provisions of 202(b) of the Federal Power Act. Section 402(a)(1)(B) of the DOE Act transferred the interconnection provisions of 202(b) to the Commission.

[6] 5 U.S.C. 601–612 (1988).

[7] 5 CFR Part 1320 (1989).

[8] 52 FR 47,897 (Dec. 17, 1987), III FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[9] 18 CFR 380.4(a)(2)(ii) (1989).

[10] 5 U.S.C. 553(b) (1988).