



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

August 8, 1980

Robert M. Lazo, Esq., Chairman
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Gustave Linenberger
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. David R. Schink
Department of Oceanography
Texas A & M University
College Station, Texas 77840

In the Matter of
PACIFIC GAS AND ELECTRIC COMPANY
(Humboldt Bay Power Plant, Unit No. 3)
Docket No. 50-133

Gentlemen:

Enclosed please find a copy of a Federal Register notice published on July 25, 1980 (45 Fed. Reg. 49535) regarding amendments in NRC regulations to provide a one-year pilot program of procedural assistance in adjudicatory licensing proceedings.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven C. Goldberg".

Steven C. Goldberg
Counsel for NRC Staff

Enclosure: As stated

cc w/enc.:

Philip A. Crane, Jr., Esq.
Mr. Andrew Baldwin
Linda J. Brown, Esq.
Michael R. Sherwood, Esq.
Bruce Norton, Esq.
Atomic Safety and Licensing Board Panel
Atomic Safety and Licensing Appeal Board Panel
Docketing and Service Section

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action is taken as a result of an administrative decision.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Carl O. Opsted, Farm Real Estate Loan Division, Farmers Home Administration, USDA, 14th and Independence Avenue, SW, Washington, DC 20250, Telephone: (202) 447-4572.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the Office of the Chief, Directives Management Branch, Farmers Home Administration, Room 8348 South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

This action will save time and reduce paperwork. If the exhibit were to stay in the Federal Register, each time the interest rate changed it would be necessary to bring this exhibit up-to-date. Removing this exhibit and making it available in any FmHA office is the most prompt way to provide information on interest rate changes.

The Farmers Home Administration amends the Table of Contents and section 1951.25(a)(2) and deletes Exhibit A from Subpart A, part 1951, Chapter XVIII, Title 7 in the Code of Federal Regulations.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposal rulemaking since the purpose of the change is administrative in nature and publication for comment is unnecessary.

Therefore, the Table of Contents and § 1951.25(a)(2) are amended and Exhibit A is deleted as follows:

Table of Contents

Exhibit A—(Available in any FmHA Office)

§ 1951.25 Review of Limited Resources FO and OL loans.

(a) Frequency of reviews.

(1)

(2) The interest rate on FO loans will be increased in accordance with the Schedule in Exhibit A of this Subpart (available in any FmHA office.) The loans will then be reviewed at least once every two years, approximately 80

days prior to the anniversary date of the note.

Exhibit A (Deleted)

Note.—This document has been reviewed in accordance with 7 CFR Part 1901, Subpart C, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989 delegation of authority by the Sec. of Agri., 7 CFR 2.23 delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: June 26, 1980.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FR Doc. 80-22540 Filed 7-24-80; 8:46 am]
BILLING CODE 3410-07-88

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Procedural Assistance in Adjudicatory Licensing Proceedings

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Effective rule.

SUMMARY: NRC is amending its regulations in order to provide a one-year pilot program of procedural assistance in adjudicatory proceedings on applications for licenses and amendments thereto, except for antitrust proceedings, to parties other than the applicant by (a) upon a party's request, providing one transcript without charge to that party and (b) upon a party's request, copying and serving without charge that party's testimony (including attachments), proposed findings of fact and conclusions of law, and responses to discovery requests. In addition, the regulations are amended to require that parties, including an applicant, file with NRC an original plus two copies of each filing in an adjudication, rather than an original and twenty copies.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas F. Dorian, Esq. Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: (301)-492-8690).

SUPPLEMENTARY INFORMATION: In order to help parties assist the Commission in arriving at its decisions, the Commission on several occasions over the past several years has considered proposals

to reduce cost burdens for parties in Commission adjudicatory licensing proceedings on applications for licenses and amendments thereto. Several proposals were considered in the context of the S-3 rulemaking on the uranium fuel cycle. See 42 FR 13903 (March 13, 1977), 43 FR 6915 (April 14, 1978), and 44 FR 45362 (August 12, 1979). From that proceeding the Commission hoped to gain specific experience with providing free service of documents and free transcripts and to use the experience to develop general policy with respect to adjudicatory proceedings.

Eligibility for NRC Procedural Assistance

One alternative with respect to procedural assistance is to provide it to full participants, i.e., parties, who submit an affidavit to the Hearing Board stating, with brief factual support, that their ability to participate would be significantly impaired without this assistance. Under this alternative the Commission would have had to provide the Boards and parties with some guidance as to who would ordinarily qualify for assistance under this standard. However, offering procedural assistance to all intervenors without qualification might offer enough savings, from not having to decide who was qualified to receive assistance, to be worth the extra expense of assisting a few additional intervenors. On the other hand, it is incongruous to charge an applicant from \$50,000 to \$1 million for processing an application, and then to offer it a free transcript, worth on the order of \$1,000.

On balance, the Commission has decided that the better alternative is to provide procedural assistance to all parties other than an applicant in adjudicatory proceedings on applications for licenses and amendments thereto.

NRC Provision of Free Transcripts

Transcripts are usually expensive, especially when fast copy is requested. A typical transcript for one day of a proceeding runs about 200 pages. The original of such a transcript, provided the next morning, costs about \$1,000; supplementary copies cost about \$100. In the S-3 proceeding, transcripts were requested by most public interest groups, industry representatives and utilities. The principal conclusion that can be drawn from that proceeding is almost self-evident, namely, that NRC's offer to provide an expensive service (transcripts) is attractive to most parties. These parties, in turn, can better assist

the Commission in arriving at its decisions.

There is no reason why free transcripts could not be made available in adjudications to parties, other than the applicant, at the same time and location as they are made available to the NRC staff. If transcripts are mailed to the staff, they would also be mailed to intervenors. This service could replace present practice where members of the staff or the Licensing Board frequently lend an intervenor an extra copy of the transcript, although on a necessarily irregular basis. Transcripts are particularly important to the many intervenors who attempt to make their cases on cross-examination.

Therefore, the Commission has decided to initiate a one-year pilot program to provide free transcripts on the basis previously described. Licensing Boards will have the discretion to control the distribution of transcripts to parties—for example, to limit distribution to some but not all of a consolidated group of intervenors, or to only those phases of a hearing in which an intervenor intends to participate.

NRC Provision of Free Copying and Service

Most licensing proceedings produce dozens of filings. It should be noted that, frequently, parties in complex proceedings routinely serve more people than necessary. Particularly in those proceedings in which certain aspects of an issue have been heard before all levels of NRC adjudicatory boards, parties tend to compile service lists which reflect the entire history of the proceeding, rather than being tailored to the particular paper being filed. Random checks of service lists show that this sort of error accounts for between 3 and 7 extra copies made and distributed. The Commission wishes to emphasize that parties should be aware that service is required only on the Commission or the pertinent adjudicatory board and the parties, and that parties endeavoring to hold down their costs should carefully monitor their service lists.

In December 1977, the Commission authorized the Docketing and Service Branch to copy and serve submissions in the S-3 proceeding, if requested to do so by parties to the proceeding. Each party requesting this assistance served an original and two copies on NRC. Others followed normal procedures, namely, service on other parties and an original plus 20 copies on NRC.

The results show that the availability of free copying and service had no discernible impact on the length or frequency of filings with the

Commission. Concern had been expressed that free service would encourage abuses in the form of overlong, unedited or unnecessary filings. In general, for those who ultimately requested copying and service, there were no significant differences in length or frequency between filings copied and served by the parties themselves and those copied and served by NRC at a party's request.

This experience suggests that a program of free NRC copying and service is not likely to be abused. The Commission does not wish to assume this responsibility for all classes of documents, since this would create substantial delay. It has, however, identified several categories of documents which are bulky, but do not arise frequently. Their service by the Commission would thus relieve parties of a substantial burden without introducing substantial delay. These categories are: (1) testimony (including attachments), (2) proposed findings of fact and conclusions of law, and (3) responses to discovery requests. In relative terms, service of these documents need not be as rapid as items such as briefs or motions. A rough look at filings in licensing proceedings, indicates that these documents tend to be relatively bulky. Also, documents containing testimony and exhibits contain substantive contentions and are, in effect the "essence" of NRC proceedings. By processing them, NRC would be copying and serving a substantial amount of the number of pages filed, a service which would have high payoff in terms of reducing costs to intervenors, without substantially impeding the progress of the adjudicatory process.

Copying and service of these documents by the commission may cause some very small delay in the hearing process. A licensing proceeding may require several rounds of testimony and an opportunity to file proposed findings of fact and conclusions of law. (Responses to discovery requests are also filed, but not on a tight time schedule.)

At least five days would be required for each set of documents to reach the Commission and be copied and mailed to the parties and board members. Therefore, the rule provides that documents filed with Docketing and Service in the three categories previously described should be filed not less than five days before the date at which they are submitted to an adjudicatory board, unless the presiding officer provides otherwise.

On balance, the Commission has decided to undertake a one-year pilot

program of free copying and service. Copying and service have been requested by intervenors in a number of instances and the value of the assistance, both to intervenors and the quality of Commission decisionmaking, may be worth the modest delay entailed. A one-year pilot program would allow NRC to obtain information on this effort and on any problems such a program may present, as well as answer whether NRC copying and service of testimony is an incentive to timely filing.

Filing of 20 Copies with the Commission

Parties in licensing proceedings, under 10 CFR 2.700(d), file or serve documents as follows: the original and 20 copies with the Commission, and one copy on each party and on members of the hearing panel in question. The 20 copies filed with Docketing and Service are for the Commission's convenience for internal informational distribution; the appropriate Board and the parties are served separately.

These 20 copies are not adequate for internal NRC distribution needs. In practice, Docketing and Service distributes some copies upon receipt; making additional copies creates a time lag of up to several days. Since the copies Docketing and Service sends out are informational, the Commission perceives no tight time constraint on internal information distribution; the normal time lag necessary to allow NRC to do all copying of internal distribution documents would not cause inconvenience. Therefore, the Commission has decided that all parties, including applicants, need file with the Commission only an original and two copies: the original would go to the docket file, one copy would go directly to the Public Document Room, and the other copy would be used for reproduction.

Antitrust Proceedings

NRC will not provide free transcripts and free copying and service in antitrust proceedings. The studies of filings have been confined to health, safety, and environmental licensing proceedings. While the Commission believes that the changes would substantially assist intervenors in those proceedings without introducing substantial delay, it does not know whether these conclusions can be extended to antitrust proceedings. There may be, in fact, substantial differences in the extent and general bulk of discovery between the two kinds of proceedings. In addition, the Commission does not know whether parties in antitrust proceedings are likely to need such assistance as intervenors in health, safety, and

environmental proceedings. Consequently, the Commission will investigate this area further before making any changes.

Because these amendments relate solely to agency procedure and practice, the Commission has found that good cause exists for omitting notice of proposed rulemaking and public procedure thereon, as unnecessary, and for making the amendments effective immediately without the customary 30 days notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 2 is published as a document subject to codification.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. Section 2.708(d) is amended to read:

§ 2.708 Formal requirements for documents.

(d) Except as otherwise provided by this part or by order, a pleading (or other document) other than correspondence shall be filed in an original and two conformed copies.

2. Section 2.712 is amended by adding a new paragraph (f) as follows:

§ 2.712 Service of papers, methods, proof.

(f) *Free copying and service.* Except in an antitrust proceeding, in any adjudicatory proceeding on an application for a license or an amendment thereto, the Commission, upon request by a party other than the applicant, will copy and serve without cost to that party that party's testimony (including attachments), proposed findings of fact and conclusions of law, and responses to discovery requests. These documents should be filed with Docketing and Service not less than five days before they are due to be submitted to an adjudicatory board, unless the presiding officer provides otherwise.

3. Section 2.750 is amended by adding a new paragraph (c) as follows:

§ 2.750 Official reporter, transcript.

(c) *Free transcript.* Except in an antitrust proceeding, in any adjudicatory proceeding on an application for a

¹ This paragraph shall be in effect for one year from July 25, 1980 unless extended by the Commission. Notice of an extension will appear in the Federal Register.

license or an amendment thereto, the presiding officer may arrange for provision of one free transcript to a party, other than the applicant, upon request by that party. The transcript will be made available to a party at the same time and location as it is made available to the NRC staff. If a transcript is mailed to the staff, it will also be mailed to the requesting party. A presiding officer has the discretion to control the distribution of transcripts to parties.

(Sec. 161p, Pub. L. 83-703, as amended, 65 Stat. 948p, as amended (42 U.S.C. 2201p))
Dated at Washington, D.C. this 21st day of July, 1980.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.
(FR Doc. 80-22419 Filed 7-24-80; 8:45 am)
BILLING CODE 7550-01-8

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket No. 80-4]

Description of Office, Procedures, Public Information, Forms and Instructions

AGENCY: Office of the Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment revises 12 CFR 4.13, the regulation which identifies all forms used by the Office of the Comptroller of the Currency ("Office"). The purpose of the amendment is to update the official list of forms to reflect deletions and additions made in recent years.

EFFECTIVE DATE: July 25, 1980.

FOR FURTHER INFORMATION CONTACT: Jonathan L. Levin, Senior Attorney, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219, Telephone: (202) 447-1177.

SUPPLEMENTARY INFORMATION: This amendment conforms to the requirement of 5 U.S.C. 552 that each agency publish in the Federal Register descriptions of agency forms and instructions which are available to, and may be obtained by the public. The amendment revises those portions of 12 CFR 4.13 which list the numbered and unnumbered forms currently used by the Office. Also, the amendment provides more specific information for obtaining copies of Office forms.

The national bank reporting process, together with the internal administration of the Office, has undergone significant change since section 4.13 was last comprehensively reviewed in 1976. Consequently, many of the forms previously used have fallen into disuse or have been found to be of negligible value to the Office. Similarly, a number of new forms have been adopted to accommodate new statutory requirements and supervisory needs.

DRAFTING INFORMATION: The principal drafter of this document was Jonathan L. Levin, Senior Attorney, Office of the Comptroller of the Currency.

(12 U.S.C. § 1, et seq.; 12 U.S.C. 83a; 5 U.S.C. 552)

Adoption of Amendment:

12 CFR 4.13 is amended to read as follows:

§ 4.13 Forms and Instructions.

(a) *Numbered Forms.* The following numbered forms of the Office of the Comptroller of the Currency are currently in use:

- CC 1400-OX: Officers Direct and Indirect Indebtedness and/or other Banks
- CC 1422-OX: National Bank Examiner's Seal
- CC 1424-OX: Assets to be Charged Off by National Bank Examiner
- CC 1425-CE: Combined Reports of Examination
- CC 1425-CL: Examiners Checklist for Guidance in Determining Compliance
- CC 1425-CX: Commercial Report of Examination
- CC 1425-OX: Report of Examination
- CC 1426-OX: Confidential Memorandum to the Comptroller of the Currency
- CC 1427-OX: Voluntary Charge-Offs of Instalment Loans
- CC 1428-OX: Report of Visitation
- CC 1430-CP: Report of Examination—Consumer Affairs
- CC 1440-OX: Report of the Condition of the Trust Department
- CC 1450-OX: Electronic Data Processing Examination Report
- CC 1451-OX: Biographical Data Work Sheet
- CC 1457-OX: Report of National Bank Examiner for Week Ending
- CC 1485-OX: Investment Sheet (Trust Department)
- CC 1600-AX: Examiner's Credit Line Sheet
- CC 1601-OX: Personal, Farm or Ranch Statement
- CC 1602-AX: Fiscal Interior Statement
- CC 1602-OX: Financial Statement—Business
- CC 1603-OX: Fiscal Interim
- CC 1604-OX: Real Estate Mortgage
- CC 1605-OX: Consumer Finance Indirect Line
- CC 1606-OX: Consumer Finance—Past Due Loans
- CC 1607-OX: File Comments, Trade Checking, Credit Investigations, Average Balances, etc.
- CC 1608-OX: Bonds—Description
- CC 1609-OX: Collateral Sheet
- CC 1610-OX: Direct Lease Financing
- CC 1611-OX: Collateral Line Slip