

# federal register

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Tuesday  
June 1, 1982

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## Selected Subjects

**Administrative Practice and Procedure**  
Agricultural Marketing Service

**Air Pollution Control**  
Environmental Protection Agency

**Animal Drugs**  
Food and Drug Administration

**Antibiotics**  
Food and Drug Administration

**Authority Delegations (Government Agencies)**  
Agriculture Department  
Food and Drug Administration

**Aviation Safety**  
Federal Aviation Administration

**Banks, Banking**  
Federal Deposit Insurance Corporation

**Credit**  
Federal Reserve System

**Credit Unions**  
National Credit Union Administration

**Employment**  
Employment and Training Administration

**Fishing**  
Indian Affairs Bureau

**Flood Insurance**  
Federal Emergency Management Agency

**Foreign Investments in U.S.**  
Economic Analysis Bureau

CONTINUED INSIDE



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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

## Selected Subjects

### Fully Halogenated Chlorofluoroalkanes

Environmental Protection Agency

### Marketing Agreements

Agricultural Marketing Service

### Meat and Meat Products

Agricultural Marketing Service

### Mines

National Park Service

Surface Mining Reclamation and Enforcement Office

### Natural Gas

Federal Energy Regulatory Commission

### Pesticides and Pests

Animal and Plant Health Inspection Service

### Radio

Federal Communications Commission

### Railroads

Interstate Commerce Commission

### Warehouses

Agricultural Marketing Service

# Contents

Federal Register

Vol. 47, No. 105

Tuesday, June 1, 1982

- Agency for International Development**  
NOTICES
- 23826 Private sector agribusiness enterprises, financing in developing countries; request for applications
- 23825 Private sector enterprise and intermediate credit lending institutions, financing in developing countries; request for applications
- Agricultural Marketing Service**  
RULES
- 23684 Cherries grown in Wash.; interim rule and request for comments  
Warehouse regulations:
- 23910 Grain storage; marketing transactions and financial statements
- PROPOSED RULES**
- 23725 Meats, prepared meats, and meat products:  
Lamb, yearling mutton, and mutton carcasses grade standards
- 23733 Research, promotion, and education programs proceedings; practice and procedure rules, establishment
- Agriculture Department**  
*See also* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Soil Conservation Service.  
RULES  
Authority delegations by Secretary and General Officers:
- 23681 General Counsel; Law Library transfer
- Animal and Plant Health Inspection Service**  
RULES  
Plant quarantine, domestic:
- 23683 Imported fire ant; regulated areas
- 23682 Mediterranean fruit fly; California; interim rule and request for comments
- Army Department**  
NOTICES  
Meetings:
- 23800 ROTC Affairs Advisory Panel
- Arts and Humanities, National Foundation**  
NOTICES  
Meetings:
- 23833 Artists in Education Advisory Panel
- 23834 Dance Advisory Panel
- 23834 Music Advisory Panel
- 23833, 23834 Theater Advisory Panel (2 documents)
- 23834 Visual Arts Advisory Panel
- Bonneville Power Administration**  
NOTICES
- 23803 Customer-owned facilities; operating and maintenance charges
- Civil Rights Commission**  
NOTICES  
Meetings, State advisory committees:
- 23787 Michigan
- 23787 New Jersey
- 23788 Oklahoma
- Commerce Department**  
*See* Economic Analysis Bureau; International Trade Administration; National Bureau of Standards; National Technical Information Service.
- Community Planning and Development, Office of Assistant Secretary**  
NOTICES  
Authority delegations:
- 23811 Acting Assistant Secretary; order of succession
- Defense Department**  
*See also* Army Department; Navy Department.  
NOTICES
- 23800 Travel per diem rates; civilian personnel; changes
- Drug Enforcement Administration**  
NOTICES  
Registration applications, etc.; controlled substances:
- 23827 Sterling Drug, Inc.
- Economic Analysis Bureau**  
RULES  
Direct investment surveys:
- 23705 Foreign direct investment in U.S.; acreage exemption level for reporting in BE-15 annual survey
- Employment and Training Administration**  
PROPOSED RULES  
Employment service system:
- 23754 Labor surplus areas and areas of unemployment; classification
- NOTICES  
Adjustment assistance:
- 23828 North Hoquiam Cedar Products, Inc., et al.
- Energy Department**  
*See also* Bonneville Power Administration; Federal Energy Regulatory Commission; Energy Information Administration; Western Area Power Administration.  
PROPOSED RULES
- 23780 Procurement; correction
- NOTICES  
Environmental statements; availability, etc.:
- 23801 Radioactive wastes (high-level); Defense Waste Processing Facility construction and operation at Savannah River Plant, Aiken, S.C.; record of decision
- Energy Information Administration**  
NOTICES
- 23803 Natural gas, high cost; alternative fuel price ceilings and incremental price threshold; correction

**Environmental Protection Agency****RULES**

## Toxic substances:

- 23713, Chlorofluoroalkanes, fully halogenated;  
23717 chlorofluorocarbons in automatic timed-release insecticide dispensing systems used in tobacco storage (2 documents)

**PROPOSED RULES**

## Air quality implementation plans; approval and promulgation; various States, etc.:

- 23773 Indiana  
23778 Wisconsin

**Federal Aviation Administration****RULES**

## Airworthiness directives:

- 23691 Avco Lycoming; final rule and request for comments  
23692 Bendix; final rule and request for comments  
23693- British Aerospace (4 documents)  
23696  
23696 Detroit Diesel Allison; final rule and request for comments  
23697 McDonnell Douglas  
23698 Sikorsky  
23701 Control zones; final rule and request for comments  
23703 Standard instrument approach procedures  
23700, Transition areas (2 documents)  
23701  
23703 Transition areas; correction (2 documents)  
23699 Transition areas; final rule and request for comments

**PROPOSED RULES**

- 23752 Transition areas

**NOTICES**

## Meetings:

- 23838 Aeronautics Radio Technical Commission (2 documents)

**Federal Communications Commission****RULES**

## Radio services, special:

- 23722 Aviation and maritime services; simplification and clarification, etc.  
23722 Land mobile services, private; permissible paging techniques

**Federal Deposit Insurance Corporation**

- 23743 Savings banks, insured; special reporting basis

**Federal Emergency Management Agency****RULES**

## Flood elevation determinations:

- 23720 Arkansas et al.  
Flood insurance; special hazard areas:  
23718 Illinois et al.; interim  
23719 Oklahoma et al.

**PROPOSED RULES**

## Flood elevation determinations:

- 23781 California  
23782 Florida  
23783 Illinois (2 documents)  
23780 Ohio  
23784 Pennsylvania  
23785 Pennsylvania; correction  
23781 Utah

**Federal Energy Regulatory Commission****PROPOSED RULES**

## Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:

- 23752 Texas

**Federal Maritime Commission****NOTICES**

## Freight forwarder licenses:

- 23803 Global Freight International, Inc., et al.

**Federal Reserve System****PROPOSED RULES**

## Equal credit opportunity (Regulation B):

- 23741 Bank credit exemptions; adverse action in loan transactions  
23738 Income consideration and disclosure of reasons for adverse action; interpretations

**NOTICES**

## Applications, etc.:

- 23805 Citizens First Bancorp, Inc., et al.  
23807 Citizens First Bancorp, Inc., et al.; new applications and correction  
23804 Girard Co. et al.  
23806 Knob Noster Bancshares, Inc.  
23808 Mercantile Texas Corp.

## Bank holding companies; proposed de novo nonbank activities:

- 23806 First Alabama Bancshares, Inc., et al.  
23807 First Interstate Bancorp  
23804 Interstate Financial Corp. et al.

**Fish and Wildlife Service****NOTICES**

## Pipeline applications:

- 23812 Sabine National Wildlife Refuge, La.

**Food and Drug Administration****RULES**

## Animal drugs, feeds, and related products:

- 23712 CEVA Laboratories, Inc.; sponsor name change from Abbott Laboratories

## Human drugs:

- 23707 Antibiotic drugs; update and technical changes  
23711 Penicillin antibiotic drugs; bacampicillin hydrochloride for oral suspension

## Organization and authority delegations:

- 23705 Radiological Health Bureau officials; approval of medical devices

**NOTICES**

## Committees; establishment, renewals, terminations, etc.:

- 23808 Drug Abuse Advisory Committee  
23808 Pulmonary-Allergy Drugs Advisory Committee

## Human drugs:

- 23809 Cough, cold, or allergy prescription products; drug efficacy study implementation; exemption revoked and hearing opportunity

**Food and Nutrition Service****NOTICES**

## Food stamp program:

- 23786 Collected claims, State share

- Government National Mortgage Association**  
NOTICES
- 23812 Mortgage-backed securities program; commitment application fee increase, etc.
- Health and Human Services Department**  
*See* Food and Drug Administration; Public Health Service.
- Housing and Urban Development Department**  
*See* Community Planning and Development, Office of Assistant Secretary; Government National Mortgage Association.
- Indian Affairs Bureau**  
PROPOSED RULES
- 23755 Fishing; Hoopa Valley Indian Reservation; conservation regulations; revision
- NOTICES
- Land additions
- 23813 Grand Portage Indian Reservation, Minn.
- 23812 Nisqually Indian Reservation, Wash.
- Interior Department**  
*See* Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.
- International Communication Agency**  
NOTICES
- 23825 Agency forms submitted to OMB for review
- International Development Cooperation Agency**  
*See* Agency for International Development.
- International Trade Administration**  
NOTICES
- Antidumping:
- 23797 Bicycle tires and tubes from Taiwan
- Countervailing duties:
- 23798 Toy ballons (including punchballs) and playballs from Mexico
- Organization, functions, and authority delegations:
- 23788 Trade Development, Assistant Secretary
- Scientific articles; duty free entry:
- 23797 University of Utah et al.; correction
- International Trade Commission**  
NOTICES
- 23844 Meetings; Sunshine Act
- Interstate Commerce Commission**  
RULES
- 23723 Railroad car service orders; various companies: Chicago & North Western Transportation Co.
- NOTICES
- Motor carriers:
- 23819 Finance applications
- 23819 Lease and interchange of vehicles
- 23819 Permanent authority applications
- Justice Department**  
*See* Drug Enforcement Administration.
- Labor Department**  
*See* Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
- Land Management Bureau**  
NOTICES
- Airport leases:
- 23814 Nevada
- 23815 Wyoming
- Coal leases, exploration licenses, etc.:
- 23814 Montana
- 23815 Utah; ranking factors; inquiry and meeting change
- Environmental statements; availability, etc.:
- 23813 Bruneau and Owyhee Resource Areas, Boise District, Idaho; grazing management and installation of range improvements; hearings
- Meetings:
- 23813 Burley District Grazing Advisory Board
- Oil and gas leases:
- 23815 Applications, simultaneous; place of filing Forms 3112-6, 3112-6(a), and 3112-1
- Withdrawal and reservation of lands, proposed, etc.:
- 23814 Montana
- Legal Services Corporation**  
NOTICES
- 23844 Meetings; Sunshine Act (3 documents)
- Maritime Administration**  
NOTICES
- 23838 Trustees; applicants approved, disapproved, etc.: Girard Trust Bank
- National Bureau of Standards**  
NOTICES
- 23798 Information processing standards, Federal: Advanced data communication control procedures
- National Credit Union Administration**  
RULES
- Federal credit unions:
- 23685 Accounting manual and data processing guidelines; removal from incorporated by reference material
- PROPOSED RULES
- Federal credit unions:
- 23751 Insurance and group purchasing activities; restrictions removed; extension of time
- 23750 Organization, bylaws, and charters; deregulation
- 23747 Regulatory agenda
- National Park Service**  
PROPOSED RULES
- 23768 Mining and mining claims; rulemaking petition
- NOTICES
- 23819 Agency forms submitted to OMB for review
- Historic Places National Register; pending nominations:
- 23816 California et al.
- National Technical Information Service**  
NOTICES
- 23800 Patent licenses, exclusive: Bentley Laboratories, Inc.
- Navy Department**  
NOTICES
- Meetings:
- 23800 Chief of Naval Operations Executive Panel Advisory Committee

**Nuclear Regulatory Commission****NOTICES**

## Applications, etc.:

- 23835 Armed Forces Radiobiology Research Institute  
 23835 Consolidated Edison Co. of New York et al.  
 23835 Florida Power & Light Co.  
 23835 Metropolitan Edison Co.  
 23836 Barnwell low level radioactive waste disposal facility, Snelling, S.C.; third party data use and regulation of NRC licensee-shippers of radioactive waste; memorandum of agreement with South Carolina Health and Environmental Control Department  
 23836 Nuclear power plant staff working hours; policy on factors causing fatigue; revision

**Occupational Safety and Health Administration****NOTICES**

## Variance applications, etc.:

- 23829 Dow Chemical USA  
 23831 PACECO, Inc.

**Pension and Welfare Benefit Programs Office****NOTICES**

## Employee benefit plans; prohibited transaction exemptions:

- 23832 Union Carbide Corp. et al.

**Postal Rate Commission****RULES**

## Practice and procedure rules:

- 23712 Computer studies and analyses; availability with evidence; correction

**Public Health Service****NOTICES**

## Meetings; advisory committees:

- 23808 June

**Research and Special Programs Administration, Transportation Department****NOTICES**

## Hazardous materials:

- 23838 Applications; exemptions, renewals, etc.

**Soil Conservation Service****NOTICES**

## Environmental statements; availability, etc.:

- 23786 Nemasket River Corridor RC&D Measure, Mass.  
 23787 Webber Pond Watershed Project, Maine

**Surface Mining Reclamation and Enforcement Office****RULES**

## Abandoned mine land reclamation program; plan submissions:

- 23858, Illinois (2 documents)  
 23886

**PROPOSED RULES**

## Coal mining; Federal/State cooperative agreements:

- 23898 New Mexico  
 Permanent program submissions; various States:  
 23766 Kansas  
 23767 Missouri

**Transportation Department**

See Federal Aviation Administration; Maritime Administration; Research and Special Programs Administration, Transportation Department.

**Treasury Department****NOTICES**

- 23842 Hazardous substance liability insurance; private insurance, feasibility for post-closure financial responsibility; hearing cancelled  
 Notes, Treasury:  
 23842 F-1987

**Western Area Power Administration****NOTICES**

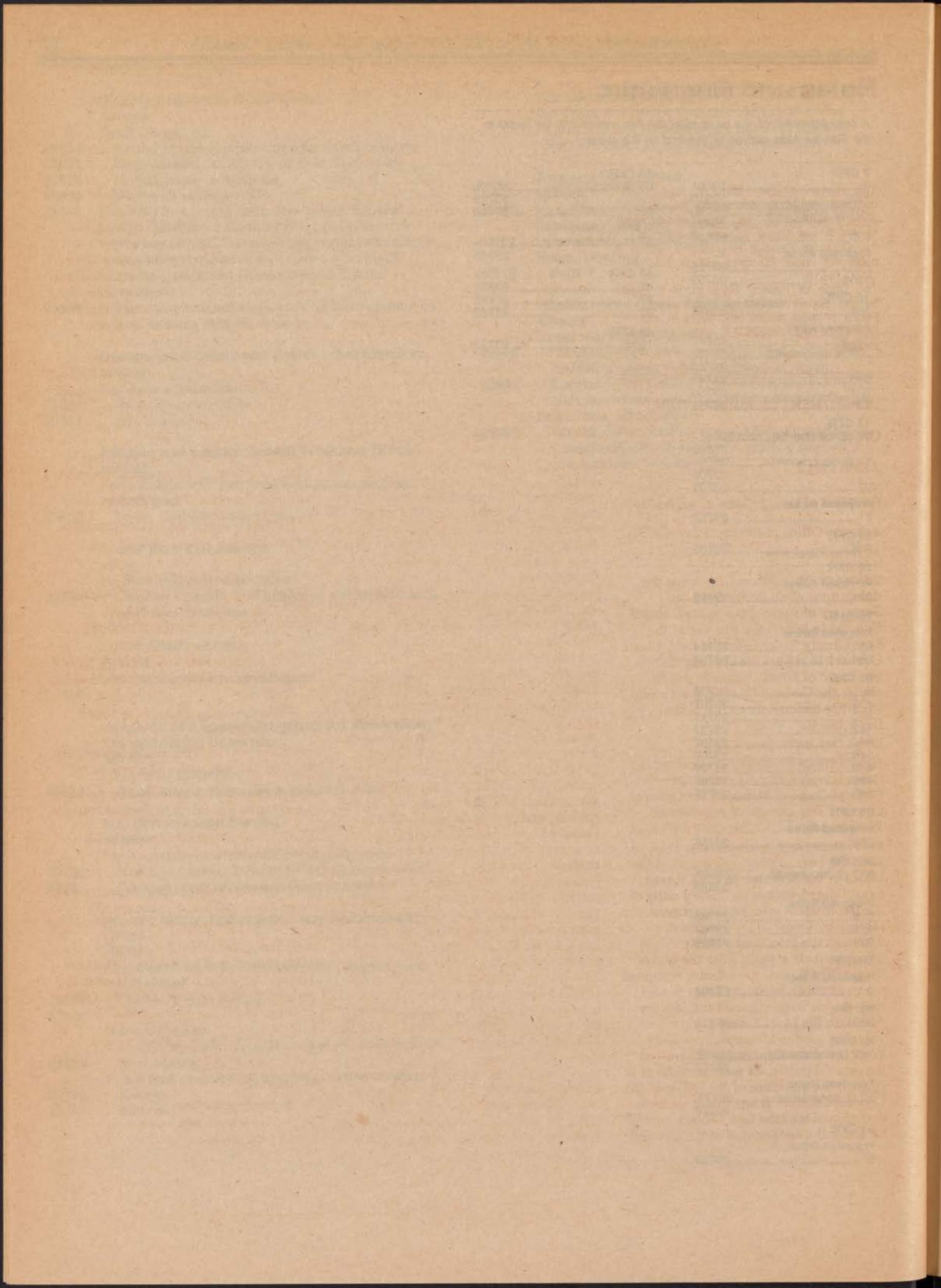
## Power marketing plans:

- 23895 Colorado River Storage Project et al.; post-1980 marketing plans; public information forum  
 23893 Loveland-Fort Collins Area Office; marketing plan for excess capacity; public comment forum  
 Power rate adjustments:  
 23892 Loveland-Fort Collins Area Office; Resource Coordination Program rates; public information and comment forums

**CFR PARTS AFFECTED IN THIS ISSUE**

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

<b>7 CFR</b>		<b>44 CFR</b>	
2.....	23681	65 (2 documents).....	23718,
102.....	23910		23719
301 (2 documents).....	23682,	67.....	23720
	23683	<b>Proposed Rules:</b>	
923.....	23684	67 (8 documents).....	23780-
<b>Proposed Rules:</b>			23785
54.....	23725	<b>47 CFR</b>	
1200.....	23733	81.....	23722
<b>12 CFR</b>		87.....	23722
701.....	23685	90.....	23722
<b>Proposed Rules:</b>		<b>49 CFR</b>	
Ch. VII.....	23747	1033.....	23723
202 (2 documents).....	23738,		
	23741		
350.....	23743		
701.....	23750		
721.....	23751		
<b>14 CFR</b>			
39 (9 documents).....	23691-		
	23698		
71 (6 documents).....	23699-		
	23702		
97.....	23703		
<b>Proposed Rules:</b>			
71.....	23752		
<b>15 CFR</b>			
806.....	23705		
<b>18 CFR</b>			
<b>Proposed Rules:</b>			
271.....	23752		
<b>20 CFR</b>			
<b>Proposed Rules:</b>			
651.....	23754		
654.....	23754		
<b>21 CFR</b>			
5.....	23705		
436.....	23707		
440.....	23711		
442.....	23707		
444.....	23707		
448.....	23707		
449.....	23707		
450.....	23707		
558.....	23712		
<b>25 CFR</b>			
<b>Proposed Rules:</b>			
250.....	23755		
<b>30 CFR</b>			
913 (2 documents).....	23858,		
	23886		
<b>Proposed Rules:</b>			
916.....	23766		
925.....	23767		
931.....	23898		
<b>36 CFR</b>			
<b>Proposed Rules:</b>			
9.....	23768		
<b>39 CFR</b>			
3001.....	23712		
<b>40 CFR</b>			
762 (2 documents).....	23713,		
	23717		
<b>Proposed Rules:</b>			
52 (2 documents).....	23773,		
	23778		
<b>41 CFR</b>			
<b>Proposed Rules:</b>			
9.....	23780		



# Rules and Regulations

Federal Register

Vol. 47, No. 105

Tuesday, June 1, 1982.

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 2

#### Revision of Delegations of Authority

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document revises the delegations of authority from the Secretary of Agriculture to the General Counsel to reflect the transfer of the Law Library to the Office of the General Counsel; to reflect the abolishment of the Board of Forest Appeals; and to clarify the General Counsel's authority to certify documents on file in the Department.

**EFFECTIVE DATE:** June 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Robert Siegler, Deputy Assistant General Counsel, Office of the General Counsel, Department of Agriculture, Washington, D.C. 20250; (202) 447-8035.

**SUPPLEMENTARY INFORMATION:** Prior to 1942, the Law Library was a part of the Office of the Solicitor. In 1942, it was consolidated with other library units of the Department into the Department Library by Order of the President. Although the President's Order terminated six months after the end of World War II, the Law Library remained a part of the Department Library, and then the National Agricultural Library. Although the Law Library performs a valuable service for employees of all agencies of the Department as well as the general public, its main purpose is to support the activities of the Office of the General Counsel. It has therefore been determined that the Law Library should be under the supervision of the General

Counsel. Accordingly, this document delegates to the General Counsel responsibility for the overall management and operation of the Law Library.

In addition, the responsibility to designate the Chairman and Alternate Chairman of the Board of Forest Appeals, is currently delegated to the General Counsel. On June 28, 1977, 42 FR 32780, regulations were published which established new administrative review procedures for the Forest Service. The regulations deleted 36 CFR 211.23, which related to membership on the Board of Forest Appeals, as well as other provisions of the regulations relating to the duties of the Board. While 36 CFR 211.19 provides that the provisions of the former regulations relating to the duties of the Board remain in effect for cases pending on September 25, 1974, all such cases have been disposed of. Accordingly, there is no longer in existence a Board of Forest Appeals. This document, thus, removes the General Counsel's authority to designate the Chairman and Alternate Chairman of the Board.

Lastly, the General Counsel is currently authorized to certify documents as true copies of those on file in the Department pursuant to 28 U.S.C. 1733. The current delegation does not reflect the provisions of Pub. L. 93-595 which enacted the Federal Rules of Evidence. Section 2(c) of that Act amended 28 U.S.C. 1733 to provide that said section 1733 did not apply to cases, actions, and proceedings to which the Federal Rules of Evidence apply. In commenting on the effect of the exclusion in section 1733, both the Judiciary Committees of the Congress stated that section 1733 was amended since it is largely, if not entirely, encompassed by rule 803(8) relating to public records and reports. However, because of the possibility that section 1733 may encompass some matters not covered by rule 803, section 1733 was not repealed, but amended to provide that it did not apply to actions, cases, and proceedings to which the Federal Rules of Evidence are applicable. Since there may be instances where it would be appropriate for the General Counsel to certify documents pursuant to 28 U.S.C. 1733 or some other authority, the authority to certify documents is not

being limited to any specific statutory basis.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the *Federal Register*. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act and thus is exempt from the provisions of that Act.

#### List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

#### PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

2. Section 2.31 is amended by revising paragraphs (c) and (f) to read as follows:

#### § 2.31 Delegations of authority to the General Counsel.

\* \* \* \* \*

(c) Certify documents as true copies of those on file in the Department.

\* \* \* \* \*

(f) Responsible for the overall management and operation of the Law Library, furnishing complete legal and legislative library services to the Office of the General Counsel and the Department.

\* \* \* \* \*

Dated: May 26, 1982.

John R. Block,  
Secretary of Agriculture.

[FR Doc. 82-14744 Filed 5-28-82; 8:45 am]

BILLING CODE 3410-01-M

**Animal and Plant Health Inspection Service**

**7 CFR Part 301**

[Docket No. 82-320]

**Mediterranean Fruit Fly**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** The Mediterranean fruit fly quarantine and regulations quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California. This document amends the quarantine and regulations by deleting the previously regulated areas in Los Angeles, San Benito, and Stanislaus Counties from the list of regulated areas. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from the previously regulated areas in Los Angeles, San Benito, and Stanislaus Counties. This action is warranted because such restrictions are no longer necessary for the purpose of preventing the artificial spread of the Mediterranean fruit fly.

**DATES:** Effective date of amendment June 1, 1982. Written comments concerning this rule must be received on or before August 2, 1982.

**ADDRESSES:** Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12291**

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the

requirements of Secretary's Memorandum 1512-1.

**Certification Under the Regulatory Flexibility Act**

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from areas in Los Angeles, San Benito, and Stanislaus Counties in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 120 small entities move such articles interstate from the previously regulated areas in Los Angeles, San Benito, and Stanislaus Counties. Further, the overall economic impact from this action is estimated to be less than \$375,000.

**Emergency Action**

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the *Federal Register*. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the *Federal Register* as soon as possible.

**Background**

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706-37713), and amendments to the quarantine and regulations were made

effective on August 7, August 19, and September 2, 1981 (46 FR 40203-40205, 42072-42073, 44144-44145). The quarantine and regulations are set forth in 7 CFR 301.78 through 301.78-10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restrict the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. The quarantine and regulations currently list as regulated areas all of Alameda, Santa Clara, Santa Cruz, and San Mateo Counties. Also, prior to the effective date of this document, the quarantine and regulations listed the following areas in Los Angeles, San Benito, and Stanislaus Counties as regulated areas:

*Los Angeles County.* That portion of the county bounded by a line beginning at a point where the southern boundary of the Angeles National Forest meets San Gabriel Canyon Road; then southwesterly along San Gabriel Canyon Road to Azusa Avenue; then southerly along Azusa Avenue to Foothill Boulevard; then easterly along Foothill Boulevard to Alost Avenue; then easterly along Alost Avenue to its intersection with Grand Avenue; then southerly along Grand Avenue to the northern city limits of Walnut; then southwesterly along the Walnut and West Covina City limits to Nogales Street; then southerly along Nogales Street to Valley Boulevard; then westerly along Valley Boulevard to Hacienda Boulevard; then southerly on Hacienda Boulevard to the Pomona Freeway (Interstate 60); then westerly along the Pomona Freeway to Rosemead Boulevard; then northerly on Rosemead Boulevard to Huntington Drive; then easterly along Huntington Drive to Santa Anita Avenue; then northerly along Santa Anita Avenue to Foothill Boulevard; then easterly on Foothill Boulevard to the city limits to Monrovia; then northerly along the city limits of Monrovia and Arcadia to the southern boundary of the Angeles National Forest; then easterly along the Angeles National Forest boundary to the point of beginning.

*San Benito County.* That portion of the county bounded by a line beginning at a point where La Gloria Road intersects the Monterey-San Benito County line; then northerly on said county line to the San Benito-Santa Cruz County line; then easterly on said county line to the San Benito-Santa

Clara County line; then easterly on said county line to San Benito-Merced County line; then southerly on said county line to the point where San Benito, Merced, and Fresno County lines intersect; then westerly from said intersection on an imaginary line to the intersection of La Gloria Road and State Highway 25; then westerly on La Gloria Road to the point of beginning.

**Stanislaus County.** That portion of the county beginning at a point where the San Joaquin River intersects the San Joaquin-Stanislaus County line, then southerly along the San Joaquin River to Hills Ferry Road, then westerly along Hills Ferry Road to its intersection with State Route J 18, then westerly along State Route J 18 to its intersection with Interstate 5, then due west from the intersection of State Route J 18 and Interstate 5 along an imaginary line to its intersection with Orestimba Creek, then westerly three miles along Orestimba Creek, then due north along an imaginary line to its intersection with the San Joaquin-Stanislaus County line, then easterly along said line to the point of beginning.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly has been eradicated from the previously infested areas in Los Angeles, San Benito, and Stanislaus Counties.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from the areas in Los Angeles, San Benito, and Stanislaus Counties previously regulated because of the Mediterranean fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of articles from this area, it is necessary as an emergency measure to delete the areas in Los Angeles, San Benito, and Stanislaus Counties from the list of regulated areas.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

##### § 301.78-3 [Amended]

Accordingly, § 301.78-3(c) of the Mediterranean fruit fly quarantine and regulations (7 CFR 301.78-3(c)) is amended by removing the references to and descriptions of regulated areas in Los Angeles, San Benito and Stanislaus Counties.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 20th day of May 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-14589 Filed 5-28-82, 8:45 am]

BILLING CODE 3410-34-M

#### 7 CFR Part 301

[Docket No. 82-319]

#### Imported Fire Ant Regulated Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule.

**SUMMARY:** This document affirms the interim rule which amended the list of regulated areas under the imported fire ant quarantine and regulations by adding areas in Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Texas to the list of generally infested areas. The quarantine and regulations, among other things, impose restrictions on the interstate movement of regulated articles from generally infested areas. This action is necessary in order to prevent the artificial spread of the imported fire ant.

**EFFECTIVE DATE:** June 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD. 20782, (301) 436-8247.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12291

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

#### Certification Under the Regulatory Flexibility Act

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Texas. There are

thousands of small entities that move such articles interstate from those States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 180 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be less than \$1,500.

#### Background

A document published in the Federal Register on January 12, 1982 (47 FR 1257-1265), set forth an interim rule amending § 301.81-2a of the imported fire ant quarantine and regulations (7 CFR 301.81-2a). The document amended the quarantine and regulations by adding areas in Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Texas to the list of generally infested areas.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread interstate of the imported fire ant.

Comments were solicited for 60 days after publication of the amendment. Two written comments were received in response to the amendment. One of the comments was from a Texas Department of Agriculture official and the other from a representative of a public interest organization. Both comments were in favor of the amendment.

It appears that the factual situations which were set forth in the document of January 12, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the Federal Register on January 12, 1982.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Quarantine, Imported fire ant.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477 as amended; 38 FR 19141; 7 CFR 301.81-2, 39 FR 21117)

Done at Washington, D.C., this 26th day of May 1982.

T. J. Lanier,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-14607 Filed 5-28-82, 8:45 am]

BILLING CODE 3410-34-M

## Agricultural Marketing Service

## 7 CFR Part 923

## [Cherry Regulation 21]

**Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container and Pack Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This regulation sets minimum grade, size, container and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. Such action is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

**DATES:** June 1, 1982 through July 16, 1982; comments which are received by July 1, 1982 will be considered prior to issuance of a final rule to become effective July 17, 1982.

**ADDRESS:** Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

**SUPPLEMENTARY INFORMATION:** This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The Washington cherry regulation would be issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, established under the order, and upon other information. It is hereby found that this action will tend

to effectuate the declared policy of the act.

Under the terms of the regulation, grade, size, container and pack requirements would be effective June 1, 1982 through July 16, 1982. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to and during each season and consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of regulation of shipments of Washington sweet cherries would tend to effectuate the declared policy of the act.

The three most important sweet cherry producing States in the U.S. are Washington, Oregon and California; of these three, Washington has been the leading State every year since 1970. Production for fresh use in California in 1981 was 24,000 tons. Fresh production in Oregon was 6,600 tons. Based on these figures, Washington State had 51 percent of the total West Coast fresh production in 1981. The Washington sweet cherry crop is primarily utilized as fresh.

The minimum grade and size requirements are designed to enhance the image of Washington sweet cherries and thereby improve sales and returns to growers. The shipment of low quality fruit disrupts orderly marketing because low quality fruit undermines buyer confidence in the quality of fruit sold in the markets. The grade and size requirements are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging and to assure satisfactory arrival condition of fruit in the markets.

Most Washington sweet cherry sales are consummated by telephone with the buyer not seeing the fruit as it is initially purchased. Based on current and anticipated market conditions, the Washington Cherry Marketing Committee finds that the regulations recommended will maximize benefits to producers and consumers by providing

for good quality fruit and stable market conditions. Hence, establishment of acceptable quality and container standards are important in successfully marketing the crop. These requirements are essentially the same as those in effect in prior years except that beginning on June 1, 1982, additional containers are authorized for use in shipping sweet cherries.

To minimize disruption as much as possible and still bring this marketing order into compliance with the Secretary's guidelines for fruit, vegetable, and specialty crop marketing orders, issued January 25, 1982, this regulation is being issued with the understanding that the Washington Cherry Marketing Committee will initiate certain actions in 1982. These actions are necessary so that operations under the program will conform with the guidelines. These guidelines state that orders containing quality provisions like the Washington Cherry order, should not be used as a form of supply control. In evaluating quality control programs, emphasis is placed on (1) whether quality controls have varied significantly from season to season or within seasons, (2) whether the percentage of product meeting minimum quality standards has been declining, or (3) whether the standards have been tightened over the years. In addition, to conform with the guidelines, marketing orders should contain limitation on committee tenure and provide for periodic referenda.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), and that good cause exists for making these regulatory provisions effective as specified in that (1) the sweet cherry regulation was recommended by the committee following discussion at a public meeting on May 11, 1982, (2) the requirements for Washington sweet cherries are essentially the same as those which were in effect during the 1980-81 marketing season, (3) Washington sweet cherry handlers have been apprised of these requirements and the effective date, and (4) shipment of the current crop of cherries will begin in early June, 1982, and this regulation should be applicable to all shipments.

**List of Subjects in 7 CFR Part 923**

Marketing agreements and orders, Cherries, Washington.

**PART 923—SWEET CHERRIES  
GROWN IN DESIGNATED COUNTIES  
IN WASHINGTON**

Therefore, new § 923.321 is added to read as follows (§ 923.321 expires July 16, 1982, and will not be published in the annual Code of Federal Regulations):

**§ 923.321 Cherry regulation 21.**

(a) During the period June 1, 1982 through July 16, 1982, no handler shall handle, except as otherwise provided in paragraphs (b), (c) and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided*, That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further*, That the contents of individual packages in the lot are not limited as to the percentage of defects, but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than 48/64 inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) of this section and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than 54/64 inch in diameter and not more than 5 percent, by count, of such cherries may be less than 48/64 inch in diameter.

(b) *Containers*. During the period June 1, 1982, through July 16, 1982, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of loose packed (jumble-filled) cherries in any container shall be 12 pounds or 20 pounds, or greater. The net weight of face-packed cherries in any container shall be 15 pounds.

(2) Subject to the provisions of subdivisions (i) and (ii) of this subparagraph, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than 54/64 inch in diameter, and not more than 5 percent, by count, of such cherries may be less than 48/64 inch in diameter.

(c) *Pack*. (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided*, That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 54/64 inch in diameter.

TABLE

Column 1—row count/row size	Column 2 diameter (inches)
9.....	73/64
10.....	85/64
11.....	59/64

(2) When containers of cherries are marked with a minimum diameter of 54/64 inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided*, That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 48/64 inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than 54/64 inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided*, That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than 54/64 inch in diameter.

(d) *Exceptions*. Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), and (c) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(e) *Definitions*. When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a 10½ inch inside width container or comparable number of cherries when packed loose in a container.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: May 27, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-14852 Filed 5-28-82; 8:45 am]

BILLING CODE 3410-02-M

**NATIONAL CREDIT UNION  
ADMINISTRATION**

**12 CFR Part 701**

**Deregulation of the Accounting Manual for Federal Credit Unions and the Data Processing Guidelines for Federal Credit Unions**

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rule.

**SUMMARY:** This rule removes the Accounting Manual for Federal Credit Unions (Accounting Manual) and Data Processing Guidelines for Federal Credit Unions from incorporation by reference in the NCUA Rules and Regulations. This document also deletes § 701.14 which lists those manuals and books, along with descriptions of their content, that have been incorporated by reference for the use by Federal credit union officials. Deletion of this section is a housekeeping measure as it essentially duplicates the content of § 701.2. This rule and a companion Interpretive Ruling and Policy Statement cause the above manuals to no longer have the effect of rule. These actions provide credit unions with greater flexibility in the area of recordkeeping.

**EFFECTIVE DATE:** May 27, 1982.

**ADDRESS:** National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** Joseph Visconti or Mike Fischer of the Department of Supervision and Examination, Telephone (202) 357-1065.

**SUPPLEMENTARY INFORMATION:** Because of delays encountered in distribution of the revised Accounting Manual for Federal Credit Unions, the NCUA Board extended the comment period of the proposed rule and its companion action, proposed IRPS 81-8 (46 FR 48940, October 5, 1981) from November 27, 1981, until April 15, 1982. During this comment period, 16 comment letters were received representing two trade associations, several state credit union leagues, and a number of individual credit unions.

The overwhelming majority of commenters supported the deregulatory effort. Concern was voiced by representatives of two major trade associations about the potential cost effect of the deregulation on small credit unions. The major concern was that the services of professional accountants might be necessary for small credit unions to ensure their accounting practices are in compliance with the required principles and standards.

Section 2030 of the Accounting Manual provides credit unions the option of adopting accounting principles and standards not inconsistent with statutory or regulatory requirements. Credit unions electing this option would be responsible for ensuring the alternative principles and standards meet NCUA requirements. In such cases, it may be necessary for the credit unions to obtain outside assistance to ensure compliance and thus, incur a cost. However, because adoption of alternative accounting principles is optional and the accounting principles in Section 2000 of the Accounting Manual provide the framework for a sound accounting basis for the overwhelming majority of accounting transactions in Federal credit unions, the number of credit unions that incur a cost will be minimal.

Several commenters suggested changes to various sections of the Accounting Manual and these comments and recommendations will be considered at the next scheduled change to the Accounting Manual. The agency will accept comments and recommendations for changes to the Accounting Manual on a continuing basis.

One commenter suggested that the publication entitled Data Processing Guidelines for Federal Credit Unions also be deleted from incorporation by reference at this time. The agency had anticipated removing this manual from

incorporation by reference at the time the manual is revised. However, since this manual is closely related to, and can be considered an extension of, the Accounting Manual, the Board has determined to include the manual's deletion with the action to deregulate the Accounting Manual.

The NCUA Board, after reviewing and considering the comments, has determined that the proposed rule is beneficial for credit unions and, therefore, approves this final rule.

**Note.**—Credit unions are reminded that there are instructions and discussions in the Accounting Manual that provide guidance for compliance with statutory and regulatory requirements. For example: Section 4000 of the Accounting Manual discusses statutory regular reserve transfer requirements of the Federal Credit Union Act and how the transfer is calculated. The discussions in the Accounting Manual which relate to the Federal Credit Union Act, NCUA Rules and Regulations, or any other statutory requirements are only summaries and Federal credit unions should not interpret deregulation of the Accounting Manual as relief from those rules and statutes.

#### Regulatory Flexibility Analysis

The rule will not have a significant economic impact on a substantial number of small credit unions because the rule removes most of the procedures in the Accounting Manual from having the force of regulation and, therefore, provides wider latitude in the accounting operations in all Federal credit unions. Therefore, a Regulatory Flexibility analysis is not required.

#### Effective Date

Final rule is being made effective in less than 30 days because it relieves restrictions, 5 U.S.C. 553(d)(1).

#### Determination to Not Obtain Public Comments on the "Data Processing Guidelines"

The NCUA Board finds, for good cause, that obtaining public comment on the deregulation of the "Data Processing Guidelines" is unnecessary. The Data Processing Guidelines are similar in nature to the Accounting Manual, so that the Board believes that the comments received on the Accounting Manual are sufficient. Therefore, solicitation of public comments is not required, 5 U.S.C. 553 (b)(B).

#### List of Subjects in 12 CFR Part 701

Credit unions, Reporting requirements. (12 U.S.C. 1789(11))

By the NCUA Board, May 20, 1982.  
Rosemary Brady,  
Secretary of the NCUA Board.

### PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. Accordingly 12 CFR 701.2 is revised to read as follows:

#### § 701.2 Incorporation by reference.

(a) The publication used by Federal credit unions, which is identified in this chapter, is hereby incorporated by reference pursuant to 5 U.S.C. 552(a)(1) and the regulation issued thereunder.

(b) Copies of the publication prescribed in this chapter may be obtained on request addressed to National Credit Union Administration, Washington, D.C. 20456.

(c) Revisions or amendments of the publication may be issued from time to time by the National Credit Union Administration. An historic file of such amendments or revisions is maintained and made available for inspection at the National Credit Union Administration, Washington, D.C. 20456.

(d) The publication listed below is hereby incorporated by reference:

(1) Federal Credit Union Bylaws. (Approved by the Office of the Federal Register through June 30, 1982.)

(e) Copies of this publication are on file with the Director, Office of Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. The text of any changes in said publication will be filed with the Director, Office of the Federal Register, and a notice thereof will be periodically published in the Federal Register.

#### § 701.14 [Removed]

2. Accordingly 12 CFR 701.14 is removed.

The following Interpretive Ruling and the Appendix will not appear in the Code of Federal Regulations.

#### 12 CFR 702.3 Full and Fair Disclosure Required

[IRPS 81-8]

#### Interpretive Ruling and Policy Statement

Agency. National Credit Union Administration (NCUA).

Action. Final action on Interpretive Ruling and Policy Statement.

Summary. This Interpretive Ruling and Policy Statement (IRPS) advises credit unions that by adhering to the accounting principles and standards in Section 2000 of the Accounting Manual, they would be in compliance with the

full and fair disclosure provisions of 12 CFR Part 702. This IRPS and a companion rulemaking have the effect of eliminating the Accounting Manual for Federal Credit Unions and Data Processing Guidelines for Federal Credit Unions from having the effect of rule. These actions provide credit unions with greater flexibility in the area of recordkeeping.

*Effective date:* May 27, 1982.

*Address:* National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

*For Further Information Contact:* Joseph Visconti or Mike Fischer of the Department of Supervision and Examination, Telephone (202) 357-1065.

*Supplemental Information:* The proposal for IRPS 81-8 was issued as a companion action to the proposed deregulation of the Accounting Manual for Federal Credit Unions (Accounting Manual) by removing it from the incorporation by reference provisions of 12 CFR 701.2 (46 FR 48940 October 5, 1981). Because of delays encountered in the distribution of the Accounting Manual, the NCUA Board extended the comment periods on both proposals from November 27, 1981, until April 15, 1982 (47 FR 963 January 8, 1982, and 47 FR 2122 January 14, 1982).

In all, 16 comment letters were received from two trade associations, several credit union leagues, and a number of individual credit unions. Virtually all were supportive of the deregulation effort.

The majority of the comments received agreed that the accounting principles and standards in Section 2000 were sufficient to insure credit union compliance with 12 CFR 702.3 (full and fair disclosure required). However, concern was voiced by several commenters that certain provisions in Section 2030 of the Accounting Manual contradicted the intent of the deregulatory effort. The commenters pointed out that while that section permits the adoption of alternative accounting principles that conform to generally accepted accounting principles (GAAP), the adoption of those principles is effectively barred by the following statement:

Credit unions may adopt such accounting profession pronouncements provided they are not inconsistent with the principles, standards and procedures set forth herein or statutory or regulatory requirements.

The word "procedures" in this statement implies that the procedures in the Accounting Manual must be employed to ensure compliance with full and fair disclosure. This language in Section 2030

of the Accounting Manual will be changed at the next revision to read:

Credit unions may adopt such accounting profession pronouncements provided they are not inconsistent with statutory or regulatory requirements or the principles and standards set forth herein.

A similar change has been made in paragraph 2 of the IRPS.

Two commenters suggested that credit unions be authorized to defer losses from the sale of mortgage loans and mortgage related securities similar to the treatment of such losses which is permissible for savings and loan associations. The commenters recognized that such deferral is not in conformance with GAAP and is not permitted by Section 2000 of the Accounting Manual. Although the Agency is currently reviewing the issue of loss deferral, it is a separate issue and not a part of this deregulation action.

Two commenters suggested that by changing the account "Reserve for Contingencies" to "Reserve for Loss Contingencies," credit unions are precluded from establishing "an account for general contingencies." In those cases where a credit union wishes to earmark a portion of undivided earnings for capital accumulation or for some other general purpose the amounts so earmarked can be recorded in Account No. 942—Appropriated Undivided Earnings. This is a new account which was added in the recent Accounting Manual revision for such uses.

Two commenters suggested that the requirement to discontinue interest accrual and reverse the accrual entry on loans which are delinquent 6 months or more was too stringent. They suggested that the reversal should not occur until the loan is determined to be a loss or until the loan is 12 months delinquent. Appropriate changes to pages 2-12 and 4-79 of the Accounting Manual will be made to accommodate this suggestion.

One commenter suggested several changes to Section 5000 to make the Accounting Manual consistent with recent changes to Regulations Z and E. Appropriate changes will be made to the Accounting Manual at a later date.

One commenter requested a further extension of 90 days on the comment period in order to assess the impact on data processing which will result from changes in the Accounting Manual. Although a further extension of the comment period on deregulation of the Accounting Manual is not warranted, the Agency will continue to accept comments and recommendations on any and all parts of the Accounting Manual. Changes to the Manual will be made on

a regular basis and comments and recommendations will be considered at those times.

In a companion action, final rules have been issued that remove the Accounting Manual for Federal Credit Unions (Accounting Manual) and Data Processing Guidelines for Federal Credit Unions (Data Processing Manual) from incorporation by reference in the National Credit Union Administration Rules and Regulations under 12 CFR 701.2 and 12 CFR 701.14.

In October 1981, the Accounting Manual was extensively revised, a summary of the significant changes is attached as Appendix A. Sections 1000, 3000, 4000, 5000, 6000, and 7000 provide guidance and offer suggestions to Federal credit unions for accounting in all areas of operations. The accounting principles and standards that Federal credit unions are expected to follow in maintaining financial records and preparing statements are contained in Section 2000.

The full and fair disclosure provisions of 12 CFR 702.3 define the required level of disclosure needed on financial statements, require Federal credit unions to select an accounting basis that is described in the Accounting Manual, and instruct credit unions to prepare financial statements in the manner prescribed in the Accounting Manual or equivalent financial statements. This statement is to advise Federal credit unions that adherence to the accounting principles and standards in Section 2000 of the Accounting Manual will ensure compliance with the full and fair disclosure provisions of § 702.3. Of course, alternative accounting principles and guidelines not inconsistent with statutory or regulatory requirements may also satisfy these disclosure requirements. The remainder of the Accounting Manual for Federal Credit Unions presents guidelines and recommended procedures and practices.

There are instructions and discussions in the Accounting Manual that provide guidance for compliance with statutory and regulatory requirements. For example: Section 4000 of the Accounting Manual discusses statutory regular reserve transfer requirements of the Federal Credit Union Act and how the transfer is calculated. The discussions in the Accounting Manual which relate to the Federal Credit Union Act, NCUA Rules and Regulations or any other statutory requirement are only summaries and Federal credit unions should not interpret deregulation of the Accounting Manual as relief from those rules and statutes.

Accordingly, IRPS 81-8 is approved as an Interpretive Ruling and Policy Statement.

*Text of Statement of Interpretation and Policy*

1. *Full and Fair Disclosure:* 12 CFR 702.3(a) defines full and fair disclosure as the level of disclosure a prudent person would provide to a credit union member, the National Credit Union Administration, or a creditor to fairly inform them of the financial condition and results of operation of the credit union. The accounting principles discussed in Section 2020 of the Accounting Manual provide for a level of disclosure in financial reporting that will meet the requirements of this Section of the regulation. Major concepts of Section 2020 are summarized as follows:

a. *Going Concern Concept*—Each credit union will normally maintain its accounts as a "going concern" on the basis that its operations will be continued indefinitely. Therefore, assets and liabilities will represent the value to the credit union as a "going concern" and will not be based on liquidation values. Whenever unusual circumstances indicate a limited life for a credit union, e.g., if the credit union goes into a liquidation status, the "going concern" concept will no longer apply. As a result, appropriate modifications will be required to realistically state assets and liabilities and recognize appropriate revenues and expenses. These modifications would include, for example, a re-evaluation of the loan portfolio to recognize possible discounts on sales of loans, an evaluation of the realizable value of fixed assets in liquidation, possible adjustments required in the carrying value of deferred charges and deferred income, etc.

b. *Monetary Basis for Accounting*—Accounts of each credit union will be stated in terms of the dollar amounts involved at the time transactions occur. The recording of each transaction in terms of dollar units provides the best feasible indicator as to its relative impact on the overall operations of the credit union. It also permits identification of the amount of assets, liabilities, income or expenses represented by the transaction.

c. *Consistency in Accounting From Period to Period*—Consistent accounting practices will normally be followed by each credit union from one accounting period to the next. However, when a material change in accounting treatment occurs, the facts must be disclosed on credit union financial statements, including the dollar effect upon the

balance sheet and the changes in net income for the period.

d. *Timely Recognition in Accounting Records*—Accounting transactions will be recorded on a timely basis so that all material information applicable to each accounting period will be shown in the records. To properly recognize in accounting records and financial reports the reasonable value of assets, liabilities, and shareholders' equity, each credit union will make provision for estimated losses to be sustained in the collection or conversion of loans and other assets by charges against current expenses. Estimated amounts will be used in accruing income or expenses if actual amounts are not known and cannot be readily determined. Differences between the actual and estimated amounts will be absorbed in the operations of the subsequent accounting period unless they are so large that they seriously distort net income.

e. *Materiality*—Material facts, individually and cumulatively, relating to credit union financial activity must be recognized in the accounts of a credit union and reported on its financial statements. A statement, fact, or item is material if, giving full consideration to the surrounding circumstances as they exist at the time, it is of such a nature that its disclosure, or the method of treating it, would be likely to influence or to "make a difference" in the judgment and conduct of a reasonable person. The accumulation of many small items each of which in itself would not be "material", would be "material" if the overall effect would tend to influence the judgment and conduct of a reasonable person.

f. *Conservative Accounting*—Each credit union will maintain its accounting records on a conservative basis. It will make reasonable provisions in the accounts, based on its best judgment, for potential losses on recorded assets and the settlement of contingent liabilities. It will neither overstate nor understate materially its assets, liabilities, revenues or expenses.

g. *Internal Control*—Each credit union will adopt appropriate measures of internal control to improve the dependability of its accounting records.

h. *Complete Recording of Income and Expenses*—All income, expenses, gains and losses will be recorded in income and expense accounts and shown on the Statement of Income prepared for the accounting period. Income and expense accounts will include actual and estimated loan losses, as well as entrance fees, late charges and other assessments against members.

i. *Accounting and Dividend Periods*—Credit union accounting periods may be monthly, quarterly, semiannually, or annually depending on the period selected by the credit union to close its books. Each credit union must close its books at least annually. It is recommended that Federal credit unions close the books at the end of each regular share account dividend period unless dividends are paid more frequently than monthly. Provision must be made for statutory reserve transfers and adjustments to meet valuation allowance requirements when a credit union elects not to close the books at the end of any dividend period except where such dividend period is more frequent than monthly.

j. *Fiscal Year*—The fiscal year of all Federal credit unions will begin January 1 and end December 31. This is a requirement of Section 110 of the Federal Credit Union Act.

2. *Alternative Accounting Principles Available:* Within the accounting principles authorized by NCUA for use by credit unions, various alternatives are provided for adoption at the option of any credit union for certain types of transactions. These alternatives are designed to provide the flexibility required for meaningful accounting under a variety of circumstances that may be encountered by credit unions of different size and scope of operations. Absolute uniformity is not required so long as each credit union conforms its accounting to the authorized accounting principles and standards.

The American Institute of Certified Public Accountants (AICPA), the Financial Accounting Standards Board (FASB), and their committees establish generally accepted accounting principles (GAAP), accounting guidelines, and preferred accounting treatment for various activities. Credit unions should refer to such accounting profession pronouncements particularly where an activity is not addressed in the Accounting Manual or other NCUA publications. Credit unions may adopt such accounting profession pronouncements provided they are not inconsistent with statutory or regulatory requirements or the principles and standards set forth in Section 2000 of the Accounting Manual.

3. *Selection of an Accounting Basis:* 12 CFR 702.3(b)(2)(i) requires Federal credit unions to select an accounting basis as provided in the Accounting Manual. The requirements of the Accounting Bases are discussed in Section 2020 of the manual. Credit unions must use the accrual or modified cash basis of accounting. The accrual basis is the

method of accounting under which liabilities and expenses are recorded when incurred whether or not paid, and income is recorded when earned whether or not received. Under the modified cash basis, transactions are recorded when funds are received or disbursed except as described below. Provision must be made to reflect: liabilities not paid when due; dividends and interest refunds applicable to, but not paid in an accounting period; deferred credits and charges applicable to future accounting periods; estimated losses that may be sustained on loans and other risk assets; and depreciation on fixed assets. The NCUA Board encourages all Federal credit unions to adopt the accrual basis of accounting because that method more precisely matches costs with income in accounting cycles and provides for more timely recognition of changes to assets and liabilities. It is also recognized by the NCUA Board that the accrual method may be unnecessarily burdensome for many smaller Federal credit unions. Thus, adoption of the accrual basis of accounting should be subject to the following considerations:

a. The adoption of the accrual basis of accounting is strongly recommended for credit unions with assets of \$2 million or more.

b. Credit union accounting should be maintained on the accrual basis by all other credit unions for which such basis is deemed practicable by the board of directors.

c. Where the accrual basis is followed, a cash basis of accounting and reporting may be applied to particular accounts where the results would be only insignificantly different from the accrual basis. For this purpose "insignificantly" refers to differences which would not be considered important for a proper evaluation of the condition of, or operation of, the credit union.

d. Credit unions for which adoption of the accrual basis is not practicable will use a modified cash basis of accounting.

At the \$2 million asset range, operations are generally sufficient in scope to require relatively advanced management techniques such as budgeting and asset/liability management. To be effective, these techniques require financial data and records which fully reflect the results of financial transactions in appropriate accounting periods. Accordingly, the NCUA Board considers accrual accounting to be a requisite of sound operations and not an unnecessary burden.

4. *Use and Content of Financial Statements.* 12 CFR 702.3(b)(2)(ii)

requires the use of financial statements or equivalent format described in the Accounting Manual. Section 2080 of the Accounting Manual sets forth the conditions necessary to produce financial statements that will meet the full and fair disclosure requirements of the regulation. Major conditions are as follows:

a. *Purpose of Financial Statements*—The financial statements of Federal credit unions provide the vehicle for accomplishing the most important external function of the accounting process; that of presenting fairly the financial position of the credit union at a particular date and the results of operations for a particular period in accordance with generally accepted accounting principles and the principles prescribed in Section 2000 of the Accounting Manual. The financial statements are needed to permit management to make sound decisions and effectively manage the credit union and to show how management has carried out its stewardship to shareholders. In order to provide for full and fair disclosure on financial statements all assets, liabilities, reserves, and retained earnings, including valuation allowance accounts as may be necessary to present fairly the credit union's financial position; and all income and expenses necessary to present fairly the results of the credit union's operations for the period covered by the report must be disclosed.

b. *Frequency of Financial Statements*—As required by Article VIII, Section 5(d) of the Federal Credit Union Bylaws, a Statement of Financial Condition and Statement of Income must be prepared monthly. To provide for full and fair disclosure of financial condition, a Statement of Changes in Equity should be prepared quarterly or at the end of a regular share account dividend period, if the dividend period is longer than quarterly. Credit unions following the accrual basis of accounting should prepare a Statement of Changes in Financial Position on an annual basis.

c. *Chart of Accounts*—For purposes other than reporting to the National Credit Union Administration, any credit union may utilize a different system for numbering its General Ledger accounts than the system discussed in Section 4000 of the Accounting Manual. Any such alternate system adopted must permit the classification of transactions in at least the detail required to properly complete the financial report Forms FCU 109A, FCU 109B, FCU 109C, FCU 109D, and FCU 109E. These forms constitute the majority of the semiannual call report submitted by federally insured

credit unions to NCUA under the provisions of 12 CFR 701.13 and 12 CFR 741.7 of the NCUA Rules and Regulations. The required account numbers for these forms are described in Section 4000 of the Accounting Manual. The account numbers are also printed on the financial reporting forms.

Sections 1000, 3000, 4000, 5000, 6000, and 7000 of the Accounting Manual are instructional in nature and designed to assist credit unions to maintain accurate records and prepare financial statements which fully disclose their financial condition. While the procedures in these sections are optional, adherence to the principles and standards discussed in Section 2000 will ensure compliance with the full and fair disclosure requirements of Part 702 of the NCUA Rules and Regulations. Alternate procedures and principles not consistent with statutory or regulatory requirements may also satisfy compliance with Part 702.

By the National Credit Union Administration Board, May 20, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

#### Appendix A—Outline of Revisions to the Accounting Manual for Federal Credit Unions

##### Section 1000—General Instructions

Reference to the Condensed Version of the Accounting Manual for Federal Credit Unions has been deleted since that publication has been cancelled. New sections on Specialized Accounting and Operational Procedures, and Managerial Accounting are introduced.

##### Section 2000—Accounting Principles and Standards for Federal Credit Unions

Section 2020.10, "Accounting Basis," recommends the adoption of the accrual basis of accounting for all credit unions particularly for those with assets of \$2 million or more.

Section 2020.11, "Accounting and Dividend Periods," recommends that FCUs close the books at the end of each dividend period unless the dividend period is more frequent than monthly.

Section 2030, "Accounting Profession Pronouncements," has been added to recognize the existence of generally accepted accounting principles (GAAP) and other recognized accounting guidelines. This section indicates that credit unions should rely on GAAP when the Manual does not address a specific activity.

Section 2050.1.7.1 requires the accrual of dividends whenever dividend rates are specified or contracted for in advance.

Section 2060.4, "Reserve for Loss Contingencies," is the new account title for the previous "Reserve for Contingencies." This section specifies that loss contingency expenses will not be charged directly to Reserves for Loss Contingencies.

Section 2070.1.12, "NCUA Insurance Guaranty," defines the topic, and states that a guaranty will not be recorded as income.

Section 2070.2.4, "Accrued Interest on Loans Included in Valuation Allowance," provides that interest will not be accrued on loans that are 6 months or more delinquent.

Section 2080.5, "Notes to Financial Statements," is a new section that states the purpose of and requirements for such notes.

Section 2080.10, "Chart of Accounts," is a new section that was added to require the use of Section 4000's Chart of Accounts for reporting to the National Credit Union Administration.

#### Section 3000—Financial Reports

Section 3020, "Frequency of Report Requirements," has been revised to eliminate the reference to the Statistical Report which has been cancelled. It also eliminates any references to the Statement of Changes in Undivided Earnings and the Statement of Changes in Equity, since these have been consolidated into a "Statement of Changes in Equity."

Section 3050.3, "Supporting Schedules for Financial Statements," is a new section for the new form FCU 109C that is used to provide notes to the financial statements. Following this section are completed sample financial statements.

Section 3050.5, "Statement of Changes in Equity," provides the new consolidated statement of changes for all undivided earnings and reserve accounts.

Section 3050.6, "Statement of Changes in Financial Position," includes the completely revised statement to provide more detailed information about the credit union's sources and uses of funds for the current year.

Section 3050.7.1, "Illustration of the Use of Notes to the Financial Statements," provides illustrated financial statements with their accompanying notes, providing examples of how notes can be prepared.

#### Section 4000—General Ledger Accounts

Section 4030.2.9, "Conversion to the Accrual Basis of Accounting," is a new discussion on how to convert to the Accrual Basis of Accounting.

Section 4030.2.10, "Transactions after Conversion," is a new section that provides instructions on the use of some of the accrued income and expense accounts.

Section 4040, "Chart of General Ledger Accounts," provides a complete listing of all of the new General Ledger Accounts that are used in this manual.

Section 4050.4, "Asset Accounts (700 Series)," was revised to expand the listing of investment asset accounts. Thus, the accrued income asset accounts were moved to the 780 account numbered series. Investment Asset Accounts now spread from Account No. 740 to 759, the latter being the Allowance for Losses on Investments, which was formerly Account No. 749. Common Trust Investments (Account No. 743) now includes Mutual Fund Investments.

Section 4050.5, "Liability Accounts (800 Series)," under Dividends Payable (Account No. 820) previously required that all dividend periods must be established so that the last dividend period of any calendar year end on

December 31. Dividend periods will no longer be limited to the December 31st requirement, provided that the cost of the dividends is accrued through December 31 by recording the dividend expense and the corresponding accrued liability.

Section 4050.6, "Savings and Equity Accounts," has been amended to permit reference to share accounts as savings rather than equity. The discussion included in the Regular Reserve (Account No. 931) reflects the reduced transfer requirements of Pub. L. 95-22 of April 1977. The Reserve for Loss Contingencies (Account No. 933), (formerly the Reserve for Contingencies) has been revised to limit the establishment of such a reserve to probable losses that are known and determinable in amount. A new account, Appropriated Undivided Earnings (Account No. 942), was established for the purpose of allocating undivided earnings for planned expenditures or liabilities.

#### Section 5000—General Accounting and Operating Procedures

Section 5030.1.5.1, "Termination of a Joint Account," is an expanded version of this topic which is based on a current NCUA legal opinion.

Section 5040.2.1, "Pledge of Shares," includes legal interpretations on the subject and provides sample wording and advice that can be followed when initiating a pledge.

Section 5040.4.1, "Applying for the loan," incorporates the new "Application for Loan" form NCUA 6001.

Section 5040.5.2.4 provides a new discussion of the board of directors' authority to establish interest rates based on various classifications of loans.

Section 5040.5.7 provides a new discussion of the assessment and administration of late charges.

Section 5040.5.8 provides a new narrative outline on the loan security reporting requirements of Federal Reserve Board Regulation G, "Securities Credit by Persons Other Than Banks, Brokers and Dealers."

Section 5050.1.1, "Balancing Out Teller's Funds," contains new instructions for credit union operating personnel on how to balance a cash drawer.

Section 5050.1.1.2, "Check Endorsements," is a new discussion on the various types of check endorsements, and the basis for each.

Section 5050.1.5, "Balancing Teller's Cash Receipts and Disbursements Using Online Computer Terminals," is a new subsection that was added to provide teller instructions when using an on-line computer terminal.

Section 5050.1.6, "Receipts and Disbursements Using Automatic Transfer Accounts and NOW Accounts," is a new discussion that addresses credit union disbursements via an automatic transfer or Negotiable Order of Withdrawal Account.

Section 5050.2.8, "Change Funds and Monetary Reserve Requirements of Regulation D," provides a clarification that change funds are included in the definition of "vault cash" in satisfying the monetary reserve requirements of Regulation D.

Section 5060.5, emphasizes providing necessary detail in support of bank reconciliations.

Section 5060.11, "Preparing the Schedule of Delinquent Loans," includes a new discussion

on the preparation of form FCU 118LC, Schedule of Delinquent Lines of Credit.

Section 5070.1, "End of Accounting Period," urges the closing of the credit union's books at the end of each dividend period.

Section 5070.2, "Interest Refunds," reflects Change No. 39 to the NCUA Rules and Regulations which authorizes refunds of interest that vary according to different classes of loans.

Section 5080, "Subsidiary Recordkeeping," is a consolidation of former references to subsidiary recordkeeping.

Section 5080.5, "Other Subsidiary Records for Other General Ledger Accounts," emphasizes the need to maintain subsidiary ledgers when there are two or more separate items supporting one General Ledger Account.

Section 5090.2, "Direct Deposit of Federal Recurring Payments," is a new subsection which provides instructions for handling those payments including the use of a preselected date when the deposit is credited to the member's account.

Section 5090.4, "Payroll Deduction Plans," provides a new discussion on providing disclosure information regarding the operation of payroll deduction plans.

Section 5090.8, "Distribution of Statements of Account," provides an expanded discussion regarding distribution of members' accounts in consideration of the Federal Reserve Board's Regulation Z requirements.

Section 5090.8.1, "No Mail Accounts," provides credit union officials and operating personnel with instructions for handling members' "no mail" accounts.

Section 5090.9, "Regulation E," provides a discussion of statement distribution requirements and composition of the statement based on this Federal Reserve Board regulation.

Section 5100.3, "Automatic Teller Machine (ATM)," discusses the advantages of such machines in view of the services that they can provide.

Section 5120.2, "Allowance for Depreciation," provides new acceptable depreciation ranges for depreciable assets.

Section 5140, "Internal Controls," includes expanded comments on the maintenance of administrative and accounting controls that comprise a good system of internal control.

Section 5140.4, "Management Official Interlocks," is a discussion of the Depository Institution Management Interlocks Act and the related requirements of Part 711 of the NCUA Rules and Regulations.

Section 5150, "Share, Share Draft and Share Certificate Accounts," is a consolidation of the Pub. L. 95-22 authority for variable share accounts as expressed in the former "1978 Interim Dividend Guidelines for FCUs" and current NCUA Rules and Regulations.

Section 5160, "Dividends," is an expansion of the "1978 Interim Guidelines for FCUs" and the instructions found in the previous version of the Accounting Manual for FCUs.

Section 5190.3.3, "Microfiche or Microfilmed Records," is a new presentation on the use of current microfilming processes for the storage and maintenance of the vital records of the credit union.

Section 5200.1.1., "Essentials Needed For Offering the Sale Of, And Cashing Of, Money Orders and Checks," provides a listing of the items needed for this members' service.

Section 5200.6, "Group Purchasing and Insurance Activities," addresses the problem of computing the amount of direct and indirect costs in providing a service.

Section 5210, "Third Party Payments," provides a consolidated summary of a credit union's authority to make payments to third parties on behalf of credit union members.

Section 5210.1.2., "Electronic Funds Transfer Act," provides a definition of an electronic funds transfer and provides a summary of some of the Act's provisions.

Section 5210.1.3, "Automatic Clearing House," provides a brief discussion of the purpose and operations of such a facility.

Section 5220, "Delinquency Control," provides advice for credit union managers for the implementation and administration of an effective collection program. It expresses the need, benefits and elements of delinquency control. Method "D" for delinquency computation was deleted since it allowed delinquent interest payments to be counted as satisfying the note's repayment terms.

Section 5220.2.8.15, "Ethical Loan Collection Practices," provides an outline of collection procedures that can be used while preserving courtesy and respect for the borrower. Observance of these procedures will assist the credit union in avoiding unnecessary law suits from unfair debt collection practices.

Section 5230, "Reserve Requirements," provides a discussion on regular reserve transfer requirements.

Section 5230.1.3, "Split-Rate Transfers," provides a discussion on how split-rate transfers to reserves are computed. There will be occasions when a credit union has satisfied the requirements of one transfer rate and can thus drop to a lower rate of transfer during the same accounting period. This subsection provides an example of such a computation.

Section 5240, "Liquidity Reserve Computation," provides a discussion on the requirements of liquidity reserves in connection with Part 742 of the NCUA Rules and Regulations.

Section 5240.2, "Regulation D," provides summary of this Federal Reserve Board regulation, which addresses transaction accounts and nonpersonal time deposits and their monetary reserving requirements.

Section 5250, "Correspondent Credit Unioning," provides a new discussion on this program and the requirements and procedures to be followed.

Section 5260, "Safe Deposit Box Service," provides an outline of the precautions, safeguards and internal controls which must be considered.

Section 5270, "Federal Funds Transactions," includes a discussion of the authority for Federal credit unions to participate in the Federal Funds market.

Section 5280.1, "Political Contributions By Federal Credit Unions," is a new discussion on the subject.

#### Section 6000—Specialized Accounting and Operational Procedures

This section covers topics primarily related to the larger credit unions having more complex operations. Operational and accounting procedures are provided for such activities as: share drafts; credit card programs; investment in credit union service corporations; fixed assets; branch offices; offices on Department of Defense facilities; leases; and the purchase sale and pledge of eligible obligations. Guidance is also provided on a broad range of topics including: pension plans; real estate lending; long-term investments; treasury tax and loan accounts; public unit accounts; corporate central credit unions; and membership in the Central Liquidity Facility.

This is an entirely new major section of the *Accounting Manual for Federal Credit Unions*. It recognizes the use and application of current generally accepted accounting principles (GAAP) in regard to credit union programs or services. This section represents a special effort to update credit union accounting practices so that they will be more in tune with GAAP as set forth by the American Institute of Certified Public Accountants.

#### Section 7000—Managerial Accounting

This section describes the budgetary process including the planning function, budget preparation, financial control and evaluation. Various techniques of asset/liability management are discussed and examples of the spread analysis and allocation-of-funds methods are illustrated. A listing of ratios which can be used to measure liquidity, capital adequacy and profitability are provided.

#### Section 8000—Appendices

Section 8000 includes tables that are used in other sections of this Manual. New tables that have been added are: Table 8-2 Present Value of \$1 Per Period; Table 8-3 Present Value of \$1; Table 8-4 Future Value of an Annuity of \$1 Per Period; Table 8-5 Future Value of \$1; and Table 8-8 Mortgage Yield Conversion Table. Table 8-7 Dividend Table has been revised. Table 8-6 Level Payment Delinquency Table for Loans has been expanded to cover loans for 360 months and interest rates of 15%, 18% and 21% APR.

[FR Doc. 82-14701 Filed 5-28-82; 8:45 am]

BILLING CODE 7535-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 82-ANE-14; Amdt. 39-4395]

#### Airworthiness Directives; Avco Lycoming Williamsport Division Reciprocating Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment amends an existing Airworthiness Directive (AD), applicable to various Avco Lycoming model reciprocating engines which requires replacement of the sintered iron impellers in the oil pump, by providing clarification changes.

**DATES:** Effective June 7, 1982. Comments on the rule must be received on or before July 7, 1982. Compliance schedule as prescribed in body of the AD.

**ADDRESSES:** The applicable service bulletins specified in the AD may be obtained from Avco Lycoming Williamsport Division, Williamsport, Pennsylvania 17701, or may be examined at the FAA, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430. A copy of each of the service bulletins is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

#### FOR FURTHER INFORMATION CONTACT:

Mr. I. Mankuta, Propulsion Section, ANE-174, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430; telephone: (212) 995-2894.

**SUPPLEMENTARY INFORMATION:** Many inquiries were received on AD 81-18-04R1, Amendment 39-4199 as amended by Amendment 39-4258, requesting assistance in determining if a specific engine had the suspect oil pump parts. This was due to the number of modifications to which oil pumps were subjected to in the past resulting from compliance with Lycoming service publications and parts replaced during overhaul and remanufacture. Current service bulletins do not include sufficient details to enable owners to readily determine if their engine has a suspect oil pump. Therefore, additional clarifying information is being included in this amendment. There are no procedural or compliance changes to the context of the AD.

Since this amendment provides clarification only, and imposes no additional burden on any person, notice and public procedure is impracticable and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

#### Request for Comments on the Rule

Although this action is in the form of a final rule which was not preceded by notice and public procedure, comments



loosening of the rotating distributor gear electrode in these magnetos. Looseness of the electrode has led to short circuits within the distributor resulting in power loss and engine damage. The manufacturer now fabricates electrodes which are welded to the gear axle. This AD requires periodic inspections of the distributor gear electrodes and eventual replacement with the welded type.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

#### Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13, is amended by issuing a new AD as follows:

**Bendix:** Applies to Bendix Engine Products Division D-2000 and D-2200 series magnetos with serial numbers below 35480 (red identification plate) and with serial numbers below 8122106 (blue identification plate), unless identified with an "X" in the upper left corner of the identification plate.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of engine power loss and engine damage resulting from looseness of the distributor gear electrode, accomplish Paragraphs (a) and (b):

(a) Comply with the inspection requirements specified in the "Detailed Instructions" of Bendix Service Bulletin No.

617, dated November 1981, or later FAA-approved revision in accordance with the following schedule:

#### Magneto Time In Service Since New or Overhaul—Accomplish

Less than 500 hours—Within the next 50 hours in service and every 100 hours in service thereafter up to 550 hours in service  
500 hours or more—Within the next 50 hours in service

(b) Magnetos with 1900 hours or more in service since new or overhaul: Within the next 100 hours time in service, replace distributor gear assembly with new serviceable gear assembly in accordance with Bendix Service Bulletin No. 617, dated November 1981, or later FAA approved revision.

(c) If the distributor block is contaminated with brass filings or bronze colored dust, inspect the engine as follows:

(1) Observe engine pistons through spark plug hole for evidence of burning.

(2) Check valve dry tappet clearance per engine manufacturer's instructions.

If piston damage, or lower than specified dry tappet clearance, is present, the engine must be inspected in accordance with the engine manufacturer's instructions for continued airworthiness.

Equivalent means of compliance may be approved by the Chief of the New York Aircraft Certification Office, ANE-170, Federal Aviation Administration (FAA), New England Aircraft Certification Division, Federal Building, JFK International Airport, Jamaica, New York 11430. As permitted by FAR 21.197, aircraft may be flown to a base where maintenance required by this AD can be accomplished.

This AD is effective June 9, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on May 18, 1982.

Robert E. Whittington,  
Director, New England Region.

[FR Doc. 82-14553 Filed 5-28-82; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-NM-32-AD; Admt. 39-4393]

#### Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Airplanes Up to and Including Series 600

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adds a new Airworthiness Directive (AD) which requires installation or replacement, as required, of a fuse for the auxiliary power unit (APU) start cable on British Aerospace Model HS/BH/DH 125 aircraft up to and including Series 600A aircraft. At present, some models have no fuse while others have a fuse of insufficient amperage rating to permit normal operational loads. This new fuse will protect the primary electrical (PE) busbar in the event of a fault condition on the APU start cable as well as protecting the start cable.

**DATE:** Effective date June 8, 1982.

**ADDRESS:** The service bulletin specified in this Airworthiness Directive may be obtained upon request from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. J. Huhn, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

**SUPPLEMENTARY INFORMATION:** The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Corporation HS-125 Service Bulletin 49-23-(6525) mandatory. This service bulletin requires the installation of a 275 ampere fuse to protect the PE busbar and the APU start circuit on certain HS/BH/DH-125 airplanes. The manufacturer has found that the existing 200 ampere circuit protection is insufficient to permit reliable operation of the APU start circuit. Furthermore, on

some models no fuse is installed. In order to correct this condition, the CAA, which is the Civil Airworthiness Authority for the United Kingdom, is requiring installation of a 275 ampere fuse in accordance with HS-125 Service Bulletin 49-23-(6525), Revision 5, dated August 18, 1981.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires installation of a 275 ampere fuse on certain HS/BH/DH-125 airplanes in accordance with HS-125 Service Bulletin 49-23-(6525), Revision 5, dated August 18, 1981.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

#### British Aerospace (Hawker Siddeley):

Applies to all Model HS/BH/DH 125 aircraft up to and including Series 600A aircraft, certificated in all categories, S/Ns as listed in British Aerospace, Aircraft Group, 125 Series Aircraft Service Bulletin 49-23-(6525), Revision 5, dated August 18, 1981. Compliance is required as indicated unless already accomplished. To protect the PE busbar and ensure APU start circuit operation, accomplish the following:

1. Within the next 100 hours time in service after the effective date of this AD, install a 275 ampere airfuse in accordance with the applicable instructions in paragraph 2, "Accomplishment Instructions," of British Aerospace, Aircraft Group, 125 Series Aircraft Service Bulletin (SB) No. 49-23-(6525), Revision 5, dated August 18, 1981.

2. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14548 Filed 5-29-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-NM-30-AD; Amendment 39-4392]

#### Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Airplanes up to and including Series 700

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an Airworthiness Directive (AD) that requires a visual inspection of the flap nose ribs for cracks on all British Aerospace Model HS/BH/DH 125 aircraft up to and including series 700. If cracks exist it is possible that the structural capability of the flap will be compromised and the flap could detach during take off or landing.

DATE: Effective date June 8, 1982.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

#### FOR FURTHER INFORMATION CONTACT:

Mr. R. J. Huhn, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

#### SUPPLEMENTARY INFORMATION: The

United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace Corporation HS-125 Service Bulletin 57-58 mandatory. This service bulletin requires a one time visual inspection of the flap nose ribs for cracks which may have formed during manufacture of BAC HS-125 airplanes. If cracks are found that are within certain limits, the airplane can be flown provided it is reinspected every 40 hours time in service until a permanent repair is made. Cracks beyond acceptable limits must be repaired prior to further flight. If undetected cracks are allowed to grow, the flap could separate during takeoff or landing. In order to prevent this from occurring, the CAA is requiring an inspection and repair as necessary.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist on airplanes of this model registered in the United States, an AD is being issued which requires a one time visual inspection of the flap nose ribs for cracks within the next 100 flight hours time in service after the effective date of this AD or upon the accumulation of 600 flight hours time in service, whichever occurs later. The inspection is to be made in accordance with HS-125 Service Bulletin 57-58, Revision 2, dated April 10, 1980.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

**British Aerospace (Hawker Siddeley):**

Applies to British Aerospace Model HS/BH/DH 125 up to and including series 700 airplanes certificated in all categories. To prevent structural failure of the flap, accomplish the following within the next 100 hours time in service after the effective date of this AD or before the accumulation of 600 hours time in service on the airplane, whichever is later, unless already accomplished.

1. Visually inspect the flap outboard hinge nose ribs for cracks in accordance with the instructions in paragraph 2A of British Aerospace, Aircraft Group, 125 Service Bulletin (SB) No. 57-58, Revision 2, dated April 10, 1980.

a. If no cracks are found, no further action is necessary.

b. If cracks are found during the inspection required by paragraph 1, above, which do not exceed the criteria in paragraph 2A(5) of the service bulletin, reinspect at intervals not exceeding 40 hours time in service from the last inspection until a permanent repair is incorporated.

c. If cracks are found during the inspection required by paragraph 1 or during the repetitive inspection required by paragraph 1.b, above, which exceed the criteria in paragraph 2A(5) of the service bulletin, replace the flap with a serviceable flap or contact the manufacturer for instructions to make a permanent repair before further flight.

2. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be

prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14549 Filed 5-28-82; 6:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

[Docket No. 82-NM-29-AD; Amdt. 39-4391]

**Airworthiness Directives; British Aerospace Model HS/BH/DH-125 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This document adds a new Airworthiness Directive (AD) applicable to British Aerospace (formerly Hawker Siddeley Aviation, Ltd.) HS/BH/DH-125 series airplanes up to and including series 700 which requires inspection of the main landing gear restrictor valves for debris contamination and the installation of in-line filters. This action is necessary to prevent debris contamination of the restrictor valve which could result in a landing gear malfunction.

**DATES:** Effective date June 8, 1982.

**ADDRESSES:** The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Huhn, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** The United Kingdom Civil Aviation Authority (CAA) has classified British

Aerospace Corporation HS-125 Service Bulletin 32-190 mandatory. This service bulletin requires disassembly and inspection for debris contamination of the main landing gear restrictor valves and the installation of in-line filters. Two service incidents have occurred in which a blocked restrictor valve prevented the associated main landing gear from being lowered by either normal or auxiliary means. In order to prevent this from occurring, the CAA is requiring an inspection and modification.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires an inspection of the main landing gear restrictor valves and the installation of line filters in accordance with HS-125 Service Bulletin 32-190 dated August 28, 1981.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

**List of Subjects in 14 CFR Part 39**

Aviation safety, Aircraft.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

**British Aerospace (Formerly Hawker Siddeley Aviation, Ltd.):** HS/BH/DH-125 series airplanes certificated in all categories up to and including series 700 which have not been modified in accordance with Modification 252837. Compliance is required within 100 flight hours time in service after the effective date of this AD, unless already accomplished. To prevent blocking of the main landing gear restrictor valves, accomplish the following:

1. Disassemble the main landing gear restrictor valves and inspect for debris contamination, reassemble, and install in-line filters in accordance with British Aerospace Aircraft Group 125 Series Aircraft Service Bulletin 32-190 dated August 28, 1981.

2. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption, "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14550 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-NM-28-AD; Amdt. 39-4390]

#### Airworthiness Directives; British Aerospace Model HS/DH/BH-125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) which requires repetitive inspection and rework or replacement of the bridge casting for the nose landing gear drag stay assembly on British Aerospace (formerly Hawker Siddeley Aircraft, Ltd.) Model HS/DH/BH-125 airplanes. Since the issuance of the AD, the airframe manufacturer, with the concurrence of the United Kingdom Civil

Aviation Authority (CAA), has found that the repetitive inspection interval may be extended without compromising safety. The FAA concurs with Revision 2 of Service Bulletin 32-184 which incorporates the repetitive inspection interval revision. The AD is therefore being amended to increase the inspection interval from 600 landings/one year to 900 landings/two years, whichever occurs first.

DATE: Effective date June 8, 1982.

ADDRESS: The applicable service bulletin may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041. This document may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Huhn, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 80-12-05, Amendment 39-3789 (45 FR 37179, June 2, 1980) requires repetitive inspections of the bridge casting on the nose landing gear drag assembly. Since Amendment 39-3789 was issued, the manufacturer has determined that the repetitive inspection interval may be extended without compromising safety from 600 landings/one year to 900 landings/two years, whichever occurs first. The CAA, which is the Civil Airworthiness Authority for the United Kingdom, concurs with this action. Based on this finding, the FAA is amending AD 80-12-05 to allow the increased time between repetitive inspections.

Since this amendment is relieving and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 80-12-05, Amendment 39-3789 (45 FR 37179, June 2, 1980), by revising paragraph (a) to read as follows:

(a) Upon the accumulation of 2000 landings on the bridge casting or within the next 100 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 900 landings on the bridge casting from the last inspection or every two years, whichever occurs first, inspect and rework or replace as necessary the bridge casting P/N 25UN49A in accordance with Section 2A "Accomplishment Instructions" of British Aerospace Service Bulletin 32-184, Revision 2, dated October 20, 1980, or an FAA-approved equivalent.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective June 8, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981), and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation and it is certified it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14551 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 82-ANE-15; Amdt. 39-4396]

#### Airworthiness Directives; Detroit Diesel Allison 250-B15G, 250-B17, 250-B17B, and 250-B17C Model Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one time check of the propeller governor feather system on Detroit Diesel Allison 250-B15G, 250-B17, 250-B17B, and 250-B17C model engines. The AD is prompted by a report of possible calibration errors in a suspect group of governors that could

cause the governors to be slow or incapable of feathering the propeller.

**DATES:** Effective—June 7, 1982.

Comments must be received on or before July 7, 1982.

Compliance required as set forth in the AD.

**ADDRESSES:** The applicable service bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Service Department, Indianapolis, Indiana 46206. A related service bulletin may be obtained from Woodward Governor Company, 5001 North Second Street, Rockford, Illinois 61101.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Charles Smalley, Chicago Aircraft Certification Office, ACE-115C, Aircraft Certification Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7126.

**SUPPLEMENTARY INFORMATION:** A manufacturing process calibration error may exist in a suspect group of governors that could cause slow propeller feathering or an inability to feather when manual feather is attempted. Since this condition possibly exists on governors within the suspect group, this AD requires a one-time ground operation test of the governors.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Although this action, which involves requirements affecting immediate flight safety, is in the form of a final rule and thus was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information, to review the regulation. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule.

**List of Subjects in 14 CFR Part 39**

Engines, Propellers, Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

**Detroit Diesel Allison:** Applies to Detroit Diesel Allison (DDA) combined power turbine and propeller governor assembly, DDA P/N 6875708, (Woodward P/N 8210-018) with the following serial numbers:

804780A	1814712A
1282800A	1814713A
1282910A	1816433A
1282921A	1819864A
1283049A thru 1283081A	1820615A thru 1820617A
1585707A thru 1585740A	1820648A
1704950A thru 1704968A	1821184A
1709149A	1821845A
1712127A	1821854A
1713260A thru 1713263A	1821882A
1720002A	1823181A
1720003A	1823182A
1720471A	1740062A
1720472A	1740063A
1720989A	1740231A
1747750A	1743198A
1747751A	1743199A
1747817A	1746476A
1747948A	1746508A
1748560A	1747637A
1749652A	1747638A
1750586A	1747642A thru 1747645A
1751790A	1753623A
1751791A	1753624A
1751812A	1806013A
1752008A thru 1752011A	1806047A
1752015A	1807845A
1752147A	1807846A
1752148A	1807957A
1752132A	1807958A
1812386A	1808591A
1812819A	1808973A

The above governors are installed on, or are spares for, Detroit Diesel Allison 250-B15G, B17, B17B, and B17C engines which are installed on, but not limited to, Cessna 401, 401A, 401B, 402, 402A, 402B, and 414 airplanes modified in accordance with STC SA117NW and Government Aircraft Factories (GAF) Nomad N22B and N24A.

Compliance is required, unless already accomplished, within the next 50 hours time in service or the next 30 days, whichever occurs first, after the effective date of this AD:

a. Complete the ground functional check in accordance with the accomplishment instructions of Detroit Diesel Allison Alert Service Bulletin No. CEB-A-87 or CEB-A-1151, or later FAA-approved revision, as appropriate.

b. Governors that fail the check must be removed and replaced with a properly calibrated governor prior to next flight.

Equivalent means of compliance may be approved by the Chief, Chicago Aircraft Certification Office, Federal Aviation Administration (FAA), 2300 East Devon Avenue, Chicago, Illinois.

**Note.**—The following service bulletins refer to this subject: DDA No. CEB-A-87, for 250-B15G engines, dated February 5, 1982. DDA No. CEB-A-1151, for 250-B17, -B17B, and -B17C, engines, dated February 5, 1982. Woodward No. 33577, dated February 1982.

This amendment becomes effective June 7, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1364(a), 1421, and 1423); Sec. 6(c), Department of

Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1008(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Burlington, Massachusetts, on May 20, 1982.

**John B. Roach,**

*Acting Director, New England Region.*

[FR Doc. 82-14554 Filed 5-28-82; 8:45 am]

**BILLING CODE 4910-13-M**

**14 CFR Part 39**

[Docket No. 82-NM-39-AD; Amdt. 39-4394]

**Airworthiness Directives; McDonnell Douglas Model DC-9 Series and C-9 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This document amends an existing Airworthiness Directive (AD) which requires eddy current or dye-penetrant inspection for cracks in the upper fuselage skin in the area of the aft pressure bulkhead tee on McDonnell Douglas Models DC-9 and C-9 series airplanes. These cracks, if left unattended, could result in structural failure of the fuselage shell and rapid decompression of the aircraft. This amendment is needed to clarify certain provisions of that AD and add an additional alternate inspection procedure.

**DATES:** Effective date June 8, 1982.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

**ADDRESSES:** The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or 4344 Donald Douglas Drive, Long Beach, California 90808.

**FOR FURTHER INFORMATION CONTACT:** Harry J. Irwin, Aerospace Engineer, Airframe Branch, ANM-120L Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rulemaking to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring eddy current or dye-penetrant inspection for cracks in the upper fuselage skin in the area of the aft pressure bulkhead tee on McDonnell Douglas Models DC-9 and C-9 series airplanes was published in the *Federal Register* June 15, 1981, (46 FR 31268). Following public comments and participation, the Final Rule, AD 81-26-03 Amendment 39-4282 was published in the *Federal Register* December 17, 1981, (46 FR 61443).

Since the issuance of Amendment 39-4282, it has come to the attention of the Los Angeles Area Aircraft Certification Office that the amendment did not clearly reflect the fact that the interim repair referenced under Paragraph B was accepted for 4,000 landings. This amendment clarifies this point and also provides an alternative eddy current test procedure as specified in Revision 2 to McDonnell Douglas Alert Service Bulletin A53-147 dated June 3, 1981.

Since this amendment provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person; therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 81-26-03, Amendment 39-4282, as follows:

#### Revise Paragraph A *Inspection Requirements* to read as follows:

A. *Inspection Requirements*—Inspect the upper skin splice area for cracks at the tee cap in the aft fuselage pressure bulkhead between Longerons 14 left and 14 right. Use either eddy current inspection procedures in accordance with paragraph 5 or 6, or dye-penetrant inspection procedures in accordance with paragraph 7, both listed in the Accomplishment Instructions of McDonnell Douglas Service Sketch No. 3145A as provided in McDonnell Douglas DC-9 Alert Service Bulletin A53-147, Revision 2, dated June 3, 1981 (hereinafter referred to as ASB 53-147). The inspections shall be performed in accordance with the compliance schedule shown in the following tabulation:

Revise the opening sentence of Paragraph B.2. to read as follows:

2. Condition 2. If skin cracks were previously repaired by the interim repair procedure specified in ASB 53-147, per Service Rework Drawing JO60143, before the accumulation of 4,000 landings since installation of interim repair:

Add the following to paragraph B.3 to read as follows:

or

(c) Accomplish the interim repair(s) specified in ASB 53-147 per Service Rework Drawing JO60143, as applicable, and remove such interim repair(s) by accomplishing the requirements of B.2.(a) or B.2.(b) above within 4,000 landings.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60).

These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective June 8, 1982.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

**Note.**—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981)

and not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation, and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington on May 19, 1982.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-14555 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Airworthiness Docket No. 82-ASW-13; Amdt. 39-4387]

#### Airworthiness Directives; Sikorsky S-76A Helicopters Certified in All Categories

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action publishes in the *Federal Register* and makes effective to all persons the requirements of telegraphic airworthiness directive (AD) T82-06-51, which was previously made effective by individual telegrams to all known United States operators of Sikorsky S-76A helicopters certificated in all categories. The telegraphic AD required initial and recurrent visual inspections of the main gearbox shaft and spur pinions. In addition, a replacement time was established.

**DATES:** Effective June 3, 1982, to all persons except those persons to whom it was made immediately effective by the telegram dated March 5, 1982.

Compliance schedule—as prescribed in text of AD.

**ADDRESSES:** The applicable Alert Service Bulletin may be obtained from: Manager of Maintenance Services, S-76 and Commercial Product Support, Sikorsky Aircraft Division, North Main Street, Stratford, Connecticut 06602.

This document may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas; at the Federal Aviation Administration, New England

Region, 12 New England Executive Park, Burlington, Massachusetts; and at the Rules Docket, Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Martin Buckman, ANE-153, Boston Aircraft Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7329.

**SUPPLEMENTARY INFORMATION:** Fatigue cracks have been detected on two occasions in shaft and spur pinions, P/N 76351-09012-103, installed in the main gearbox of Sikorsky Model S-76A helicopters. These cracks, which were in the threaded area at the lower end of the shaft, were found during overhaul of main gearbox assemblies. In addition, a complete failure in this area occurred during recent bench tests of this assembly. To prevent loss of essential drive from an engine following a failure of a shaft and spur pinion, a telegraphic AD, T82-06-51, was issued on March 5, 1982, requiring initial and repetitive visual inspections of the shaft and spur pinions, as installed in the Sikorsky Model S-76A helicopter. In addition, the AD established a replacement time for these components. Sikorsky Alert Service Bulletin No. 76-66-16A provided similar preventive measures.

This condition still exists and the AD with minor editorial changes is hereby published in the *Federal Register* as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective for all persons.

Since a situation exists that requires immediate adoption of this rule, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

#### List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety, Air transportation, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**Sikorsky:** Applies to Sikorsky Model S-76A series helicopters certificated in all categories equipped with P/N 76351-09000-061 or prior dash-numbered main gearbox assemblies. To prevent possible failure of a main gearbox shaft and spur pinion P/N 76351-09012-103 due to

fatigue cracks propagating in the bottom threaded area, accomplish the following:

1. Within the next 50 hours' time in service, unless already accomplished within the last 50 hours' time in service, and thereafter every 100 hours' time in service from the last inspection, inspect all shaft and spur pinions, P/N 76351-09012-103, with 1,500 or more hours' time in service since new on the effective date of this AD, in accordance with Sikorsky Alert Service Bulletin No. 76-66-16A or later FAA-approved revision, or FAA-approved equivalent.

2. Within the next 100 hours' time in service and thereafter every 100 hours' time in service from the last inspection, inspect all shaft and spur pinions, P/N 76351-09012-103, with 1,100 or more but less than 1,500 hours' time in service since new on the effective date of this AD, in accordance with Sikorsky Alert Service Bulletin No. 76-66-16A or later FAA-approved revision, or FAA-approved equivalent.

3. Inspect shaft and spur pinions with less than 1,100 hours' time in service since new on the effective date of this AD before the accumulation of 1,200 hours' time in service, and thereafter every 100 hours' time in service in accordance with Sikorsky Alert Service Bulletin No. 76-66-16A or later FAA-approved revision, or FAA-approved equivalent.

4. If a crack is found, replace the shaft and spur pinion with a serviceable part prior to further flight.

5. Replace the shaft and spur pinions, P/N 76351-09012-103, with a serviceable part prior to the accumulation of 1,500 hours' time in service since new or within 200 hours' time in service after the effective date of this AD, whichever occurs later. Thereafter, replace shaft and spur pinions with serviceable parts prior to accumulation of 1,500 hours' time in service.

6. All shaft and spur pinions whose hours' time in service cannot be established are to be inspected in accordance with paragraph 1 and are to be replaced with a serviceable part within 200 hours' time in service from the effective date of this AD.

Equivalent means of compliance may be approved by the Chief, Boston Aircraft Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective June 3, 1982 to all persons except those persons to whom it was made immediately effective by telegraphic AD T82-06-51, issued March 5, 1982, which contained this amendment.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

**Note.**—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe

condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption, "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on May 14, 1982.

F. E. Whitfield,

*Acting Director, Southwest Region.*

[FR Doc. 82-14552 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 82-ASO-19]

#### Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Areas; Melbourne, Florida; and Titusville, Florida

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment alters the descriptions of the Melbourne and Titusville, Florida, Transition Areas by correcting the geographical coordinates of three airports and correcting the name of one airport. No change in airspace is intended.

**DATES:** Effective date: 0901 G.m.t., September 2, 1982. Comments must be received on or before August 15, 1982.

**ADDRESSES:** Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

**FOR FURTHER INFORMATION CONTACT:** Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box

20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the correcting of an airport name and the geographical coordinates of three airports and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

##### The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Melbourne and Titusville, Florida, Transition Areas by correcting the geographical coordinates of Melbourne Regional Airport, Titusville-Cocoa Airport and Patrick Air Force Base. Also, the name of Kennedy Spaceport is being corrected to NASA Shuttle Landing Facility. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to reflect the proper geographical coordinates and airport name in the descriptions of the Melbourne and Titusville, Florida, Transition Areas. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 45 days after its publication in the Federal Register.

##### List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

##### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further

amended, effective 0901 G.m.t., September 2, 1982, as follows:

##### Melbourne, Florida—Amended

By deleting " \* \* \* lat. 28°06'01"N., long. 80°38'00"W \* \* \*" and " \* \* \* lat. 28°14'21"N., long. 80°36'28"W \* \* \*" and substituting therefor " \* \* \* lat. 28°06'06"N., long. 80°38'26"W \* \* \*" and " \* \* \* lat. 28°14'17"N., long. 80°36'33"W \* \* \*"

##### Titusville, Florida—Amended

By deleting " \* \* \* lat. 28°30'42"N., long. 80°48'00"W \* \* \*" and " \* \* \* Kennedy Spaceport \* \* \*" and substituting therefor " \* \* \* lat. 28°30'45"N., long. 80°48'11"W \* \* \*" and " \* \* \* NASA Shuttle Landing Facility \* \* \*"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

**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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 19, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-14526 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 82-ASO-9]

#### Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Wadesboro, North Carolina

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment alters the Wadesboro, North Carolina, Transition Area by lowering the base of controlled airspace north of Anson County Airport from 1,200 to 700 feet AGL. A new standard instrument approach procedure has been developed to the airport, and additional controlled airspace is required to protect Instrument Flight Rule (IFR) operations.

**EFFECTIVE DATE:** 0901 GMT, September 2, 1982.

#### FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta Georgia 30320; telephone: (404) 763-7646.

#### SUPPLEMENTARY INFORMATION:

##### History

On Monday, March 22, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by lowering the base of controlled airspace north of the Anson County Airport from 1,200 to 700 feet AGL (47 FR 12193). The purpose of this action is to provide additional controlled airspace to accommodate IFR operations in the vicinity of the airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received in response to the proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

##### The Rule

This amendment to Part 71 of the Federal Aviation Regulations provides controlled airspace protection for additional IFR operations at Anson County Airport. A new standard instrument approach procedure, NDB Runway 16, utilizing the Wadesboro NDB, will be established in conjunction with the alteration of the transition area.

##### List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

##### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, September 2, 1982, as follows:

##### Wadesboro, North Carolina Revised

By deleting the words " \* \* \* southwest of the VORTAC \* \* \*" and substituting for them the words " \* \* \* southwest of the VORTAC; within 3 miles each side of the 340° bearing from the Wadesboro RBN (Lat. 35°10'26" N., Long. 80°05'00" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN \* \* \*"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec.

6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on May 20, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-14525 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 82-ASW-12]

#### Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Ardmore, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Ardmore, OK. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing new instrument approach procedures to the Ardmore Municipal Airport. This amendment is necessary to provide protection for aircraft executing standard instrument approach procedures (SIAP's) using the partial instrument landing system (ILSP) to be installed on Runway 30.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

##### History

On March 29, 1982, a notice of proposed rulemaking was published in the Federal Register (47 FR 13168) stating that the Federal Aviation Administration proposed to alter the Ardmore, OK, transition area. Interested persons were invited to participate in

this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

#### List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, September 2, 1982, as follows:

##### Ardmore, OK Revised

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Ardmore Municipal airport (latitude 34°18'12" N., longitude 97°00'59" W.) and 4.5 miles each side of the 135° bearing from the airport, extending from the 8.5-mile radius area to 17 miles southeast, and within 2 miles each side of the Ardmore VORTAC 233° and 053° radials extending from the 8.5-mile radius area to 8 miles southwest of the VORTAC; and within 2 miles north and 8 miles south of the 265° bearing from the Springtown NDB (latitude 34°17'58" N., longitude 97°08'29" W.) extending to 8 miles west of the NDB; and within a 5-mile radius of the Downtown Ardmore Airport (latitude 34°08'50" N., longitude 97°07'21" W.) and within 3.5 miles each side of the 168° bearing of the Arbuckle NDB (latitude 34°09'11" N., longitude 97°07'33" W.) extending from the 5-mile radius area to 11.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

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 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on May 20, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-14526 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 82-AWP-7]

#### Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Control Zone, Palm Springs, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the Palm Springs, California, Control Zone by adding a control zone extension to the southeast. The Control Zone extension is necessary to provide controlled airspace for Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: 0900 G.m.t., July 8, 1982. Comments on the rule must be received by June 21, 1982.

ADDRESSES: Send comments on the proposal in triplicate to Director, Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536-6182.

#### SUPPLEMENTARY INFORMATION:

##### History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a control zone extension to provide controlled airspace for IFR operations. This amendment represents a change in the technical description of the control zone and imposes no greater constraints on the public than presently exist.

##### Request for Comments on the Rule

Although this action is in the form of a final rule and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate,

it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

#### The Rule

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates a control zone extension to the southeast of the Palm Springs Municipal Airport. Therefore, I find that notice or public procedure under 5 U.S.C. 553 is impractical and good cause exists for making the rule effective without prior notice and public procedure hereon.

#### List of Subjects in 14 CFR Part 71

Control zones.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455) is amended, effective 0901 G.m.t., July 8, 1982, as follows:

#### 71.171 Palm Springs, California

Following \* \* \* longitude 116°30'18" W.), add: "within 2 miles each side of the Thermal VORTAC 305° radial extending from the 5 mile radius zone southeast to 16.5 miles northwest of the Thermal VORTAC" \* \* \* (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1955(c)); and 14 CFR 11.69)

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on May 20, 1982.

Robert F. Smith,  
Acting Director, Western-Pacific Region.  
[FR Doc. 82-14691 Filed 5-28-82; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 81-ACE-21]

#### Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area, Neodesha, Kans.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule appearing in FR Doc. 82-9255 on pages 15103 and 15104 in the issue of Thursday, April 8, 1982. Subsequent to the issuance of this rule, it has been determined that the radial cited was magnetic rather than true as intended.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of this Final Rule on April 8, 1982, altering the transition area at Neodesha, Kansas, it has been determined that the radial cited for the Chanute VOR is magnetic and not true as intended. Action is taken herein to make this correction. Since the change is editorial in nature, notice and public procedure thereon are not considered necessary.

In FR Doc. 82-9255, appearing at page 15104 in the Federal Register of April 8, 1982, line 5 of the description of the transition alteration reading "2.5 miles each side of the Chanute VOR 185°" should be changed to read "2.5 miles each side of the Chanute VOR 192°." (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this correction of a 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this correction to a final rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 19, 1982.

John E. Shaw,  
Acting Director, Central Region.  
[FR Doc. 82-14693 Filed 5-28-82; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket Number 81-ACE-4]

#### Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area, Benton, Kans.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule appearing in FR Doc. 82-9254 on page 15106 in the issue of Thursday, April 8, 1982. Subsequent to the issuance of this rule, it has been determined that the radial cited was magnetic rather than true as was intended.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of the Final Rule on April 8, 1982 (47 FR 15106), designating a transition area at Benton, Kansas, it has been determined that the radial cited for the Wichita VORTAC is magnetic and not true as was intended. Action is taken herein to make this correction. Since the change is editorial in nature, notice and public procedure thereon are not considered necessary.

In FR Doc. 82-9254, appearing at page 15106 in the Federal Register of April 8, 1982, line 6 of the description of the transition area, reading "VORTAC 070° radial extending from the 5," should be changed to read, "VORTAC 078° radial extending from the 5."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49

U.S.C. 1655(c); § 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

**Note.**—The FAA has determined that this correction of a 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this correction to a Final Rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May, 19, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-14694 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 97

[Docket No. 23068; Amdt. No. 1217]

### 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, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

**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

Aviation safety, Standard instrument approaches

#### 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 July 8, 1982

Bentonville, AR—Bentonville Muni, VOR-A, Amdt. 4  
Livermore, CA—Livermore Muni, VOR/DME-A, Amdt. 3, cancelled  
Reedley, CA—Reedley Muni, VOR-A, Original, cancelled  
Tifton, GA—Henry Tift Myers, VOR Rwy 27, Amdt. 6  
Tifton, GA—Henry Tift Myers, VOR Rwy 33, Amdt. 8  
Kailua-Kona, HI—Ke-ahole, VOR or TACAN Rwy 35, Amdt. 4  
Elgin, IL—Elgin, VOR Rwy 36, Amdt. 5  
Pekin, IL—Pekin Muni, VOR-A, Amdt. 3

- Owensboro, KY—Owensboro-Daviess County, VOR Rwy 5, Amdt. 9
- Hagerstown, MD—Washington County Regional, VOR Rwy 9, Amdt. 6
- Middlefield, OH—Geauga County, VOR-A, Amdt. 4
- Urbana, OH—Grimes Field, VOR-A, Original
- Altus, OK—Altus Muni, VOR-A, Amdt. 2
- Clinton, OK—Clinton-Sherman, VOR Rwy 35L, Amdt. 7
- Sand Springs, OK—William R. Pogue Muni, VOR-A, Orig., cancelled
- Cheraw, SC—Cheraw Muni, VOR/DME Rwy 7, Amdt. 1
- Gallatin, TN—Gallatin Muni, VOR/DME-A, Amdt. 4
- Lebanon, TN—Lebanon Muni, VOR/DME-A, Amdt. 4
- Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 2L, Amdt. 1, cancelled
- Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 13, Amdt. 10
- Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 20L, Amdt. 2
- Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 20R, Amdt. 3
- Nashville, TN—Nashville Metropolitan, VOR Rwy 31, Amdt. 25
- Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR Rwy 18, Amdt. 2
- Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR/DME Rwy 18, Original
- Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR Rwy 36, Amdt. 12
- Smyrna, TN—Smyrna, VOR/DME Rwy 14, Amdt. 4
- Smyrna, TN—Smyrna, VOR/DME Rwy 32, Amdt. 10
- Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, VOR-A, Amdt. 1
- Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, VOR/DME-B, Amdt. 1
- Appleton, WI—Outagamie County, VOR/DME Rwy 3, Amdt. 1
- \*\*\* Effective May 13, 1982
- Webster City, IA—Webster City Muni, VOR/DME Rwy 14, Amdt. 1
- \*\*\* Effective May 12, 1982
- Clinton, IA—Clinton Muni, VOR Rwy 3, Amdt. 9
- Clinton, IA—Clinton Muni, VOR/DME Rwy 21, Amdt. 4
- \*\*\* Effective May 11, 1982
- Fort Dodge, IA—Fort Dodge Muni, VOR Rwy 12, Amdt. 13
- \*\*\* Effective May 7, 1982
- Norfolk, NE—Karl Stefan Memorial, VOR Rwy 1, Amdt. 2
- Norfolk, NE—Karl Stefan Memorial, VOR Rwy 13, Amdt. 2
- Norfolk, NE—Karl Stefan Memorial, VOR Rwy 19, Amdt. 2
- Norfolk, NE—Karl Stefan Memorial, VOR Rwy 31, Amdt. 2
2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:
- \*\*\* Effective July 8, 1982
- West Palm Beach, FL—Palm Beach International, LOC BC Rwy 27R, Amdt. 9
- Kailua-Kona, HI—Ke-ahole, LOC Rwy 17, Amdt. 2
- Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, SDF Rwy 18, Amdt. 1
- Appleton, WI—Outagamie County, LOC BC Rwy 21, Amdt. 2
- \*\*\* Effective June 10, 1982
- Ontario, CA—Ontario Intl, LOC Rwy 26R, Original
- \*\*\* Effective May 12, 1982
- Clinton, IA—Clinton Muni, LOC Rwy 3, Amdt. 1
- \*\*\* Effective May 7, 1982
- Norfolk, NE—Karl Stefan Memorial, LOC Rwy 1, Amdt. 5
3. By amending § 97.27 NDB/ADF SIAPs identified as follows:
- \*\*\* Effective July 8, 1982
- Clarksville, AR—Clarksville Muni, NDB-A, Amdt. 2
- Manila, AR—Manila Muni, NDB Rwy 36R, Amdt. 4
- Miami, FL—Dade-Collier Training and Transition, NDB Rwy 9, Amdt. 10
- West Palm Beach, FL—Palm Beach International, NDB Rwy 9L, Amdt. 17
- Madison, MN—Madison-LAC QUI Parle County, NDB Rwy 31, Amdt. 2
- Clinton, OK—Clinton-Sherman, NDB Rwy 17R, Amdt. 8
- Cheraw, SC—Cheraw Muni, NDB Rwy 25, Amdt. 1
- Fayetteville, TN—Fayetteville Muni, NDB Rwy 1, Amdt. 4
- Lewisburg, TN—Ellington, NDB Rwy 20, Amdt. 3
- Murfreesboro, TN—Murfreesboro Muni, NDB Rwy 18, Amdt. 1
- Nashville, TN—Nashville Metropolitan, NDB Rwy 2L, Amdt. 2
- Nashville, TN—Nashville Metropolitan, NDB Rwy 2R, Amdt. 2
- Nashville, TN—Nashville Metropolitan, NDB Rwy 20R, Amdt. 2
- Smyrna, TN—Smyrna, NDB Rwy 32, Amdt. 6
- Houston, TX—Hull Field, NDB Rwy 35, Amdt. 1
- Houston, TX—Hull Field, NDB Rwy 17, Amdt. 5
- Moen Island, TT—Truk Intl, NDB-A, Amdt. 1, cancelled
- Moen Island, TT—Truk Intl, NDB-B, Amdt. 1
- Appleton, WI—Outagamie County, NDB Rwy 3, Amdt. 8
- Appleton, WI—Outagamie County, NDB Rwy 11, Amdt. 1
- Appleton, WI—Outagamie County, NDB Rwy 29, Amdt. 1
- Delavan, WI—Lake Lawn, NDB Rwy 18, Original
- \*\*\* Effective June 10, 1982
- Britton, SD—Britton Muni, NDB Rwy 13, Original
- \*\*\* Effective May 12, 1982
- Clinton, IA—Clinton Muni, NDB Rwy 3, Amdt. 1
- Clinton, IA—Clinton Muni, NDB Rwy 14, Amdt. 3
4. By amending § 97.29 ILS-MLS SIAPs identified as follows:
- \*\*\* Effective July 8, 1982
- Miami, FL—Dade-Collier Training and Transition, ILS Rwy 9, Amdt. 11
- Hilo, HI—General Lyman Field, ILS Rwy 26, Amdt. 6
- Kailua-Kona, HI—Ke-ahole, ILS/DME Rwy 17, Amdt. 6
- Boston, MA—General Edward Lawrence Logan Intl, ILS Rwy 33L, Amdt. 17
- Hagerstown, MD—Washington County Regional, ILS Rwy 27, Amdt. 3
- Calverton, NY—Calverton Naval Weapons Industrial Reserve Plant/Peconic Field, ILS Rwy 5, Amdt. 9, cancelled
- Clinton, OK—Clinton-Sherman, ILS Rwy 17R, Amdt. 4
- Nashville, TN—Nashville Metropolitan, ILS Rwy 2L, Amdt. 2
- Nashville, TN—Nashville Metropolitan, ILS Rwy 20R, Amdt. 2
- Nashville, TN—Nashville Metropolitan, ILS Rwy 31, Amdt. 2
- Smyrna, TN—Smyrna, ILS Rwy 32, Amdt. 2
- Appleton, WI—Outagamie County, ILS Rwy 3, Amdt. 10
- \*\*\* Effective June 10, 1982
- Ontario, CA—Ontario Intl, ILS Rwy 26R, Amdt. 34, cancelled
- \*\*\* Effective May 11, 1982
- Fort Dodge, IA—Fort Dodge Muni, ILS Rwy 6, Amdt. 5
- Note.—The FAA published an amendment in Docket No. 22899, Amdt. No. 1215 to Part 97 of the Federal Aviation Regulations [vol. 47 FR No. 85, page 18849; dated May 3, 1982] under section 97.29 effective June 10, 1982, which is hereby amended as follows: San Francisco, CA, San Francisco Intl, ILS Rwy 19L Amdt. 17 is rescinded.
5. By amending § 97.31 RADAR SIAPs identified as follows:
- \*\*\* Effective July 8, 1982
- Oklahoma City, OK—Wiley Post, RADAR-1, Original
- Nashville, TN—Nashville Metropolitan, RADAR-1, Amdt. 18
- Amarillo, TX—Amarillo International, RADAR-1, Amdt. 13
6. By amending § 97.33 RNAV SIAPs identified as follows:
- \*\*\* Effective July 8, 1982
- Elgin, IL—Elgin, RNAV Rwy 18, Amdt. 6
- Pekin, IL—Pekin Muni, RNAV Rwy 9, Amdt. 2
- Shelbyville, TN—Bomar Field-Shelbyville Muni, RNAV Rwy 18, Amdt. 1
- Tullahoma, TN—Tullahoma Muni Airport; Soesbe-Martin Field, RNAV Rwy 36, Amdt. 1
- Appleton, WI—Outagamie County, RNAV Rwy 29, Amdt. 1
- \*\*\* Effective May 12, 1982
- Clinton, IA—Clinton Muni, RNAV Rwy 21, Amdt. 6
- (Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 8(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.

Issued in Washington, D.C. on May 21, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-14524 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 806

#### Rule Change for Annual Survey of Foreign Direct Investment in the United States

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This action amends the regulations by raising the acreage exemption level for reporting in the BE-15, Annual Survey of Foreign Direct Investment in the U.S. This action is necessary because the projected manhour burden on small businesses is excessive.

**EFFECTIVE DATE:** This document is effective on June 1, 1982, beginning with the 1981 BE-15 report, which is currently being prepared.

**FOR FURTHER INFORMATION CONTACT:** George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523-0657.

**SUPPLEMENTARY INFORMATION:** Based on partial data now available from the BE-12, Benchmark Survey of Foreign Direct Investment in the U.S. 1980, the 200 acre exemption level presently prescribed for the BE-15 annual sample survey would result in a much larger number of forms being filed, and, therefore, a larger public manhour burden, than contained in the current Office of Management and

Budget approval for the use of this form. Most of these reports would have to be submitted by small businesses. Therefore, in order to reduce the burden on small businesses and to bring the overall burden down, the acreage exemption level is being raised to 1,000 acres. (The \$5,000,000 exemption level criterion for total assets, sales or gross operating revenues, excluding sales taxes; and net income after income taxes; remains unchanged.)

Given the extremely small part of the universe accounted for by these small affiliates, the statistical validity of the sample data will not be impaired.

Pursuant to 5 U.S.C. 553(b) and (d), the Administrative Procedures Act, this rulemaking is being issued as a final rulemaking rather than as a proposed rulemaking. The above cited subsections provide that a notice of proposed rulemaking is not required when the agency for good cause finds that such a notice is unnecessary or contrary to the public interest or when the rulemaking grants or recognizes an exemption. BEA has determined that this rulemaking meets these criteria in that this rule change will result in a reduction in burden by granting an exemption and will not affect the statistical validity of the data.

The Bureau of Economic Analysis has determined that this final rule change is not "major" under Executive Order 12291. The purpose of the change is to bring the public-use burden in closer conformance to the Department of Commerce allocated FY 1982 Information Collection Budget ceiling.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to preparation of a regulatory flexibility analysis are not applicable to this rule change because it will not have a significant economic impact on a substantial number of small entities. In fact, the opposite is true, the burden is being reduced by raising the exemption level.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule change will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investments in the United States, Penalties, Reporting requirements, United States investments abroad.

Part 806 is therefore modified as set forth below.

George Jaszi,  
Director, BEA.

#### PART 806—DIRECT INVESTMENT SURVEYS

In § 806.15, paragraph (i) is revised to read as follows:

#### § 806.15 Foreign direct investment in the United States.

\* \* \* \* \*

(i) Annual report form. BE-15—Annual Survey of Foreign Direct Investment in the United States: One report is required for each consolidated U.S. affiliate, except a bank, exceeding an exemption level of \$5,000,000, except that a U.S. affiliate which owns 1,000 acres or more of U.S. land must report regardless of the value of the items on which the exemption level is based, i.e., total assets; sales or gross operating revenues, excluding sales taxes; and net income after income taxes, whether positive or negative. U.S. affiliates that are banks are exempt from the reporting requirements of this survey.

\* \* \* \* \*

(5 U.S.C. 301, 22 U.S.C. 3101-3108; E.O. 11961)

[FR Doc. 82-14796 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-06-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 5

#### Delegations of Authority and Organization; Medical Devices

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding medical devices. Bureau of Radiological Health (BRH) officials are being delegated additional authority in the approval process for radiation-emitting medical devices. Bureau of Biologics (BB) officials are being delegated authority over medical devices which also are biologics or are used in the production of biologics. The new delegations will provide greater operating flexibility, more effective and efficient operations, and more expeditious handling of submissions from regulated industry.

**EFFECTIVE DATE:** June 1, 1982.

**FOR FURTHER INFORMATION CONTACT:**

Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of April 9, 1982 (47 FR 15412), the agency announced the availability of a document describing the division of the responsibilities for medical devices under the Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act among FDA's BMD, BRH, and BB. BRH is the lead Bureau for regulation of devices that involve the use of radiation. BB is the lead Bureau for regulation of devices that are used in the processing or administration of biological products. BMD is the lead Bureau for all other devices.

A more detailed description of affected products and of the programs for which BMD, BRH, or BB is responsible is contained in the document, "Working Relationships Agreement Among Bureau of Medical Devices, Bureau of Radiological Health, and Bureau of Biologics," available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Requests for copies of the document should be identified with docket number 82N-0056.

FDA is making specific changes to the delegations of authority as follows:

1. In § 5.45(e) (21 CFR 5.45(e)) by adding the Director, Deputy Director, and Director of the Division of Compliance of BB to the delegates authorized to perform functions relating to the export of medical devices.
2. In § 5.47 (21 CFR 5.47) by adding the Director, Deputy Director, and Director of the Division of Compliance of BB to the delegates authorized to perform functions relating to the detention of adulterated or misbranded medical devices.
3. In § 5.49 (21 CFR 5.49) by adding the Director and Deputy Director of BRH, and the Director and Deputy Director of BB to the delegates authorized to perform functions relating to the use of alternative evidence for determination of the effectiveness of medical devices.
4. In § 5.50 (21 CFR 5.50) by adding the Director and Deputy Director of BRH, and the Director and Deputy Director of BB to the delegates authorized to perform functions relating to notification to petitioners of determinations made on petitions for reclassification of medical devices.
5. In § 5.52 (21 CFR 5.52) by adding the Director and Deputy Director of BB to the delegates authorized to perform functions related to notification to

sponsors of deficiencies in petitions for reclassification of medical devices.

6. In § 5.53 (21 CFR 5.53) by adding the Director and Deputy Director of BRH, and Director and Deputy Director of BB to the delegates authorized by paragraphs (a) and (b) to perform functions relating to approval, disapproval, revocation, or declaration as complete or incomplete product development protocols, and the approval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices. Authority to approve, disapprove, or withdraw approval of supplemental premarket approval applications is being delegated to the Deputy Associate Director for Device Evaluation and the Directors of Device Evaluation Divisions of BMD.

7. In § 5.54 (21 CFR 5.54) by adding the Director and Deputy Director of BB to the delegates authorized to make determinations that medical devices present unreasonable risk of substantial harm.

8. In § 5.55 (21 CFR 5.55) by adding the Director and Deputy Director of BB to the delegates authorized to perform functions relating to orders to repair or replace, or make refunds for, medical devices.

9. In § 5.59 (21 CFR 5.59) by adding the Deputy Associate Director for Device Evaluation and the Directors of Device Evaluation Divisions of BMD, the Director and Deputy Director of BRH, and the Director and Deputy Director of BB to the delegates authorized to perform functions relating to approval, disapproval, or withdrawal of applications for investigational device exemptions.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

**List of Subjects in 21 CFR Part 5**

Authority delegations (Government agencies); Organizations and functions (Government agencies).

**PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION**

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 5 is amended:

1. By revising § 5.45(e) to read as follows:

**§ 5.45 Imports and exports.**

(e) The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs pertaining to exportation of medical devices under section 801(d) of the Federal Food, Drug, and Cosmetic Act:

(1) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Compliance of the Bureau of Medical Devices, the Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Radiological Health, and Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Biologics;

(2) Regional Food and Drug Directors; and

(3) District Directors.

2. By revising § 5.47 to read as follows:

**§ 5.47 Detention of adulterated or misbranded medical devices.**

The following officials are authorized to perform all the functions of the Commissioner of Food and Drugs pertaining to detention, under section 304(g) of the Federal Food, Drug, and Cosmetic Act, of medical devices that may be adulterated or misbranded:

(a) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Compliance of the Bureau of Medical Devices, the Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Radiological Health, and the Director, Deputy Director, and Director of the Division of Compliance of the Bureau of Biologics;

(b) Regional Food and Drug Directors, and

(c) District Directors.

3. By revising § 5.49 to read as follows:

**§ 5.49 Authorization to use alternative evidence for determination of the effectiveness of medical devices.**

For medical devices assigned to their respective Bureaus, the Director, the Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, may authorize under section 513(a)(3)(B) of the Federal Food, Drug, and Cosmetic Act (the act) the use of valid scientific evidence (other than that prescribed by section 513(a)(3)(A) of the act) for determining the effectiveness of

medical devices for the purposes of sections 513, 514, and 515 of the act.

4. By revising the introductory paragraph of § 5.50 to read as follows:

**§ 5.50 Notification to petitioners of determinations made on petitions for reclassification of medical devices.**

For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to notify petitioners of:

5. By revising § 5.52 to read as follows:

**§ 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices.**

For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to notify sponsors of deficiencies in petitions for reclassification of medical devices submitted under sections 513(f) and 520(l) of the Federal Food, Drug, and Cosmetic Act.

6. By revising § 5.53 (a) and (b) to read as follows:

**§ 5.53 Approval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices.**

(a) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to approve, disapprove, declare as complete or incomplete, or revoke product development protocols for medical devices submitted under section 515(f) of the Federal Food, Drug, and Cosmetic Act.

(b)(1) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to approve, disapprove, or withdraw approval of

applications for premarket approval for medical devices submitted under sections 515 and 520(l) of the Federal Food, Drug, and Cosmetic Act.

(2) For medical devices assigned to the Bureau of Medical Devices, the Deputy Associate Director for Device Evaluation of the Bureau of Medical Devices is authorized to approve, disapprove, or withdraw approval of supplemental premarket approval applications.

(3) For medical devices assigned to their respective Divisions of the Bureau of Medical Devices, the Directors of the Divisions of Cardiovascular Devices; Gastroenterology/Urology and General Use Devices; Anesthesiology and Neurology Devices; Obstetrics/Gynecology and Radiology Devices; Surgical and Rehabilitation Devices; Clinical Laboratory Devices; and Ophthalmic, Ear, Nose, Throat, and Dental Devices of the Bureau of Medical Devices, are authorized to approve, disapprove, or withdraw approval of supplemental premarket approval applications.

7. By revising § 5.54 to read as follows:

**§ 5.54 Determinations that medical devices present unreasonable risk of substantial harm.**

For medical devices assigned to their respective Bureaus, the Director and Deputy Director of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to determine that medical devices present unreasonable risk of substantial harm to the public health, and to order adequate notification thereof, under section 518(a) of the Federal Food, Drug, and Cosmetic Act.

8. By revising § 5.55 to read as follows:

**§ 5.55 Orders to repair or replace, or make refunds for, medical devices.**

For medical devices assigned to their respective Bureaus, the Director and Deputy Director of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to order repair or replacement of, or refund for, medical devices under section 518 (b) and (c) of the Federal Food, Drug, and Cosmetic Act.

9. By revising § 5.59 to read as follows:

**§ 5.59 Approval, disapproval, or withdrawal of approval of applications for investigational device exemptions.**

(a) For medical devices assigned to their respective Bureaus, the Director, Deputy Director, and the Associate and Deputy Associate Director for Device Evaluation of the Bureau of Medical Devices, the Director and Deputy Director of the Bureau of Radiological Health, and the Director and Deputy Director of the Bureau of Biologics, are authorized to approve, disapprove, or withdraw approval of applications for investigational device exemptions submitted under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

(b) For medical devices assigned to their respective Divisions of the Bureau of Medical Devices, the Directors of the Divisions of Cardiovascular Devices; Gastroenterology/Urology and General Use Devices; Anesthesiology and Neurology Devices; Obstetrics/Gynecology and Radiology Devices; Surgical and Rehabilitation Devices; Clinical Laboratory Devices; and Ophthalmic, Ear, Nose, Throat, and Dental Devices of the Bureau of Medical Devices, are authorized to approve, disapprove, or withdraw approval of applications for investigational device exemptions submitted under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

*Effective date.* This regulation shall become effective June 1, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 24, 1982.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 82-14723 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 436, 442, 444, 448, 449,  
and 450

[Docket No. 82N-0123]

**Antibiotic Drugs; Updating and Technical Changes**

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the antibiotic regulations by making corrections, minor noncontroversial technical changes, and a revocation in the regulations providing for the certification of certain antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and usable regulations that reflect current certification practices.

**DATES:** Effective June 1, 1982; comments, notice of participation, and request for hearing by July 1, 1982; data, information, and analyses to justify a hearing by August 2, 1982.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:**

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

**SUPPLEMENTARY INFORMATION:** FDA is amending the antibiotic drug regulations by making corrections, minor noncontroversial technical changes, and a revocation in antibiotic drug regulations that provide for certification of antibiotic and antibiotic-containing drugs intended for human use. To aid in understanding the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: monograph corrections, technical changes, and revocation.

**Monograph Corrections**

1. In § 436.325(e), the term "arahypoxanthine" in the third sentence is corrected to read "9-β-D-arabinofuranosyl-hypoxanthine" to reflect current nomenclature.

2. Section 442.208 is amended as follows:

a. In paragraph (a)(1), the word "potency" is corrected to read "cefamandole content" in the second sentence; the word "Its" is corrected to read "It" in the fourth sentence; and the last sentence is corrected to reference to the sterile bulk monograph;

b. In paragraph (a)(3)(i)(α), the words "cefamandole content, microbiological activity" are corrected to read "potency"; and

c. In paragraph (b)(1)(i), the word "or" is corrected to read "and" in the second sentence.

3. In § 444.342b(b)(1)(iii), the word "give" is corrected to read "obtain" in the first sentence.

4. In § 444.542f(b)(1)(ii), the word "the" is added in the fifth sentence.

5. In § 444.542g(b)(2), the word "jar" is added and the word "give" is corrected to read "obtain" in the first sentence.

6. In § 444.542h(b)(1)(ii), the word "jar" is added and the word "give" is corrected to read "obtain" in the first sentence.

7. In § 444.542j(b)(1)(iii), the word "give" is corrected to read "obtain" in the second sentence.

8. In § 448.25(b)(1), the word "give" is corrected to read "obtain" in the first sentence.

**Technical Changes**

1. In §§ 436.106(a), 444.342b(b)(1)(iii), 444.542f(b)(1)(ii), 444.542g(b)(2), 444.542h(b)(1)(ii), 444.542j(b)(1)(iii), 448.25(b)(1), 449.550c(b)(1)(iii), 449.550e(b)(1)(iii), and 449.550g(b)(1)(iii), the term "95 percent ethyl alcohol" is replaced by "alcohol U.S.P. XX", wherever it appears. The gramicidin potency assay is extremely sensitive to reagent impurities because of the low concentrations used in this assay. Consistent results cannot be obtained from alcohol not meeting the United States Pharmacopeia (U.S.P.) XX requirements.

2. In §§ 444.542f(b)(1)(ii), 449.550c(b)(1)(iii), and 449.550e(b)(1)(iii), the extraction procedures are amended to provide for the use of alcohol U.S.P. XX in the dilution to volume of the combined extractives to improve the accuracy of the gramicidin potency assay.

3. In § 444.542f(b)(1)(ii), the extraction procedure is amended to conform with all other monographs providing extraction procedures for ointments containing gramicidin.

4. Section 442.8a is added to provide for a sterile bulk, sterile cefamandole nafate. The sterile bulk is used in the manufacture of the only cefamandole nafate dosage form, cefamandole nafate for injection.

5. In § 450.24(a)(1), the chemical name of doxorubicin hydrochloride in the first sentence is revised to be in agreement with the United States Adopted Names (USAN) definition.

**Revocation**

Section 442.8 is removed. This bulk product is not used in the manufacture of any dosage form.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**List of Subjects in 21 CFR**

*Part 436*

Antibiotics.

*Part 442*

Antibiotics, cepha.

*Part 444*

Antibiotics, oligosaccharide.

*Part 448*

Antibiotics, peptide.

*Part 449*

Antibiotics, antifungal.

*Part 450*

Antibiotics, antitumor.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)), Parts 436, 442, 444, 448, 449, and 450 are amended as follows:

**PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS**

1. Part 436 is amended:

**§ 436.106 [Amended]**

a. In § 436.106, paragraph (a) is amended in the table in the fourth and seventh columns for the item "Gramicidin" by changing "95% ethyl alcohol" to read "alcohol U.S.P. XX".

b. In § 436.325(e) by revising the last sentence, to read as follows:

**§ 436.325 High pressure liquid chromatography assay for vidarabine.**

(e) \* \* \* The elution order is void volume, 9-β-D-arabinofuranosylhypoxanthine (if present), vidarabine, and adenine (if present).

**PART 442—CEPHA ANTIBIOTIC DRUGS**

2. Part 442 is amended:

**§ 442.8 [Removed]**

a. By removing § 442.8 *Cefamandole nafate*.

b. By adding new § 442.8a, to read as follows:

**§ 442.8a Sterile cefamandole nafate.**

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Sterile cefamandole nafate is the sodium salt of 7-D-mandelamido-3-[[[1-methyl-1H-tetrazol-5-yl]thio]methyl]-8-oxo-5-thia-1-azabicyclo[4.2.0]-oct-2-ene-2-carboxylate formate (ester). It is so purified and dried that:

(i) Its potency is not less than 810 micrograms and not more than 1,000 micrograms of cefamandole per milligram on an anhydrous basis.

- (ii) It is sterile.
- (iii) It is nonpyrogenic.
- (iv) It passes the safety test.
- (v) Its moisture content is not more than 2.0 percent.
- (vi) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 3.5 and not more than 7.0
- (vii) It passes the identity test.
- (2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.
- (3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:
- (i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, and identity.
- (ii) Samples required:
- (a) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.
- (b) For sterility testing: 20 packages, each containing equal portions of approximately 250 milligrams.
- (b) *Tests and methods of assay—(1) Potency.* Use any of the following methods; however, the results obtained from the hydroxylamine colorimetric assay shall be conclusive.
- (i) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except use the cefamandole working standard.
- (ii) *Polarographic assay.* Proceed as directed in § 436.324 of this chapter.
- (iii) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to obtain a concentration of 1 milligram of cefamandole per milliliter (estimated). Hydrolyze this solution in a 37° C constant temperature water bath for 60 minutes. Further dilute a portion of the hydrolyzed solution with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 2.0 micrograms of cefamandole per milliliter (estimated).
- (2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.
- (3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 50 milligrams of cefamandole per milliliter.
- (4) *Safety.* Proceed as directed in § 436.33 of this chapter.
- (5) *Moisture.* Proceed as directed in § 436.201 of this chapter.
- (6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(7) *Identity.* Proceed as directed in § 436.211 of this chapter, using the mineral oil mull prepared as described in paragraph (b)(2) of that section.

c. In § 442.208 by revising the second, fourth, and last sentences in paragraph (a)(1), by revising paragraph (a)(3)(i)(a), and by revising the second sentence of paragraph (b)(1)(i), to read as follows:

**§ 442.208 Cefamandole nafate for injection.**

(a) \* \* \*

(1) \* \* \* Its cefamandole content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cefamandole that it is represented to contain. \* \* \* It is nonpyrogenic. \* \* \* The cefamandole nafate used conforms to the standards prescribed by § 442.8a(a)(1).

(3) \* \* \*

(i) \* \* \*

(a) The cefamandole nafate used in making the batch for potency, moisture, pH, and identity.

(b) \* \* \*

(1) \* \* \*

(i) \* \* \* If it is represented as a single dose container, remove all the withdrawable contents with a suitable hypodermic needle and syringe. \* \* \*

**PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS**

3. Part 444 is amended:

a. In § 444.342b(b)(1)(iii) by revising the first two sentences, to read as follows:

**§ 444.342b Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution.**

(b) \* \* \*

(1) \* \* \*

(iii) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except to prepare the sample for assay remove a representative sample with a suitable syringe, place into an appropriate volumetric flask, and dilute with alcohol U.S.P. XX to obtain a stock solution of convenient concentration. Make proper estimated dilutions in alcohol U.S.P. XX to the reference concentration. \* \* \*

b. In § 444.542f by revising paragraph (b)(1)(ii), to read as follows:

**§ 444.542f Neomycin sulfate-gramicidin topical ointment; neomycin sulfate-gramicidin-triamcinolone acetonide ointment; neomycin sulfate-gramicidin-fludrocortisone acetate ointment.**

(b) \* \* \*

(1) \* \* \*

(ii) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except prepare the sample for assay by the following method: Place an accurately weighed representative portion into a separatory funnel. Dissolve the ointment in approximately 50 milliliters of petroleum ether. Extract this solution with four 20-milliliter portions of 80 percent alcohol prepared from alcohol U.S.P. XX. Combine the extractives in a suitable volumetric flask, bring to volume with alcohol U.S.P. XX, and mix well. From this stock solution, dilute an aliquot with alcohol U.S.P. XX to the reference concentration. Its content of gramicidin is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of gramicidin that it is represented to contain.

c. In § 444.542g(b)(2) by revising the first and third sentences, to read as follows:

**§ 444.542g Neomycin sulfate-gramicidin-triamcinolone acetonide cream.**

(b) \* \* \*

(2) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except to prepare the sample for assay proceed as follows: Place an accurately weighed representative portion into a high-speed glass blender jar and add sufficient alcohol U.S.P. XX to obtain a stock solution of convenient concentration. \* \* \* Make proper estimated dilutions of an aliquot to the reference concentration with alcohol U.S.P. XX. \* \* \*

d. In § 444.542h(b)(1)(ii) by revising the first and third sentences, to read as follows:

**§ 444.542h Neomycin sulfate-gramicidin-triamcinolone acetonide lotion; neomycin sulfate-gramicidin-fludrocortisone acetate lotion.**

(b) \* \* \*

(1) \* \* \*

(ii) *Gramicidin content.* Proceed as directed in § 448.25(b)(1) of this chapter, except prepare the sample by placing an accurately measured representative portion into a high-speed glass blender jar with sufficient alcohol U.S.P. XX to obtain a stock solution of convenient concentration. \* \* \* Make proper

estimated dilutions in alcohol U.S.P. XX to the reference concentration. \* \* \*

e. In § 444.542j(b)(1)(iii) by revising the second and fourth sentences, to read as follows:

§ 444.542j Neomycin sulfate-polymyxin B sulfate-gramicidin-benzocaine ointment.

(b) \* \* \*  
(1) \* \* \*  
(iii) \* \* \* Add that quantity of alcohol U.S.P. XX which is sufficient to obtain a stock solution of convenient concentration. \* \* \* Make proper estimated dilutions of an aliquot to the reference concentration with alcohol U.S.P. XX \* \* \*

**PART 448—PEPTIDE ANTIBIOTIC DRUGS**

4. Part 448 is amended in § 448.25 by revising paragraph (b)(1), to read as follows:

§ 448.25 Gramicidin.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient alcohol U.S.P. XX to obtain a stock solution of convenient concentration. Further dilute the stock solution volumetrically with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

**PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS**

5. Part 449 is amended:  
a. In § 449.550c by revising paragraph (b)(1)(iii), to read follows:

§ 449.550c Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide ointment; nystatin-neomycin sulfate-gramicidin-fluorocortisone acetate ointment.

(b) \* \* \*  
(1) \* \* \*  
(iii) *Gramicidin content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Accurately weigh and dissolve a representative portion of the sample in approximately 50 milliliters of petroleum ether in a separatory funnel. Extract with 20 milliliters of 80 percent alcohol prepared from alcohol U.S.P. XX. Repeat the extraction three times. Combine the extractives in a suitable volumetric flask, bring to volume with alcohol U.S.P. XX, and mix well. Further dilute with alcohol U.S.P. XX to the reference

concentration of 0.04 microgram of gramicidin per milliliter (estimated).

b. In § 449.550e by revising paragraph (b)(1)(iii), to read as follows:

§ 449.550e Nystatin-neomycin sulfate-gramicidin-triamcinolone acetonide cream.

(b) \* \* \*  
(1) \* \* \*  
(iii) *Gramicidin content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Accurately weigh a representative portion of the sample and dissolve in approximately 50 milliliters of petroleum ether in a separatory funnel. Extract with 20 milliliters of 80 percent alcohol prepared from alcohol U.S.P. XX. Repeat the extraction three times. Combine the extractives in a suitable volumetric flask, bring to volume with alcohol U.S.P. XX, and mix well. Further dilute with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

c. In § 449.550g by revising paragraph (b)(1)(iii), to read as follows:

§ 449.550g Nystatin-neomycin sulfate-gramicidin topical powder.

(b) \* \* \*  
(1) \* \* \*  
(iii) *Gramicidin content.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed representative sample in alcohol U.S.P. XX and filter. Collect the filtrate and dilute a portion with alcohol U.S.P. XX to the reference concentration of 0.04 microgram of gramicidin per milliliter (estimated).

**PART 450—ANTITUMOR ANTIBIOTIC DRUGS**

6. Part 450 is amended in § 450.24 by revising the first sentence in paragraph (a)(1), to read as follows:

§ 450.24 Doxorubicin hydrochloride.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Doxorubicin hydrochloride is the monohydrochloride salt of (8S, 10S)-10-[[3-amino-2,3,6-trideoxy-a-L-lyxo-hexopyranosyl]oxy-8-glycoloyl-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-5,12-naphthacenedione. \* \* \*

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and

because when effective they provide notice of accepted standards, FDA finds that notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, are effective June 1, 1982. However, interested persons may, on or before July 1, 1982, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before July 1, 1982, a written notice of participation and request for hearing, and (2) on or before August 2, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective June 1, 1982.

(Secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: May 17, 1982.

James C. Morrison,  
Acting Assistant for Regulatory Affairs.

[FR Doc. 82-14721 Filed 5-28-82; 8:45 am]  
BILLING CODE 4160-01-M

## 21 CFR Part 440

[Docket No. 82N-0122]

### Penicillin Antibiotic Drugs; Bacampicillin Hydrochloride for Oral Suspension

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of a new dosage form of bacampicillin hydrochloride, bacampicillin hydrochloride for oral suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

**DATES:** Effective June 1, 1982; comments, notice of participation, and request for hearing by July 1, 1982; data, information, and analyses to justify a hearing by August 2, 1982.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

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

**SUPPLEMENTARY INFORMATION:** FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new dosage form of bacampicillin hydrochloride, bacampicillin hydrochloride for oral suspension. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 440 (21 CFR Part 440) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a

significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

### List of Subjects in 21 CFR Part 440 Antibiotics, Penicillin.

#### PART 440—PENICILLIN ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 440 is amended by redesignating existing § 440.108 as § 440.108a and by adding new §§ 440.108 and 440.108b, to read as follows:

#### § 440.108 Bacampicillin hydrochloride dosage forms.

#### § 440.108b Bacampicillin hydrochloride for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacampicillin hydrochloride for oral suspension is a mixture of bacampicillin hydrochloride with one or more suitable and harmless buffers, diluents, sweetening ingredients, suspending agents, flavorings, and colorings. When reconstituted as directed in the labeling, it contains bacampicillin hydrochloride equivalent to 17.5 milligrams of ampicillin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of ampicillin that it is represented to contain. Its loss on drying is not more than 2.0 percent. When reconstituted as directed in the labeling, its pH is not less than 6.5 and not more than 8.0. It gives a positive identity test for bacampicillin hydrochloride. The bacampicillin hydrochloride conforms to the standards prescribed by § 440.8(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:  
(a) The bacampicillin used in making the batch for potency, safety, moisture, pH, and identity.

(b) The batch for potency, loss on drying, pH, and identity.

(ii) Samples required:

(a) The bacampicillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.204 of this chapter, except:

(i) Use the ampicillin working standard as the standard of comparison;

(ii) Use 4.0 milliliters of sample solution in lieu of the 2.0 milliliters specified in paragraph (c)(1) of that section; and

(iii) Calculate the potency of the sample as follows:

$$\text{Milligrams of ampicillin per dose} = \frac{V_s \times F \times d}{n \times 4,000}$$

Prepare the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured portion equivalent to one dose into a 250-milliliter volumetric flask. Add 200 milliliters of a solvent mixture of 95 percent ethanol and 0.1M phosphoric acid (8:2). Shake for 30 minutes on a wrist action shaker and dilute to volume with the solvent mixture. Centrifuge a portion of the sample solution for 10 minutes at 6,000 rpm. Use the clear supernatant without further dilution.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the drug reconstituted as directed in the labeling.

(4) *Identity.* Proceed as directed in § 436.330 of this chapter, except prepare the sample as follows: Reconstitute as directed in the labeling. Place 8.0 milliliters of the sample into a 100-milliliter volumetric flask, add 70 milliliters of 95 percent ethyl alcohol and shake for 30 minutes. Dilute to volume with 95 percent ethyl alcohol.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act (21 U.S.C. 357), FDA permits the manufacturer to market this drug on a "release" status pending this regulation's effective date. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective June 1, 1982. However, interested persons may, on or before

July 1, 1982, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before July 1, 1982, a written notice of participation and request for hearing, and (2) on or before August 2, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective June 1, 1982.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: May 17, 1982.

James C. Morrison,

Acting Assistant for Regulatory Affairs.

[FR Doc. 82-14722 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

## 21 CFR Part 558

### New Animal Drugs for Use in Animal Feeds; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor of two new animal drug applications (NADA's) from Abbott Laboratories to CEVA Laboratories, Inc. Supplemental NADA's filed by CEVA provide for this change.

**EFFECTIVE DATE:** June 1, 1982.

**FOR FURTHER INFORMATION CONTACT:**

John R. Markus, Bureau of Veterinary Medicine (HFV-104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

**SUPPLEMENTARY INFORMATION:** CEVA Laboratories, Inc., 10560 Barkley, Overland Park, KS 66212, filed supplemental NADA 38-824 for Pro-Gallimycin 5 and 10 (erythromycin and arsenic acid) for poultry and NADA 41-955 for Erythromycin Medicated Premix-10 for swine providing for a change of sponsor from Abbott Laboratories. By letter, Abbott confirmed the change of sponsor to CEVA. The supplement is approved and the regulations are amended to reflect the change.

This action, the change of sponsor of several NADA's, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this action did not require a reevaluation of the safety and effectiveness data in the parent applications.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive

Order 12291 by section (a)(1) of the Order.

## List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.248 by revising paragraph (a) to read as follows:

### § 558.248 Erythromycin thiocyanate.

(a) *Approvals.* Use of premix levels of 2.2, 5, and 10 percent granted to No. 050604 in § 510.600 of this chapter as follows:

(1) 2.2 percent as in paragraph (e) of this section.

(2) 5 and 10 percent as in paragraphs (e)(1) (i) and (iii) of this section.

\* \* \* \* \*

Effective date. June 1, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 24, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14720 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

## POSTAL RATE COMMISSION

### 39 CFR Part 3001

[Docket No. RM81-2; Order No. 425]

### Rules of Practice and Procedure Governing Use of Computer Studies and Analyses in Evidentiary Presentations; Correction

Issued: May 25, 1982.

AGENCY: Postal Rate Commission.

ACTION: Final rule; correction.

**SUMMARY:** This document corrects a final rule governing computer studies and analyses that appeared at page 12794 in the Federal Register of Thursday, March 25, 1982, (47 FR 12794). The action is necessary to correct three cross-references and to include a citation to the authority under which the rule is issued.

**FOR FURTHER INFORMATION CONTACT:** David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20288, (202) 254-3824.

The following corrections are made in FR Doc. 82-7998 appearing on page 12794 in the issue of March 25, 1982;

1. On page 12795, column two, fourth paragraph, the first reference in the third sentence reads: "Subsection (k)(3)(iii)(c)". It is corrected to read: "Subsection (k)(3)(iv)".

2. On page 12795, column three, first paragraph, the first reference in the first sentence reads: "Subsection (k)(3)(iii)(c)". It is corrected to read: "Subsection (k)(3)(iv)".

3. On page 12795, column three, third paragraph, the first reference in the second sentence reads: "Subsection (k)(3)(ii)". It is corrected to read: "Subsection (k)(3)(iii)".

4. On page 12796, the citation to the authority under which the rule is issued was omitted. The citation is: (39 U.S.C. 3603).

By the Commission.

David F. Harris,  
Secretary.

[FR Doc. 82-14782 Filed 5-28-82; 6:45 am]

BILLING CODE 7715-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 762

[OPTS-62022; 2097-6(a)]

#### Fully Halogenated Chlorofluoroalkanes; Temporary Special Exemption for Automatic Timed-Release Insecticide Dispensing Systems Used in Storage of Tobacco

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is amending its chlorofluorocarbon (CFC) propellant rule to add an immediately effective special exemption permitting the limited use of CFCs in automatic timed-release insecticide dispensing systems used in the treatment of stored tobacco until December 31, 1982. This action is necessary to alleviate the short-run impacts of EPA's denial of the request for an essential use exemption for these systems, which is published elsewhere in this issue of the *Federal Register*. The immediately effective special exemption will allow the limited use of CFCs in these systems during the 1982 insect infestation season, and provide the market with time to respond to the denial of the essential use exemption.

**DATES:** This temporary exemption is effective from June 1, 1982 to December 31, 1982.

**ADDRESSES:** The official record for this rulemaking is available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays at: Environmental Protection Agency, Rm. E-107, 401 M St., SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), in Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In 1978, EPA promulgated a rule (40 CFR Part 762) which prohibited almost all manufacturing, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes (hereinafter referred to as chlorofluorocarbons or CFCs) for aerosol propellant uses. That rule was published in the *Federal Register* of March 17, 1978 (43 FR 11318). The rule consisted of two separate parts. Part 712 dealt with recordkeeping, while Part 762 addressed specific regulation of the substances. On June 30, 1980 (45 FR 43721), EPA promulgated a rule consolidating both Parts into a revised Part 762.

EPA has granted exemptions from this general prohibition for uses determined by the Agency to be "essential" according to certain criteria described in "Essential Use Determinations—Revised," a support document to the March 17, 1978 CFC rule.

On December 30, 1980, Virginia Chemicals Inc. (hereinafter referred to as VCI or the Company) sent a letter to EPA requesting an essential use exemption from the Agency's chlorofluorocarbon aerosol rule for its A-System, a CFC-propelled insecticide dispensing system used in the treatment of stored tobacco. Based on evidence available to EPA at that time, the Agency granted an immediately effective temporary essential use exemption for long-term tobacco storage until December 31, 1981, published in the *Federal Register* of May 18, 1981 (46 FR 27120). Short-term tobacco storage (less than three years) was not included because the Agency determined that it did not satisfy the essentiality criteria.

As more fully explained elsewhere in today's *Federal Register*, EPA has concluded, on the basis of additional data and analyses, that the A-System is not an essential use of CFCs according to EPA's criteria, and has denied the

request for an essential use exemption from the CFC rule.

## II. Agency Decision

### A. Granting a Special Exemption

For the reasons stated below, EPA is promulgating an immediately effective special exemption to permit the limited processing of CFCs for the A-System for use during 1982. The special exemption allows VCI to process CFCs for use in the A-System during the 1982 tobacco insect infestation season; however, in no event does it allow VCI to process CFCs for the A-System for use after December 31, 1982. The Agency is issuing this special exemption only because of the potential economic hardship created for VCI's 1981 customers of the A-System if the system were unavailable during the 1982 insect infestation season. This allows the Company's 1981 customers time to respond to EPA's denial of its essential use exemption and convert to alternative insect control systems for use during the 1983 infestation season and thereafter.

Until mid-February 1982, when EPA informed the Company that its case for an essential use exemption appeared questionable, the Company and its customers apparently expected EPA to grant the request for a permanent essential use exemption. Thus, the Company's customers saw no reason either to consider or to obtain alternative insect control systems.

Today's denial of the Company's essential use exemption leaves its customers only a limited time to prepare for the insect infestation season, which begins in the late spring. In the absence of this special exemption, the Company's customers would be compelled to shift to other systems of insect control within a relatively short period of time.

The necessity of such a speedy conversion poses at least two potential problems. First, although some of the Company's competitors have indicated that conversion to alternative insecticide dispensing systems of insect control could be accomplished in time for the 1982 infestation season, it does not appear that this is possible for all of the Company's customers. Some of the Company's customers have stated that there is not enough time to purchase and install an alternative system for this year's infestation season. Second, it appears to EPA that many of the Company's customers do not have any real knowledge of alternative systems, and cannot now make an informed choice regarding which alternative system or systems would best serve

their needs. The choice of a system involves consideration of a variety of factors, including relative costs of a system, the size and location of the warehouse, the nature of the tobacco being stored, and preferences of eventual purchasers.

EPA is concerned that compelling the Company's customers to shift to other systems of insect control in time for this year's insect infestation season may create undue hardship. Some persons may need more time to investigate which system or systems is best for their particular circumstances; others may need more time to arrange credit, or obtain necessary capital; still others may wish to begin partial conversion to one or more systems this year. Permitting the Company's customers adequate notice and time to choose and convert to alternative systems should eliminate the major immediate impacts that the denial might otherwise cause.

Weighed against these concerns, and possible hardships, the potential negative impacts on the environment and the Company's competitors of a one-year temporary exemption are relatively minor. The amount of the additional CFCs which will be released during 1982 is relatively small—approximately 9,000 kilograms (20,000 pounds). Furthermore, while the Company's competitors may lose some sales this year of their alternative insect control systems, they can now begin marketing their systems to the Company's customers for installation before the 1983 season.

When EPA granted the temporary essential use exemption to VCI in 1981, the Agency understood that the Flue-Cured Tobacco Stabilization Cooperative Corporation was the only company engaged in long-term tobacco storage. In fact, during the 1981 insect infestation season VCI sold its A-System to a number of additional firms. EPA has not yet determined whether all of these 1981 customers were engaged in long-term tobacco storage, as required by the 1981 rule. However, the 1982 rule extends the coverage of the 1982 exemption to all of VCI's 1981 A-System customers, without regard to whether they were entitled to the exemption in 1981. This action is taken because the objective of the rule is to mitigate the economic hardship likely to be sustained by these customers as a result of the timing of EPA's denial of the exemption request. The hardship sustained is similar, regardless of whether the sales were proper under the 1981 exemption.

In light of the foregoing considerations, EPA is imposing several conditions on the special exemption.

The first condition restricts the Company's sales of the CFC-propelled insecticide to its 1981 A-System customers and for use only in those tobacco storage facilities where the A-System was used in 1981.

The second condition restricts the total volume of CFCs which can be processed for the A-System in 1982 to the total volume of CFCs processed by the Company in 1981 for the A-System. The Agency recognizes that since the severity and length of the insect infestation season differs from year to year, it is impossible to predict the exact amount of insecticide VCI's customers will need in 1982. Therefore, under this rule the Agency may allow up to a twenty percent (20%) increase over the volume processed in 1981 if the 1982 tobacco insect infestation season is substantially more severe and more lengthy than it was in 1981. However, before EPA will authorize VCI to process CFCs in an amount which exceeds the volume processed in 1981, VCI must provide the Agency with data substantiating that the 1982 insect infestation is substantially more severe and more lengthy than the 1981 infestation.

The third condition sets forth a method of calculating the total volume of CFCs which may be processed for the A-System in 1982. All calculations must be submitted to EPA prior to commencing any processing of CFCs for the A-System, and, in any event, no later than one month after the effective date of this rule.

The fourth and fifth conditions require reporting of data on processing and sales in 1981 and 1982. In particular, the Company is required to submit to EPA's Pesticides and Toxic Substances Enforcement Division, at specified times, information relating to the total volumes of CFCs over which the Company has control; who sold CFCs to the Company; and who bought the Company's A-Systems canisters. The reporting requirements are necessary for two reasons. First, all recordkeeping and reporting requirements for the CFC aerosol ban rule expired in March 1982. Second, the reporting requirements and other conditions are intended to ensure that neither VCI nor its customers stockpile supplies for use after December 31, 1982.

The sixth condition requires VCI to notify its A-System customers that its canisters containing CFC propellants will no longer be sold for use after December 31, 1982.

#### *B. Reason for not Providing a Public Comment Period*

Under the Administrative Procedure Act (APA), an agency generally must publish a rule in proposed form and solicit public comment prior to promulgating the rule in final form. However, the APA also provides that an agency may dispense with such procedures when the agency finds that notice and public comment are "impracticable, unnecessary, or contrary to the public interest" and includes in the rule a brief statement explaining the basis for this finding (5 U.S.C. 553[b][B]). Under this authority, EPA is publishing this rule without opportunity for public comment for the reasons stated below.

In order to make the A-System available for the 1982 insect infestation season, the Company must begin taking orders for and processing the CFC-propelled insecticides as soon as possible. Any delay in permitting these activities to begin immediately would effectively eliminate the benefit of the relief granted by this special exemption. Therefore, public comment would be impracticable.

The Agency had intended to make a determination by the end of 1981 whether the use of CFC-propelled insecticides for tobacco storage is an essential use of CFCs. EPA was not able to do so, because it had difficulty in obtaining information regarding the availability, cost, and health and environmental impacts of alternative systems. This information is necessary to assess the request in light of the essentiality criteria.

Further, in mid-October 1981, approximately two and a half months before a decision was scheduled to be made, the Company modified its exemption request to include the use of CFC-propelled insecticides for short-term tobacco storage. This modification completely changed the rationale for the Company's request. The Company now asserts that no meaningful difference exists between long-term and short-term storage; in contrast, the basis for granting the 1981 temporary essential use exemption for long-term storage was the earlier claim made by the Company that long-term storage is unique. Although EPA has since found no basis for granting a permanent exemption for any use of the A-System, long or short-term, consideration of the conflicting assertions made by the Company further delays EPA's action on this essential use exemption request.

As stated earlier, it appears that it will not be possible for some of the Company's customers to investigate,

select and purchase an alternative system of insect control before the 1982 infestation begins. The purpose of this special exemption is to prevent undue hardship on the Company's customers.

### III. Regulatory Impacts

#### A. Executive Order 12291

Section 8(a)(1) of Executive Order 12291 exempts regulations that respond to emergency situations. In this instance, compliance with the Executive Order is impractical because delay in promulgating the rule would effectively eliminate the benefit of the relief granted by this special exemption. Moreover, this regulation is not a "major" rule as set forth in the Executive Order. It has a relatively small impact on the economy. Accordingly, no Regulatory Impact Analysis is required.

#### B. Regulatory Flexibility Act

As mandated by the Regulatory Flexibility Act, EPA is certifying that this regulation will not have a significant impact on a substantial number of small entities. The effect of the rule is to reduce the burden on the users of the A-System, by providing time for them to shift to alternative insect control systems. It is anticipated that small firms and warehouses will especially benefit from having an additional year to make decisions regarding which alternative system or systems are most effective and economical. Some of the Company's competitors are small entities; however, granting a special exemption for the A-system for one more insect infestation season should not impose a significant impact on them.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA) (44 U.S.C. 350 *et seq.*) authorizes the Director of the Office of Management and Budget to review certain information requests by Federal agencies. EPA has determined that the reporting requirements included in this rule do not constitute "information collection requests" under sections 3502(4) and (11) of PRA, because they would not impose identical reporting requirements on ten or more persons. Only Virginia Chemicals Inc. is required to report under this rule.

#### IV. Rulemaking Record

The rulemaking record for this action consists of the rulemaking record for EPA's CFC rule (40 CFR Part 762) published in the *Federal Register* of March 17, 1978 (43 FR 11318); and all correspondence and records of

communications pertaining to the request of Virginia Chemicals Inc. for an essential use exemption (some items have been designated as Confidential Business Information), including the following documents:

#### A. Federal Register Notices

1. *Federal Register* of May 18, 1981 (46 FR 27120). USEPA. "Fully Halogenated Chlorofluoroalkanes; Temporary Exemption for Automatic Timed-Release Insecticide Dispensing System Used in Long-Term Storage of Tobacco."

#### B. Other Government Publications

1. USDA, Agricultural Research Service, "Stored Tobacco Insects: Biology and Control (Agriculture Handbook No. 223)," 1972.  
2. USDA, Agricultural Research Service, "Breeding and production—tobacco (National Research Program No. 20070)," October 1976.

#### C. Company Correspondence

1. The ACA Corporation.  
Trade materials for Fogmaster 7401 Micro-Jet ULV Fogger, undated.
2. American Tobacco Company.  
(a) Record of Communication between Ellen Warhit, Economics and Technology Division/Office of Toxic Substances (ETD/OTS), and Jim Ancell, American Tobacco, 01/27/82.  
(b) Letter from Ellen Warhit, ETD/OTS, to Jim Ancell, American Tobacco, dated 01/29/82.
3. Automatic Spray Systems, Incorporated (ASSI).  
(a) Record of Telephone Conversation between Ellen Warhit, ETD/OTS, and Constant Ray, ASSI, 1/26/82.  
(b) Record of Telephone Conversation between Ellen Warhit, ETD/OTS, and Constant Ray, ASSI, 1/29/82.  
(c) Letter from Ellen Warhit, ETD/OTS, to Constant Ray, ASSI, dated 1/29/82.  
(d) Record of Telephone Conversation between Pamela Moore, Chemical Control Division/Office of Toxic Substances (CCD/OTS), and Constant Ray, ASSI, 02/02/82.  
(e) Identical with item C.13.(c).  
(f) Identical with item C.5.(e).
4. Brown and Williamson Tobacco Corporation.  
(a) Record of Communication between Ellen Warhit, ETD/OTS, and J. O. Puckett, Brown & Williamson, 01/27/82.  
(b) Letter from Ellen Warhit, ETD/OTS, to J. O. Puckett, Brown & Williamson, dated 01/29/82.  
(c) Letter from J. O. Puckett, Brown and Williamson, to Ellen Warhit, ETD/OTS, dated 02/02/82.  
(d) Letter from J. O. Puckett, Brown and Williamson, to Pamela Moore, CCD/OTS, dated 03/05/82.
5. Capitol Chemicals (CC).  
(a) Record of Meeting between Pamela Moore, CCD/OTS, and Douglas Rollow, CC, 01/29/82.  
(b) Record of Meeting attended by Rich Guimond, Larry Dorsey, Emery Lazar, and Pamela Moore (all CCD/OTS), Ellen Warhit (ETD/OTS), and Douglas Rollow (CC), 02/01/82.

(c) Materials submitted by CC to EPA at meeting on 02/01/82 (including photographs of CC's insecticide dispensing systems; correspondence between CC and Pest Management Services Pty. Ltd. (Victoria, Australia); trade information from The Commonwealth Industrial Gases Limited (N.S.W., Australia); bid for fumigation of Flue-Cured Tobacco Cooperative Stabilization Corporation (FCTCSC) warehouses completed by Home Exterminating Company, dated 03/05/80; letter from B. & D.A. Weisburger Insurance, Inc., to FCTCSC, dated 02/29/80; letter from CC to FCTCSC, dated 03/05/80).

(d) Record of Telephone Conversation between Pamela Moore, CCD/OTS, and Douglas Rollow, CC, 02/02/82.

(e) Record of meeting attended by Emery Lazar, Pamela Moore, Jared Flood (all CCD/OTS), Ellen Warhit (ETD/OTS), Douglas Rollow (CC), William Rollow, Esq. (Whiteford Hart), and Constant Ray (ASSI), 02/11/82.

6. Cigar Association of America.  
(a) Identical with item C.12.(d).
7. Cleary, Gottlieb, Steen and Hamilton (Cleary Gottlieb).  
(a) Identical with item C.12 (d).  
(b) Recommended draft rules submitted by Cleary Gottlieb to OTS, dated 03/02/82.  
(c) Letter from Douglas Kliever, Cleary Gottlieb, to Emery Lazar, CCD/OTS, dated 03/11/82 (with enclosure: letter from Autin Carolina Company).  
(d) Letter from Douglas Kliever, Cleary Gottlieb, to Don Clay, OTS, dated 04/06/82.  
(e) Letter from A. E. Conroy II, PTSED/OTS, to Douglas Kliever, Cleary Gottlieb, dated 04/13/82.
8. Flue-Cured Tobacco Cooperative Stabilization Corporation (FCTCSC).  
(a) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Thomas Dean, FCTCSC, 07/13/81.  
(b) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Thomas Dean, FCTCSC, 07/27/81.  
(c) Letter from Thomas Dean, FCTCSC, to Sarah Shapley, Industry Assistance Office/Office of Toxic Substances (IAO/OTS), dated 01/28/82 (with enclosure).
9. Philip Morris Inc.  
(a) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Dr. M. Arthur Manzelli, Philip Morris, 07/13/81.  
(b) Letter from Michael Deshaies, CCD/OTS, to Dr. M. Arthur Manzelli, Philip Morris, dated 07/13/81.  
(c) Letter from Dr. M. Arthur Manzelli, Philip Morris, to Michael Deshaies, CCD/OTS, dated 07/21/81.  
(d) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and Dr. M. Arthur Manzelli, Philip Morris, 07/22/81.  
(e) Letter from Dr. M. Arthur Manzelli, Philip Morris, to Pamela Moore, CCD/OTS, dated 02/17/82 (with enclosures).
10. Research Products Company.  
(a) Letter from Jim Allen, Research Products, to Doug Rollow, Capitol Chemical Company, dated 03/01/82.
11. Universal Leaf Company (ULC).

(a) Record of Telephone Conversation between Michael Deshaies, CCD/OTS, and David Chilton, ULC, 07/24/81.

#### 12. Virginia Chemicals Inc. (VCI).

(a) Letter from Donald Ellison, VCI, to Michael Deshaies, CCD/OTS, dated 10/15/81 (with enclosures: additional petitions from Carolina Leaf Tobacco Co., Inc., China American Tobacco Company, Thorpe-Greenville Export Tobacco Co., and A. C. Monk & Co., Inc.; VCI's and FCTCSC's Response to EPA's Questions of 09/11/81).

(b) Materials provided by Donald Ellison, VCI, to Pamela Moore, CCD/OTS, in meeting, 11/25/81 (including VCI Customer List for CFC-Propelled Insecticide through September 30, 1981, and supporting petitions from Mullins Leaf Tobacco Company and K. R. Edwards Leaf Tobacco Company).

(c) Letter from Donald Ellison, VCI, to Larry Dorsey, CCD/OTS, dated 01/25/82 (with enclosures).

(d) Record of Meeting attended by Edward Klein, Emery Lazar, Pamela Moore (all CCD/OTS), Ellen Warhit (ETD/OTS), Sarah Shapley (AO/OTS), Steve Atkinson (EPA Office of General Counsel), and representatives of VCI, Cleary Gottlieb, and the Cigar Association of America, 02/09/82.

(e) Letter from Don Clay, OTS, to Donald Ellison, VCI, dated 04/01/82.

(f) Letter from David N. David, VCI, to Don Clay, OTS, dated 04/12/82.

(g) Telegraphic message from A. E. Conroy II, PTSED/OTS, to David N. David, VCI, dated 04/14/82.

(h) Letter from A.E. Conroy II, PTSED/OTS, to Donald Ellison, VCI, dated 04/19/82.

#### 13. Whiteford, Hart, Carmody, and Wilson (Whiteford Hart).

(a) Letter from William Rollow, Whiteford Hart, to Pamela Moore, CCD/OTS, dated 02/10/82 (with enclosure: statement of ACA Corporation, signed by Constant Ray).

(b) Identical with item C.5.(e).

(c) Letter from William Rollow, Whiteford Hart, to Pamela Moore, CCD/OTS, dated 02/16/82 (with enclosure: statement of ACA Corporation, signed by Constant Ray).

(d) Letter from William Rollow, Whiteford Hart, to Constant Ray, Automatic Spray Systems Co., dated 02/16/82.

#### 14. Zoecon Corporation.

(a) Letter from David Sullivan, Zoecon, to Mr. John B. Ritch, Jr., IAO/OTS, dated 06/23/81.

(b) Record of Telephone Communication between Michael Deshaies, CCD/OTS, and David Sullivan, Zoecon, 07/08/81.

(c) Record of Telephone Communication between Michael Deshaies, CCD/OTS, and David Sullivan, Zoecon, 07/22/81.

#### D. Intra-Governmental Communications

##### 1. U.S. Department of Agriculture.

(a) Telephone Communication between Michael Deshaies, CCD/OTS, and Dana Childs, USDA (Tobacco Research, Richmond, VA), 07/16/81.

(b) Record of Telephone Conversation between Ellen Warhit, ETD/OTS, and Dana Childs, USDA, 01/26/82.

(c) Letter from Ellen Warhit, ETD/OTS, to Dana Childs, USDA, dated 01/29/82.

(d) Letter from Dana Childs, USDA, to Ellen Warhit, ETD/OTS, dated 02/01/82.

#### 2. Office of Pesticide Programs/EPA.

(a) Memorandum from Salvatore Biscardi, TOX/HED/OTS, to Mr. Franklin Gee, OPP, dated 04/25/79 (with attachment). (Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

#### List of Subjects in 40 CFR Part 762

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Fully halogenated chlorofluoroalkanes.

Dated: May 19, 1982.

Anne M. Gorsuch,  
Administrator.

#### PART 762—FULLY HALOGENATED CHLOROFUOROALKANES

Therefore, 40 CFR Part 762 is amended by adding a new paragraph (c) to § 762.59 to read as follows:

##### § 762.59 Special exemptions.

(c) Effective June 1, 1982, Virginia Chemicals Inc. (VCI) may process chlorofluorocarbons (CFCs) for incorporation into its automatic timed-release insecticide dispensing A-System for use before December 31, 1982. This exemption is further limited by the following conditions:

(1) Sales shall be made only to VCI's 1981 A-System customers for use limited to those tobacco storage facilities where the A-System was employed in 1981.

(2) The total volume of CFCs which can be processed in 1982 for the A-System by VCI shall also be limited to the total volume processed for the A-System in 1981. The Agency may authorize the processing of a total volume of CFCs for the A-System in 1982 which exceeds by no more than twenty percent (20%) the total volume processed in 1981. The Director of the Pesticides and Toxic Substances Enforcement Division will authorize such an increase upon a finding that VCI has submitted data which substantiates that the 1982 insect infestation is substantially more severe and more lengthy than the 1981 infestation.

(3) The total volume of CFCs which may be processed for the A-System in 1982 is to be determined in the following manner.

(i) First, determine the total volume of CFCs processed for the A-System in 1981.

(ii) Second, determine the total volume of CFCs processed for the A-System which was in VCI's inventory on January 1, 1982, including the total volume of CFCs in canisters which have been returned to VCI for refilling.

(iii) Third, determine the volume of CFCs in A-System canisters which remain in the 1981 customers'

inventories. This listing must be certified as accurate by each customer.

(iv) Fourth, subtract the combined amounts determined in (ii) and (iii) from the total volume of CFCs processed for the A-System in 1981, to determine the volume of CFCs which may be processed for A-System use in 1982.

(v) These calculations must be submitted to EPA's Pesticides and Toxic Substances Enforcement Division, prior to commencing any processing of CFCs for the A-System in 1982, and no later than one month after the effective date of this rule.

(4) By July 1, 1982, VCI shall submit to EPA's Pesticides and Toxic Substances Enforcement Division (PTSED) [EN-342], Mr. Ralph Turpin, Acting Chief, Case Development and Legal Branch, 401 M Street SW., Washington, D.C. 20460 (202-755-0899), the following information:

(i) The total volume of CFCs purchased by VCI in 1981, and from whom they were purchased.

(ii) The total volume of processed and unprocessed CFCs that VCI had in its inventory on January 1, 1981 and on January 1, 1982.

(iii) The total volume of CFCs processed for the A-System that VCI had in its inventory on January 1, 1981 and on January 1, 1982.

(iv) The total volume of CFCs that VCI's 1981 customers of the A-system had in their inventories on January 1, 1981 and on January 1, 1982.

(v) The total volume of CFCs processed for the A-System in 1981.

(vi) The total volume of CFCs sold in the A-System in 1981.

(vii) A list of the 1981 A-System customers.

(viii) The total volume of CFCs for the A-System which each customer was sold in 1981. This shall include the total number of A-System canisters sold to each customer and the total number of used canisters returned to VCI from each customer.

(5) By January 31, 1983, VCI shall submit to EPA's Pesticides and Toxic Substances Enforcement Division (PTSED) [EN-342], Mr. Ralph Turpin, Acting Chief, Case Development and Legal Branch, 401 M Street SW., Washington, D.C. 20460 (202-755-0899), the following information:

(i) The total volume of CFCs purchased by VCI in 1982, and from whom they were purchased.

(ii) The total volume of processed and unprocessed CFCs that VCI had in its inventory on January 1, 1983.

(iii) The total volume of CFCs processed for the A-System that VCI had in its inventory on January 1, 1983.

(iv) The total volume of CFCs that VCI's 1981 customers of the A-System had in their inventories on January 1, 1983.

(v) The total volume of CFCs processed for the A-System in 1982.

(vi) The total volume of CFCs sold in the A-System in 1982.

(vii) A list of 1982 A-System customers.

(viii) The total volume of CFCs for the A-System which each customer was sold in 1982. This shall include the total number of A-System canisters sold to each customer and the total number of used canisters returned to VCI from each customer.

(6) By July 1, 1982, VCI shall notify in writing its 1981 customers of the A-System that the CFC-propelled system will no longer be sold for use after December 31, 1982.

[FR Doc. 82-14784 Filed 5-28-82; 8:45 am]  
BILLING CODE 6560-50-M

#### 40 CFR Part 762

[OPTS-62021; 2097-6(h)]

#### Fully Halogenated Chlorofluoroalkanes; Denial of Exemption for Use of Chlorofluorocarbons in Automatic Timed-Release Insecticide Dispensing Systems Used in Storage of Tobacco

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Rule related notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is denying a request for an essential use exemption to the chlorofluorocarbon (CFC) rule for the use of CFCs in automatic timed-release insecticide dispensing systems used in tobacco storage. This action is being taken because the applicant has failed to establish that this use of CFCs is an essential use under EPA's criteria. As a result of this action, previous users of these systems will have to use one or more of the available alternative systems. However, EPA is issuing a final rule, appearing elsewhere in this issue of the *Federal Register*, which delays the effect of this denial by permitting the limited use of CFCs in the automatic timed-release insecticide dispensing system until December 31, 1982.

**FOR FURTHER INFORMATION CONTACT:** Douglas G. Bannerman, Acting Director, Industry Assistance Office, (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator 202-554-1404).

**SUPPLEMENTARY INFORMATION:** In 1978, EPA promulgated a rule (40 CFR Part 762) which prohibited almost all manufacturing, processing, and distribution in commerce of fully halogenated chlorofluoroalkanes (hereinafter referred to as chlorofluorocarbons or CFCs) for aerosol propellant uses. That rule was published in the *Federal Register* of March 17, 1978 (43 FR 11318). The rule consisted of two separate parts. Part 712 dealt with recordkeeping, while Part 762 addressed specific regulation of the substances. On June 30, 1980 (45 FR 43721), EPA promulgated a rule consolidating both Parts into a revised Part 762.

EPA has granted exemptions from this general prohibition for uses determined by the Agency to be "essential" according to certain criteria described in "Essential Use Determinations—Revised," a support document to the March 17, 1978 CFC rule.

The four criteria upon which an exemption is evaluated for essentiality are:

1. Nonavailability of alternative products.
2. Economic significance of the product, including the economic effects of removing the product from the market.
3. Environmental/health significance of the product.
4. Effects on the "Quality of Life" resulting from no longer having the product available or using an alternative product.

On December 30, 1980, Virginia Chemicals Inc. (the Company) sent EPA a letter requesting an essential use exemption from the 1978 chlorofluorocarbon aerosol ban rule for its A-System, a CFC-propelled insecticide dispensing system used in the treatment of stored tobacco. The Company contended that this product provides a unique protective system for stored tobacco, and further contended that there is no equally efficient system of dispensing the insecticides without CFCs, especially for long-term tobacco storage. The Agency considered the essential use exemption request in light of the four essentiality criteria listed above.

The Company also presented evidence which seemed to indicate that, for long-term tobacco storage, no suitable alternative to the A-System was available. The Company asserted that the alternative methods of insect control for long-term tobacco storage were ineffective, prohibitively costly, or harmful to the health of workers. The Company's claim seemed reasonable, but was not fully documented at that

time. Accordingly, EPA granted an immediately effective essential use exemption for an automatic timed-release insecticide dispensing system for long-term tobacco storage until December 31, 1981, notice of which was published in the *Federal Register* of May 18, 1981, (46 FR 27120). Short-term tobacco storage (less than three years) was not included because the Agency determined that alternative systems existed and were being successfully used by a large segment of the tobacco industry; therefore, CFC use in short-term tobacco storage did not satisfy the essentiality criteria.

Since May 1981, EPA has been investigating whether the use of CFC-propelled insecticides in long-term tobacco storage constitutes an essential use of CFCs. Until October 1981, the Company continued to contend that the A-System provides unique protection for long-term tobacco storage. On October 15, 1981, the Company expanded its essential use exemption request to include short-term tobacco storage. The Company now maintains that it was mistaken last year when it presented evidence that long-term storage was unique and deserved special consideration. It now maintains that the distinction between short-term and long-term storage is not meaningful, and that the key distinction is between the requirements of persons who store tobacco for ultimate sale in a product, e.g., cigarettes, and the requirements of the submarket comprised of persons who store it for sale as a commodity or for special applications, e.g., cigar wrappers.

The Company contends that tobacco sold as a commodity or for special applications must conform to more stringent quality standards than tobacco which is sold in products, since the quality of the tobacco is evident on sight. It contends that, for this submarket, it is also crucial that no residue remain to damage the appearance, odor, or taste of the tobacco. The Company therefore maintains that the use of a highly effective insect control system is necessary for this submarket, and that only its A-System is sufficiently effective.

However, EPA has no evidence that this is the case. A variety of technically adequate, safe, and cost-effective non-CFC-propelled insect control systems are being used by a large segment of the tobacco industry, reportedly including persons that are part of the submarket identified by the Company. Several of these substitute systems rely on alternative methods of propelling the

insecticide such as the Allegheny system which uses compressed air to propel the insecticide. Another alternative system approved by EPA's Office of Pesticide Programs (OPP) is the Kabat system. In this system methoprene is directly applied to the tobacco. Dianex is a new system which has recently been registered by OPP and is now ready for marketing. In addition, there are some portable systems which can be used to protect very small areas.

In the course of investigating the availability of alternatives, EPA also examined their potential environmental and health impacts and has determined that these alternatives pose no substantiated adverse effects.

Analysis of the economic costs of the alternative available systems shows that some of the alternatives would cost about the same as the A-System and that others would be even more cost effective. Therefore, the economic cost of converting to alternative systems is acceptable.

The Company has failed to make a convincing case that adequate grounds exist for granting an essential use exemption. For EPA to grant an essential use exemption in this case, removal of the product would have to result in adverse economic, environmental, or human health impacts. There is no evidence that these adverse impacts will occur if the product is taken off the market. Thus, the A-System does not meet the essentiality criteria and does not qualify for an essential use exemption. There is a small submarket likely to experience short-term economic hardship if this CFC-propelled insecticide is immediately taken off the market. It appears to the Agency that several 1981 users of the A-System do not have any real knowledge of alternative dispensing systems. These 1981 customers cannot now make an informed choice regarding which alternative systems would best serve their needs for the 1982 insect infestation season. Therefore, EPA is issuing an immediately effective special exemption, appearing elsewhere in this issue of the *Federal Register*, which permits the limited use of CFCs in automatic timed-release insecticide dispensing systems used in the treatment of stored tobacco until December 31, 1982.

EPA has established a record of its consideration of this exemption request. It is available for public inspection from

8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays at: Environmental Protection Agency, Room E-807, 401 M Street SW., Washington, D.C. 20460.

For the above reasons, the request is denied.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605))

#### List of Subjects in 40 CFR Part 762

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Fully halogenated chlorofluoroalkanes.

Dated: May 19, 1982.

Anne M. Gorsuch,  
Administrator.

[FR Doc. 82-14783 Filed 5-28-82; 8:45 am]

BILLING CODE 6560-50-M

### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 65

[Docket No. FEMA 6320]

#### Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

**AGENCY:** Federal Emergency  
Management Agency (FEMA).

**ACTION:** Interim rule.

**SUMMARY:** This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

**DATES:** These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

**ADDRESSES:** The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the

community, listed in the fifth column of the table. Send comments to that address also.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0220.

**SUPPLEMENTARY INFORMATION:** The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968) (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Illinois: Alexander	City of Cairo	<i>The Cairo Evening Citizen</i> , Mar. 5, 1982, Mar. 12, 1982.	Honorable Alan E. Moss, Mayor, City of Cairo, 1501 Washington Ave., Cairo, Ill. 62914.	Mar. 12, 1982	170004C.
Michigan: Oakland	City of Rochester	<i>The Rochester Clarion</i> , Mar. 3, 1982, Mar. 10, 1982.	Mr. Kenneth Johnson, City Manager, City of Rochester, P.O. Box 10, 400 Sixth Street, Rochester, Mich. 48063.	Mar. 12, 1982	260326C.
Pennsylvania: Delaware	Borough of Aldan	<i>Delaware County Daily Times</i> , Mar. 5, 1982, Mar. 12, 1982.	Thomas Shaiko, President of Council Borough of Aldan, Springfield Road and the Railroad, Aldan, PA 19018.	Mar. 12, 1982	420401C.
Pennsylvania: Luzerne	Township of Kingston	<i>The Dallas Post</i> , Mar. 3, 1982, Mar. 10, 1982.	Mark A. Kunkle, Township Manager, Township of Kingston, Kingston Township Municipal Building, 11 Carverton Road, Trucksville, PA 18708.	Mar. 12, 1982	420613C.
Florida: Clay	City of Green Cove Springs	<i>Clay County Crescent</i> , Mar. 11, 1982, Mar. 25, 1982.	Mr. William Vermilling, City Manager, Green Cove Springs, City Hall, 229 Walnut Street, Green Cove Springs, FL 32043.	Mar. 26, 1982	120065C.
Florida: Orange	City of Orlando	<i>The Sentinel Star</i> , Mar. 10, 1982, Mar. 24, 1982.	The Honorable William Frederick, Mayor, City of Orlando, City Hall, 400 S. Orange Avenue, Orlando, Fla. 32801.	Mar. 26, 1982	120186(D).
Indiana: Dearborn	City of Aurora	<i>The Journal Press</i> , Mar. 18, 1982, Mar. 25, 1982.	The Honorable Robert L. Cheek, City of Aurora, 218 3rd Street, Aurora, Indiana 47001.	Mar. 26, 1982	185172B.
Michigan: St. Clair	Township of Fort Gratiot	<i>The Times Herald</i> , Mar. 19, 1982, Mar. 26, 1982.	Mr. Maurice Foley, Township Supervisor, Township of Fort Gratiot, 3720 Keewahdin Drive, Port Huron, Michigan 48060.	Mar. 26, 1982	260198C.
Ohio: Lucas	Village of Waterville	<i>The Anthony Wayne Herald</i> , Mar. 17, 1982, Mar. 24, 1982.	Mr. Clayton Chandler, Municipal Administrator, Village of Waterville, P.O. Box 250, Waterville, Ohio 43568.	Mar. 26, 1982	390637C.
New York: Tioga	Village of Owego	<i>The Binghamton Press</i> , Mar. 19, 1982, Apr. 2, 1982.	Hon. John Shafer, Mayor, Village of Owego, 90 Temple Street, Owego, N.Y. 13827.	Apr. 2, 1982	360840B.
Wisconsin: Calumet, Outagamie and Winnebago	City of Appleton	<i>The Post Crescent</i> , Apr. 1, 1982, Apr. 8, 1982.	The Honorable Dorothy Johnson, City of Appleton, 200 North Appleton Street, Appleton, Wisconsin 54913.	Apr. 9, 1982	555542B.
Connecticut: Fairfield County	City of Danbury	<i>The Danbury News Times</i> , Apr. 9, 1982, Apr. 16, 1982.	The Honorable James E. Dyer, Mayor, City of Danbury, City Hall, 155 Deerhill Avenue, Danbury, Connecticut 06810.	Apr. 16, 1982	090004B.
Pennsylvania: Bucks	Township of East Rockhill	<i>The Free Press</i> , Apr. 23, 1982, Apr. 30, 1982.	Paul G. Hunsicker, Chairman, East Rockhill Township Board of Supervisors, 1622 Ridge Road, Perkasie, PA 18944.	Apr. 30, 1982	420187B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

#### List of Subjects in 44 CFR Part 65

Flood insurance, flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14598 Filed 5-28-82; 8:45 am]

BILLING CODE 6716-03-M

#### 44 CFR Part 65

[Docket No. FEMA-6321]

#### Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is covering the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

**EFFECTIVE DATE:** Date listed in fourth column of list of Communities with Minimal Flood Hazard Areas.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register**.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

#### List of Subjects in 44 CFR Part 65

Flood insurance—flood plains.

The entry reads as follows:

#### § 65.7 List of communities with minimal flood hazard areas.

State and county	Community	Date of conversion to regular program
Oklahoma:		
Beckham	City of Elk City	June 1, 1982.
Georgia: Bartow	Town of White	June 4, 1982.
Pennsylvania:		
Schuylkill	Township of Branch	June 4, 1982.
Idaho: Twin Falls	City of Hansen	June 8, 1982.
Texas: Hidalgo	City of Alton	June 8, 1982.
New York:		
Rensselaer	Village of Schaghticoke	June 11, 1982.
Pennsylvania:		
Fulton	Township of Bethel	June 11, 1982.
Washington	Township of Buffalo	June 11, 1982.
Bradford	Township of Camton	June 11, 1982.
Huntingdon	Township of Tell	June 11, 1982.
Virginia: Charlotte	Town of Drakes Branch	June 11, 1982.
Texas:		
Liberty	City of Daisetta	June 15, 1982.
Ellis	City of Ennis	June 15, 1982.
New York:		
Wyoming	Village of Pike	June 18, 1982.
Pennsylvania:		
Mercer	Borough of Jackson Center	June 18, 1982.
Mercer	Township of Lake	June 18, 1982.
Virginia:		
Mecklenburg	Town of Chase City	June 18, 1982.
Georgia:		
Bartow	City of Cartersville	June 25, 1982.
Douglas	City of Douglasville	June 25, 1982.
New York: Allegany	Town of Wirt	June 25, 1982.
Pennsylvania:		
Crawford	Township of Summerhill	June 25, 1982.
Mercer	Township of Wolf Creek	June 25, 1982.
Louisiana:		
Natchitoches	Village of Goldonna	June 29, 1982.
Oklahoma:		
Kiowa	City of Hobart	June 29, 1982.
Kiowa	Town of Lone Wolf	June 29, 1982.
Okmulgee	City of Morris	June 29, 1982.
Adair	Town of Westville	June 29, 1982.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 6, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14599 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

#### National Flood Insurance Program; Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management

Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

#### Lists of Subjects in 44 CFR Part 67

Flood insurance, Flood Plains.

The final base (100-year) flood elevations for selected locations are:

#### FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Mountain Home, Baxter County (FEMA 6094)	Hicka Creek	Approximately 100 feet downstream of Meadowbrook Drive.	*700
			Approximately 150 feet upstream of Meadowbrook Drive.	*702
			Approximately 170 feet downstream of State Highway 5 (East 9th Street).	*742
			Approximately 230 feet upstream of State Highway 5 (East 9th Street).	*747
	Indian Creek	Approximately 100 feet upstream of East 4th Street extended.		*755
	Dodd Creek	Approximately 380 feet downstream of U.S. Highway 62.		*752

## FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 200 feet upstream of U.S. Highway 62.....	*758
			Approximately 190 feet downstream of Butcher Drive.....	*780
			Approximately 290 feet upstream of Butcher Drive.....	*784
Maps available for inspection at City Hall, 720 South Hickory Street, Mountain Home, Arkansas 72153.				
New York	Batavia, city, Genesee County (Docket No. FEMA-6005).	Tonawanda Creek	Downstream corporate limits.....	
			*887.....	
		Upstream South Lyon Street	*889.....	
			Upstream corporate limits.....	*896
Maps available for inspection at the Batavia City Engineer's Office, 10 West Main Street, Batavia, New York.				
New York	Evans, town, Erie County (Docket No. FEMA-6109)	Little Sister Creek	Confluence with Lake Erie.....	*580
			Upstream Dennis Road.....	*590
			Upstream private road.....	*602
			Upstream State Route 5.....	*615
			Upstream Delameter Road.....	*643
		Tributary No. 2 to Little Sister Creek.	Confluence with Little Sister Creek.....	
			*604.....	
		Upstream State Route 5.....	*615.....	
			Downstream Church Road.....	*640
			Downstream Delameter Road.....	*660
			170' upstream Norfolk and Western Railway.....	*668
		Pike Creek	Confluence with Lake Erie.....	*580
			Upstream private drive.....	*595
			Approximately 1,820' upstream of private drive.....	*610
			Upstream Wisconsin Road.....	*640
			Upstream Delameter Road.....	*658
			Upstream Derby Road.....	*693
			Upstream Depot Street.....	*704
		Reisch Creek	Confluence with Lake Erie.....	*580
			Downstream private drive.....	*594
			Upstream Old Lake Shore Drive.....	*612
			Downstream seminary access road.....	*630
			Downstream Nettle Creek Drive.....	*641
			Upstream Prescott Drive.....	*661
			Upstream Hamilton Drive.....	*680
			Upstream Revere Drive.....	*683
		Fern Brook	Confluence with Lake Erie.....	*580
			Downstream Waterman Road.....	*585
			Upstream Madison Avenue.....	*598
			Approximately 1,000' upstream of Dawn Avenue.....	*601
Maps available for inspection at the office of the Building Inspector, Evans Town Hall, 42 North Main Street, Angola, New York.				
Texas	Humble, city, Harris County (Docket No. FEMA-5978)	West Fork San Jacinto River	Intersection of Route 59 and corporate limits.....	*65
			Confluence of Spring Creek.....	*66
		Spring Creek	Downstream corporate limits.....	*66
			Upstream corporate limits.....	*70
		Tributary A	Northbound U.S. 59.....	*65
		Tributary C	Downstream corporate limits.....	*68
			2,100' upstream of corporate limits.....	*71
			5,000' upstream of corporate limits.....	*79
		Tributary D	Downstream corporate limits.....	*68
			Intersection of Wilson Road.....	*72
		Garners Bayou	1,000' upstream of corporate limits.....	*65
			Downstream of Southern Pacific Railroad.....	*69
			Upstream corporate limits.....	*76
		Reinhardt Bayou	Upstream of confluence with Garners Bayou.....	*64
			Downstream of upstream corporate limits.....	*72
Maps available for inspection at City Hall, Humble, Texas.				
Texas	City of Wharton, Wharton County (FEMA-6218)	Colorado River	Just upstream of U.S. Highway 59.....	*103
			Approximately 2640 feet upstream of the Southern Pacific Railroad.	*104
		Baughman Slough	Just downstream of Fulton Street.....	*98
			Just upstream of the Southern Pacific Railroad.....	*102
		Lower Caney Creek	At northernmost corporate limits.....	*98
Maps available for inspection at City Hall, 101 West Bureson Street, Wharton, Texas 77488.				

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14600 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 81 and 87

#### Stations on Land in the Maritime and Aviation Services; Amendment To Simplify and Clarify Specific Language

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document will simplify and clarify the rules. This action results from the Commission's effort to simplify or eliminate unnecessary language, and deletes unnecessary and redundant sections. These changes do not present additional subject matter nor impose additional duties.

**EFFECTIVE DATE:** June 3, 1982.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Robert H. McNamara, Private Radio Bureau (202) 632-7175.

#### SUPPLEMENTARY INFORMATION:

##### List of Subjects in 47 CFR Parts 81 and 87

Radio, Telephone, Coast stations, Aeronautical stations.

Adopted: May 18, 1982.

Released: May 20, 1982.

1. We are amending Parts 81 and 87 of the Commission's rules to delete unnecessary and redundant sections thereby clarifying the rules. These sections do not present additional subject matter nor impose additional duties. This action originates from our effort to review the rules and simplify or eliminate unnecessary language. The affected sections are: §§ 81.69, 81.371, 81.474 and 87.115.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, it is ordered, That §§ 81.69, 81.371, 81.474 and 87.115 of the rules are amended in accordance with the attached appendix, effective June 3, 1982.

4. Regarding questions on matters covered in this document contact Robert H. McNamara, (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

#### Appendix

Parts 81 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

#### PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

##### § 81.69 [Removed]

1. Part 81 is amended by removing § 81.69.

##### § 81.371 [Removed]

2. Part 81 is amended by removing § 81.371.

##### § 81.474 [Amended]

3. Section 81.474 is amended by removing the words "Subpart E of this part" and inserting, in their place, the words "Subpart E of Part 83."

#### PART 87—AVIATION SERVICES

Section 87.115 is revised to read as follows:

##### § 87.115 Station identification.

(a) Aircraft stations shall be identified by one of the following means of identification:

(1) Aircraft radio station call sign.

(2) Assigned FCC Control number (assigned to ultralight aircraft).

(3) The characters corresponding to the registration marking ("N" number) of the aircraft, omitting the prefix letter "N", preceded by the type of aircraft. When initiated by a ground station aircraft stations may use an abbreviated call sign consisting of the type aircraft followed by the last three characters of the registration marking.

(4) The radiotelephony designator of the aircraft operating agency followed by the flight identification number.

**Note.**—The operating agency radiotelephony designators referred to in subdivision (4) of this subparagraph are designators assigned and authorized by the Federal Aviation Administration. The flight identification number is the "trip number" assigned by the company.

(5) An aircraft identification approved in advance by the FAA for use by aircraft stations participating in an organized flying activity of short duration.

(b) A land station in the aviation services shall identify by means of radio station call letters, its location, its assigned FAA identifier or the name of the city area or airdrome which it serves together with such additional identification as may be required. An

aeronautical enroute station which is a part of multistation network may also be identified by the location of its control points.

(c) Survival craft stations shall identify, so far as practicable, by transmitting an appropriate reference associating the survival craft station with its parent aircraft. No identification is required when distress signals are transmitted automatically. Transmissions other than distress or emergency signals, i.e., for equipment testing or adjustment, shall be identified by the call sign or by the official aircraft registration number of the parent aircraft followed by a single digit other than 0 or 1.

(d) Radio systems where the transmission of specific identification is considered to be impracticable are exempted from the provisions of this section; e.g., airborne weather radar, radio altimeter, air traffic control transponder, distance measuring equipment, collision avoidance equipment, racon, radiosonde, radio relay, radionavigation land test station (MTF), and automatically controlled aeronautical enroute stations.

[FR Doc. 82-14742 Filed 5-28-82; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 90

#### Private Land Mobile Radio Services; Amendment of the Commission's Rules to Define Permissible Paging Techniques in the Private Land Mobile Radio Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission amends its rules to reflect that digital modulation is a permissible method of paging. Although digital modulation has been permitted for paging systems for some time, a recent Commission clarification of digital modulation designators necessitates this editorial Order. This Order clarifies that digitally modulated equipment is Type Accepted for use in private paging systems.

**DATE:** Effective May 14, 1982.

**FOR FURTHER INFORMATION CONTACT:** Keith A. Plourd, Private Radio Bureau, Rules Division, (202) 632-6497.

#### SUPPLEMENTARY INFORMATION:

##### List of Subjects Affected in 47 CFR Part 90

Private land mobile radio services, Public safety radio services, Industrial radio services, Land transportation

radio services, General technical standards.

#### Order

Adopted: May 14, 1982.

Released: May 19, 1982.

By the Managing Director.

In the matter of amendment of Part 90 of the Commission's rules to define permissible paging techniques in the Private Land Mobile Radio Services.

1. Part 90 of the Commission's Rules and Regulations (47 CFR § 90.1 *et seq.*) authorizes one-way paging operations in the private land mobile radio services. These rules also specify that only A1, A2, F1 or F2 emission is authorized for this purpose.

2. Traditionally, we have construed the F2 emission designator within the meaning of the Private Land Mobile rules to encompass the direct modulation of the carrier frequency, phase, amplitude or combinations thereof (i.e. digital modulation) and we have routinely authorized these types of paging systems in the private services.

3. Recently, the Commission issued a Public Notice (Mimeo #003929) dated October 9, 1981, which stated henceforth that digital modulation techniques would be designated F3Y or F9Y.

4. Accordingly, the Private Radio Service rules are amended to reflect that digital modulation, which was formerly designated F2 and is now designated F9Y, is also a permissible method of paging in the Private Land Mobile Radio Services. Since this represents no substantive change in the Commission's Rules or the types of systems we authorize, but only a procedural change in the manner in which we designate the emission involved in operational techniques which we have traditionally authorized in the private services, there is no need for public notice and comment thereon. 5 U.S.C. 553(b).

5. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934 as amended (47 U.S.C. 154(i) and 303(r)) and § 0.231(d) of the Commission's rules and regulations. (47 CFR 0.231(d)).

6. Accordingly, Part 90 of the Commission's Rules and Regulations is amended as set forth in the Appendix below, effective May 14, 1982.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1062; 47 U.S.C. 154, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

#### Appendix

#### PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The Commission corrects 47 CFR Part 90, as follows:

1. In § 90.207 entitled, "Types of emissions," paragraph (d) is revised to read as follows:

##### § 90.207 Types of emissions.

\* \* \* \* \*

(d) For non-voice paging operations, only A1, A2, F1, F2 or F9Y emission will be authorized.

\* \* \* \* \*

2. In § 90.233 entitled, "Secondary base/mobile non-voice signaling operations," paragraph (d) is revised to read as follows:

##### § 90.233 Secondary base/mobile non-voice signaling operations.

\* \* \* \* \*

(d) Secondary non-voice operations under this section may not be authorized for paging, telemetry, radiolocation, AVM, radioteletypewriter, radiofacsimile, or radio call box operations. These operations are authorized under other sections of this part.

3. Section 90.485, entitled "One-way paging operations in the 806-821 MHz and 851-866 MHz bands", is revised to read as follows:

##### § 90.485 One-way paging operations in the 806-821 MHz and 851-866 MHz bands.

Except as provided at § 90.385(c) of the rules, systems of communication licensed in the 806-821 MHz and 851-866 MHz bands may not be employed for non-voice paging operations.

4. In Section 90.487 entitled "One-way paging operations in the bands below 512 MHz," paragraph (a) is revised to read as follows:

##### § 90.487 One-way paging operations in the bands below 512 MHz.

(a) Subject to specific prohibition or restriction by rule provisions governing the radio service in which a licensee's radio system is authorized, digitally modulated paging, tone only and tone and voice paging operations are permitted.

\* \* \* \* \*

[FR Doc. 82-14757 Filed 5-28-82; 8:45 am]

BILLING CODE 6712-01-M

#### INTERSTATE COMMERCE COMMISSION

#### 49 CFR Part 1033

[Amdt. 2 to S.O., 1499]

Chicago and North Western Transportation Company Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

**SUMMARY:** Amendment No. 2 to Service Order No. 1499, authorizes Chicago and North Western Transportation Company (CNW) to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee) (MILW). This order permits CNW, under agreement with the Trustee, to operate MILW lines between Jefferson and Herndon, Iowa, as part of a program to provide access to lines under purchase agreement which are in need of refurbishing.

**EFFECTIVE:** 11:59 p.m., May 30, 1982, and continuing in effect until 11:59 p.m., May 31, 1983, unless modified, amended or vacated by order of this Commission.

**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

Decided: May 25, 1982.

**SUPPLEMENTARY INFORMATION:** Upon further consideration of Service Order No. 1499 (47 FR 13530), and good cause appearing therefor:

*It is ordered, that § 1033.1499 Service Order No. 1499, Chicago and North Western Transportation Company authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee), is amended by substituting the following paragraph (n) for paragraph (n) thereof:*

(n) *Expiration date.* The provisions of this order are extended for one year, and shall expire at 11:59 p.m., May 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., May 30, 1982.

This action is taken under authority of 49 U.S.C. 10304-10305 and Section 122, Public Law 96-254.

This amendment shall be served upon

the Association of American Railroads, Transportation Division, as agent of the railroad subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

**List of Subjects in 49 CFR Part 1033**

**Railroads.**

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 82-14771 Filed 5-28-82; 8:45 am]

**BILLING CODE 7035-01-M**

# Proposed Rules

Federal Register

Vol. 47, No. 105

Tuesday, June 1, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 54

#### Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses

**AGENCY:** Agricultural Marketing Service (AMS), USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses. The major changes proposed are (1) that carcasses with only one break joint be classed as lamb if their other maturity characteristics are typical of lamb, and (2) that feathering be dropped as a quality factor and that the quality grade be based on flank fat streakings in relation to maturity with a minimum firmness specified for each grade. In addition, the quality and conformation compensations would be standardized and descriptions of degrees of muscling associated with each grade would be added to the conformation descriptions. The proposed changes would simplify the teaching and application of the quality grade standards without significantly affecting the number of lamb carcasses in any grade. They also would allow some young carcasses which are now classed as yearling mutton to be classed as lamb.

**DATE:** Comments must be received on or before July 15, 1982.

**ADDRESSES:** Written comments to: Meat Standardization and Review Branch; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; 2-M Annex; U.S. Department of Agriculture; Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Fuller, Deputy Director; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4727.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Impact Analysis

This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a nonmajor rule pursuant to sections 1(b) (1), (2), and (3) of that order because: (1) it will not have an annual effect on the economy of \$100 million or more; (2) it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it will not have significant 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 export markets. The proposed changes, if adopted, would not significantly affect the number of lamb carcasses in any grade. The requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) which deals with the impact of regulations on small entities have also been satisfied, in that the Administrator has determined that this proposed rule would not have a significant impact on a substantial number of small entities.

##### Comments

All persons who desire to submit written data, views, or comments on this proposal are invited to submit such material to the Meat Standardization and Review Branch; Livestock, Meat, Grain, and Seed Division; AMS; 2-M Annex; U.S. Department of Agriculture; Washington, D.C. 20250, on or before July 15, 1982. Comments must be signed and include the address of the sender and should bear reference to the date and page number of this issue of the *Federal Register*. Since the comments will be considered in the resolution of this proposal, they should include definitive information which explains and supports the sender's views. All written submissions will be made available for public inspection at the Meat Standardization and Review Branch; Livestock, Meat, Grain, and Seed Division; AMS; 2-M Annex; during regular business hours.

##### Background

The grading of ovine carcasses (lamb, yearling mutton, and mutton) is a

voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), which is designed to facilitate the marketing of livestock and meat. Quality grades for lamb were officially adopted in 1931 and revisions were made in 1940, 1951, 1957, and 1960. Yield grades were adopted in 1969, and limitations on the form and location of grading were instituted in 1980. There have been no changes in the quality grade requirements since 1960.

##### Class Requirements

During the slaughter of mature sheep, the foot and pastern are removed at the ankle (between the proximal sesmoids and the metacarpal bone), leaving a "round" or "spool joint" on the lower end of the cannon bone (metacarpal). Located immediately above the "spool joint" at the zone of bone growth—the junction of the epiphysis and the diaphysis—is the "break joint". Growth in this zone ceases when the cartilage ceases to regenerate and is ultimately replaced by bone. In young ovine animals it is usually possible to remove the foot at the "break joint." Thus, these two types of joints have been used as a major factor in classification of ovine carcasses as lamb, yearling mutton, or mutton. The grade standards require a carcass to have two break joints present in order to be classified as lamb. Missing cannon bones ("trotters") are assumed to have had spool joints. This requirement has been specifically written into the standards since 1951 and was an understood requirement under less specific written standards between 1931 and 1951.

Although, under the current grade standards, a carcass must have two break joints to be classed as lamb, the standards provide for carcasses with two break joints to be classed as yearling mutton if the lean color and rib bones indicate more advanced maturity. Research conducted for USDA at Texas A&M University in 1966 and 1967 showed that some ewe carcasses had spool joints as early as 9 months of age while a significant number of wether (castrated male sheep) carcasses still had break joints at 21 months of age. There are also indications that ram lambs may display spool joints earlier than expected. These data would support the classification of some carcasses with both break joints present as yearling mutton. However, since the

presence of break joints is a completely objective determination which is strongly associated with the lamb class, carcasses with two break joints are almost never classed as yearling mutton. By contrast, these data would also support the classification of some carcasses with spool joints or missing trotters as lamb, which is not permitted under present requirements. Some young animals will, for reasons apparently related to sexual maturity, as pointed out above, ossify and display a spool joint earlier than expected. Also, during the normal slaughter operation a trotter may be inadvertently damaged and removed, or a trotter may be removed for meat inspection purposes (e.g., a broken leg, indications of arthritis, or fecal contamination will cause the damaged part to be removed). Such circumstances would justify changes in the classification requirements for lamb.

Based on the available research, it is clear that some changes are justified in the break joint requirements for classification as lamb. There are three options available: (1) Continue requiring that carcasses have two break joints present to be classed as lamb; (2) Drop the break joint requirement completely; and (3) Require only one break joint for classification as lamb. In each option the rib bones and lean color and texture would be used in classification, but the importance of these factors relative to the break joints would vary considerably.

Option one, to continue the present requirements, would not take the available current research into consideration. It would continue to place major emphasis on the break joints, which, although they are not always precise indicators of age, are a completely objective factor which graders can rapidly determine.

Option two, to drop the break joint requirement completely, would have the greatest impact (both positive and negative) of any of the options. Adoption of this option would best reflect the research which indicates a wide variation in the age at which the break joints are ossified. Classification would then be based on other skeletal factors and lean color and texture, and would prevent one factor (break joints) from completely overriding other considerations. However, the factors then used in classification would be completely subjective and would probably result in more variation between individual graders in classification. This change would allow a number of carcasses now classed as yearling mutton to be classed as lamb. Conversely, if break joints are

completely ignored, an increased number of carcasses with break joints would probably be classed as yearling mutton based on other skeletal factors and lean color and texture. The present break joint requirement for lamb requires packers to leave the trotters on the carcasses. Removing the break joint requirement completely would remove a restraint on the grading of imported lamb which is usually received without trotters.

Option three, allowing carcasses with only one break joint to be classed as lamb, would accomplish some of the positive aspects of the change while avoiding some of the negative aspects. Presently a few carcasses are produced which have one break joint and one spool joint. There are also some carcasses which have one break joint, and for various reasons, the other trotter is missing. This option, as proposed herein, would make these carcasses eligible for classification as lamb if their other maturity characteristics are typical of lamb. It would also continue the use of an objective factor (break joints) as a major consideration in classification of lamb and yearling mutton. This change would probably result in 1-2 percent more carcasses classed as lamb annually.

#### *Quality Grade Requirements*

The quality grade standards for lamb, yearling mutton, and mutton carcasses were last revised in 1960. That change and previous changes in 1957 were based primarily on recommendations from an industrywide committee and the results of meetings with industry representatives around the country. The resultant standards base the quality grades on a combination of conformation and quality. There are limits on the amount of emphasis placed on conformation in each grade and on quality in some grades. The rate of compensation (or displacement) of conformation for quality and of quality for conformation is different for different grades. Quality is based on a combination of feathering between the ribs, flank fat streakings, and flank fullness and firmness; each in relation to maturity. Maturity is based on break joints, width and color of rib bones, and color and texture of the lean flesh. This system is difficult to teach, learn, and apply.

In 1966 USDA contracted with Texas A&M University to conduct a comprehensive study of lamb quality and palatability. That study, reported to USDA in 1968, indicated that the quality grades could be greatly simplified and, at the same time, be improved as predictors of palatability. In that study

the overall quality grade accounted for only 6.8 percent of the variation in the palatability of lamb primal cuts. However, a combination of flank streakings and flank color accounted for 19.9 percent of the variation.

Simplification of the quality grade standards is a change which has been recommended previously. Training graders and others to apply all the current grade factors properly in lamb grading is very difficult. Also, in actual grading operations graders can rapidly and accurately determine the grade of a lamb carcass without evaluating each factor individually. Thus, the complexity of the present standards has resulted in a system where even experienced graders may sometimes have difficulty using all the grade factors properly when they need to do so. In 1976 USDA conducted studies to determine the effects of a simplification of the standards on grading. The results showed that, of the factors used in grading, flank streakings was the factor on which graders were the most uniform and repeatable. When the grade based on a single factor was compared to the grade based on all three grade factors, the grade based on flank streakings resulted in the fewest carcasses changing grades. Thus, on the basis of palatability research, grader repeatability, and minimum grade change, it is proposed that the quality grades for lamb be based on flank fat streakings in relation to maturity.

#### *Other Considerations*

Under this proposal the conformation grade requirements would be unchanged, except that descriptions of various degrees of muscling associated with each grade will be added. However, the rate of compensation of quality for conformation and conformation for quality would be modified in some grades. In the present grades compensation is on an equal basis in some cases, and in other cases a half grade of superior conformation or quality is needed to compensate for a third grade of inferior quality or conformation. Since the rate of compensation for both quality and conformation are different in different grades, the situation is often confusing. Teaching these compensations to new graders and students is especially difficult. Under the proposed standards all compensations of conformation for quality and quality for conformation would be on an equal basis. The limits and extent of compensations would not be changed.

Because of the limited number of young carcasses which fail to quality for

Good and because of the limited variation among such carcasses, it was determined that four quality grades would be sufficient for young carcasses. Therefore it is proposed that the Cull grade be dropped for the lamb and yearling mutton classes and all carcasses which fail to qualify for Good be graded Utility. The Cull grade would be kept for the mutton class.

No substantive changes are proposed in the determination or application of the yield grade standards.

A section would be added to the standards to outline the scope of the standards, clarifying the fact that the standards apply to sides as well as carcasses.

In summary, the significant changes involved in this proposed revision of the standards for grades of lamb, yearling mutton, and mutton carcasses would provide for the following:

(1) Feathering and flank fullness and firmness would be eliminated as factors in determining the quality grade.

(2) Quality grade would be based on the development of flank fat streakings—in relation to maturity. Flank streaking requirements for each grade would be the same as now specified.

(3) A minimum level of lean flesh and external fat firmness would be specified for each grade.

(4) Procedures to differentiate between ovine classes would be changed to allow carcasses with a missing break joint or with one spool joint to be classed as lamb under certain conditions which relate to their other evidences of maturity.

(5) The rate of compensation of conformation for quality and quality for conformation would be changed to be on an equal basis in all grades.

(6) The Cull grade would be dropped for the lamb and yearling mutton classes.

Minor changes also are proposed throughout the standards to improve clarity and facilitate uniform interpretation.

The proposed changes in the standards for lamb, yearling mutton, and mutton carcasses do not necessitate corresponding changes in the standards for grades of slaughter lambs, yearlings, and sheep.

#### List of Subjects in 7 CFR Part 54

Meat and meat products, grading and certification, Lamb.

#### PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION AND STANDARDS)

For the reasons set out in the preamble, the official U.S. standards for

grades of lamb, yearling mutton, and mutton carcasses in 7 CFR Part 54, would be amended by adding § 54.121 and by revising §§ 54.122, 54.123, 54.124, 54.125, and 54.126 to read as follows:

1. The authority citation for Part 54 reads as follows:

Authority: Sec. 203, 60 Stat. 1087, as amended; Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1622 and 1624); 19 FR 74, as amended.

2. A new § 54.121 would be added and § 54.122–54.126 would be revised to read as follows:

Note.—In this document, new or revised text is enclosed by arrows (▶◀).

#### ▶§ 54.121 Scope.

These standards for grades of lamb, yearling mutton, and mutton are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."◀

#### § 54.122 Differentiation between lamb, yearling mutton, and mutton carcasses.

▶(a) Ovine carcasses are classified as lamb, yearling mutton, or mutton depending upon their evidences of maturity as indicated by the development of their muscular and skeletal systems. Typical lamb carcasses tend to have slightly wide and moderately flat rib bones and a light red color and fine texture of lean. By contrast, typical yearling mutton carcasses have moderately wide rib bones which tend to be flat and a slightly dark red color and slightly coarse texture of lean. Typical mutton carcasses have wide, flat rib bones and a dark red color and coarse texture of lean.

(b) In the dressing of ovine carcasses, both front cannon bones (trotters) normally are left attached to the carcass although in some instances, one or both trotters may be removed. If present, trotters will terminate in—perfect break joints (all ridges forming break joint intact and well defined), imperfect break joints, or spool joints. For determining the maturity of ovine carcasses, it is assumed that there was a spool joint on any missing trotter. These variations, as indicated by the following guidelines, are important considerations in determining whether a carcass is classed as lamb, yearling mutton, or mutton.

(c) A carcass with perfect break joints on both trotters will be classed lamb or yearling mutton based on its other evidences of maturity.

(d) A carcass with spool joints on both trotters will be classed as yearling

mutton or mutton based on its other evidences of maturity. Mutton carcasses always have spool joints on both front trotters.

(e) A carcass which has a perfect break joint on one trotter and has either (1) a spool joint on the other trotter, or (2) has had the other trotter removed, will be classed as a lamb if its other maturity characteristics are not more advanced than described in the grade specifications as typical of the more mature lamb group. Otherwise, such carcasses will be classed as yearling mutton. Maturity within the lamb class shall be based on the combination of lean and skeletal characteristics.◀

(f) Except for the above referenced considerations given to break joints and spool joints, in making other maturity evaluations, more consideration is given to the characteristics of the flesh than is given to characteristics of the skeleton.

#### § 54.123 Application of standards.

(a) *Grade factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general considerations: Palatability-indicating characteristics of the lean and conformation, herein referred to as "quality;" and the estimated percent of closely trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as "yield." (However, the grade of an ovine carcass when applied by Federal meat graders may consist of an identification for the quality grade, the yield grade, or a combination of both the quality and yield grades.) In previous grade standards for ovine carcasses, the Department used the term "quality" to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variations in conformation are either directly or indirectly related to differences in palatability.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade section is divided further into three separate sections applicable to carcasses from lambs, yearling mutton, and mutton. ▶ There are four quality grades within each class—Prime, Choice, Good, and Utility for lamb and yearling mutton, and Choice, Good, Utility, and Cull for mutton.◀ There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be more typical of other grades. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering also are indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations—the quality or the palatability-indicating characteristics of the lean and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems—although it also is influenced, to some extent, by the quantity and distribution of external finish. However, external fat in excess of that normally adjusted fat thickness over the ribeye

left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the carcass. Carcasses which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. The conformation of a carcass is evaluated by averaging the conformation of its various component parts, giving consideration not only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thickly muscled, very wide and thick in relation to their length, and which have a very plump, full, and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thinly muscled, very narrow in relation to their length, and which have a very angular, thin, and sunken appearance.

(3) The quality of the lean flesh is best evaluated by consideration of its

texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading ovine carcasses direct observation of these characteristics usually is not possible. Therefore, the quality of the lean is evaluated indirectly by giving consideration to the quantity of fat streakings within and upon the inside flank muscles in relation to the apparent evidences of maturity. Within each grade, the requirements for flank fat streakings increase progressively with evidences of advancing maturity. To facilitate the application of this principle, the relationship between flank fat streakings, maturity, and quality is shown in figure 1. Flank fat streakings are categorized in descending order of quantity as follows: abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically devoid, and devoid. In addition, the standards specify a minimum degree of firmness of lean flesh and external fat for each grade and a minimum degree of external fatness for carcasses in the Prime and Choice grades. The different degrees of firmness in descending order of firmness are: extremely firm, tends to be extremely firm, firm, tends to be firm, moderately firm, tends to be moderately firm, slightly firm, tends to be slightly firm, tends to be slightly soft, slightly soft, tends to be moderately soft, moderately soft, soft and slightly watery, and soft and watery.

BILLING CODE 3410-02-M

# RELATIONSHIP BETWEEN FLANK FAT STREAKINGS, MATURITY AND QUALITY

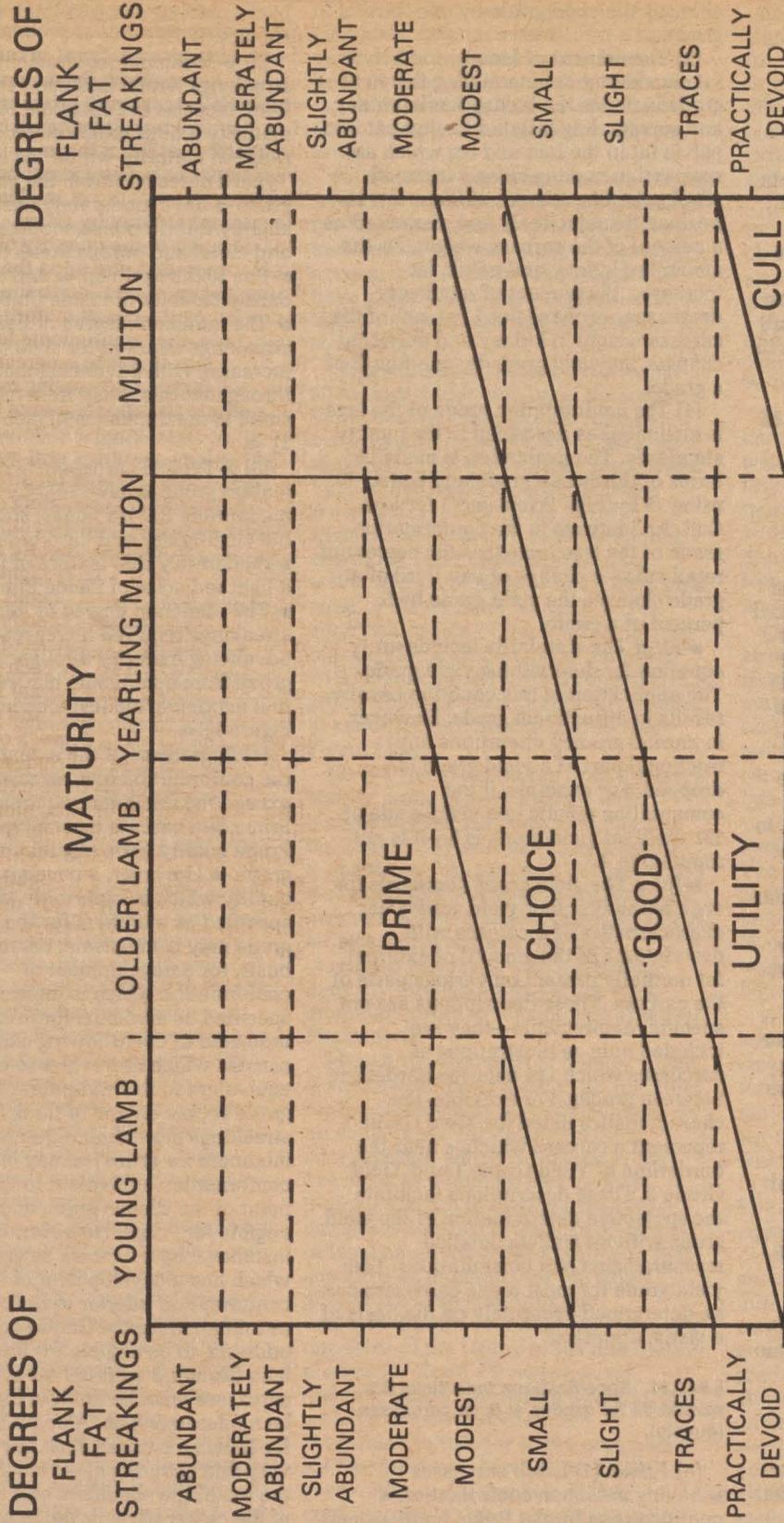


Figure 1

BILLING CODE 3410-02-C

►(4)◄ The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is determined by considering three characteristics: The amount of external fat, the amount of kidney and pelvic fat, and the conformation grade of the legs.

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On intact carcasses, this fat thickness is measured by probing. ►On carcasses which do not have a normal distribution of external fat, the fat thickness measurement over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. ◄ In determining the amount of this adjustment, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these other parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these other parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 or 0.10 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustments, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in

changes the yield grade by one-third of a grade.

(3) The amount of kidney and pelvic fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat) and the lumbar and pelvic fat in the loin and leg which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney and pelvic fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in kidney and pelvic fat changes the yield grade by one-fourth of a grade.

(4) The conformation grade of the legs is evaluated as described in the quality standards. The evaluation is made in terms of thirds of a grade and coded using 15 for high Prime and 1 for low Cull. An increase in the conformation grade of the legs increases the percent of retail cuts—a change of one-third of a grade changes the yield grade by 5 percent of a grade.

►(5)◄ The standards include an equation for determining yield grade. The application of this equation usually results in a fractional grade. However, in normal grading operations any fractional part of a yield grade is dropped. For example, if the computation results in a yield grade of 3.9, the final yield grade is 3—it is not rounded to 4.

►(6)◄ The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most ovine carcasses can be determined accurately on the basis of a visual appraisal.

**§ 54.124 Specifications for official U.S. standards for grades of lamb carcasses (quality).**

(a) *Prime.* (1) Lamb carcasses ►having minimum conformation◄ qualifications for the Prime grade ►tend to be thickly muscled throughout,◄ are moderately wide and thick in relation to their length and have moderately plump and full legs, moderately wide and thick

backs, and moderately thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group◄ have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; ►fine texture of lean;◄ and a slightly dark pink color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).◄

(3) ►Typical carcasses from the more mature group◄ have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; ►moderately fine texture of lean;◄ and a light red color of inside flank muscles. ►The minimum degree of flank fat streakings required increases with advancing maturity throughout this group from a minimum modest amount to a maximum modest amount (see Figure 1).◄

(4) Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, ►a carcass must have minimum Prime quality to be eligible for the Prime grade.◄ However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade ►(one degree of flank fat streakings more than required as the minimum for Prime)◄ may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. ►In addition, to be eligible for Prime, the lean flesh and external fat of lamb carcasses must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the center parts or the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.◄

(b) *Choice.* (1) Lamb carcasses ►having minimum conformation◄ qualifications for the Choice grade ►are slightly thick muscled throughout, they◄ tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group◄ have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; fine texture of lean; and a moderately dark pink color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).◄

(3) ►Typical carcasses from the more mature group◄ have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; ►moderately fine texture of lean;◄ and a moderately light red color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).◄

►(4) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat of lamb carcasses must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering

of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.◄

(c) *Good.* (1) Lamb carcasses ►having minimum conformation◄ qualifications for the Good grade ►are slightly thin muscled throughout,◄ are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group◄ have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; ►fine texture of lean;◄ and a dark pink color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).◄

(3) ►Typical carcasses from the more mature group◄ have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; ►moderately fine texture of lean;◄ and a slightly dark red color of inside flank muscles. ►The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).◄

(4) ►A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the

upper third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat of lamb carcasses must be not less than slightly soft.◄

(d) *Utility.* ►The Utility grade includes those lamb carcasses whose characteristics are inferior to those specified as minimum for the Good grade.◄

**§ 54.125 Specifications for official U.S. standards for grades of yearling mutton carcasses (quality).**

(a) *Prime.* (1) Yearling mutton carcasses having minimum ►conformation◄ qualifications for the Prime grade ►tend to be thickly muscled throughout,◄ are moderately wide and thick in relation to their length and have moderately plumb and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) ►Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; slightly coarse texture of lean; and a slightly dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum moderate to maximum moderate (see Figure 1).◄

►(3)◄ Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, ►a carcass must have minimum Prime quality to be eligible for the Prime grade.◄ However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidences of quality equivalent to the mid-point of the Prime grade ►(one degree of flank fat streakings more than required as the minimum for Prime)◄ may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. ►In addition, to be eligible for Prime, the

lean flesh and external fat must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat. ◀

(b) *Choice.* (1) Yearling mutton carcasses ▶ having minimum conformation ◀ qualifications for the Choice grade ▶ are slightly thick muscled throughout, they ◀ tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) ▶ Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; slightly coarse texture of lean; and a color of inside flank muscles which tends to be moderately dark red. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1). ◀

(3) ▶ A ◀ development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. ▶ Also, a carcass which has a development of conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a

very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat. ◀

(c) *Good.* (1) Yearling mutton carcasses ▶ having minimum conformation ◀ qualifications for the Good grade ▶ are slightly thin muscled throughout, ◀ are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) ▶ Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; slightly coarse texture of lean; and a moderately dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1). ◀

▶ (3) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft. ◀

(d) *Utility.* ▶ The Utility grade includes those yearling mutton carcasses whose characteristics are inferior to those specified as minimum for the Good grade. ◀

§ 54.126 Specifications for official U.S. standards for grades of mutton carcasses (quality).

(a) *Choice.* (1) Mutton carcasses ▶ having minimum conformation ◀ qualifications for the Choice grade ▶ are slightly thick muscled throughout, they ◀ tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slight thick and full shoulders.

(2) ▶ Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; coarse texture of lean; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum modest to maximum modest (see Figure 1). ◀

(3) ▶ A ◀ development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade ▶ (two degrees of flank fat streakings more than required as the minimum of Choice) ◀ may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. ▶ Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least thin covering of fat, that is, the muscles of the back may be more than plainly visible through the fat. ◀

(b) *Good.* (1) Mutton carcasses ▶ having minimum conformation ◀ for

the Good grade are slightly thin muscled throughout, ◀ moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) ▶ Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; coarse texture of lean; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1). ◀

(3) ▶ A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft. ◀

(c) *Utility.* (1) Mutton carcasses ▶ having minimum conformation ◀ qualifications for the Utility grade ▶ are thinly muscled throughout, ◀ are very angular and very narrow in relation to their length and have thin, slightly concave legs, very narrow and sunken backs, and narrow, sharp shoulders. hips and shoulder joints are ▶ slightly ◀ visible.

(2) ▶ Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; coarse texture of lean; and a very dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such

carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1). ◀

▶ (3) A development of quality which is superior to that specified as minimum for the Utility grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Utility as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Utility grade may have conformation equivalent to the minimum for the upper one-third of the cull grade and remain eligible for Utility. However, in no instance may a carcass be graded Utility which has a development of conformation inferior to the minimum for the upper one-third of the Cull grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Utility grade may qualify for Utility with a development of quality equivalent to the lower limit of the upper third of the Cull grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Utility, the lean flesh and external fat must be not less than soft. ◀

(d) *Cull.* ▶ The Cull grade includes those mutton carcasses whose characteristics are inferior to those specified as minimum for the Utility grade. ◀

Done at Washington, D.C., on: May 25, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

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## 7 CFR Part 1200

### Proposed Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs; Proposed Rules of Practice and Procedure Governing Proceedings to Formulate and Amend an Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service establishes rules of practice and procedure governing proceedings to formulate and amend orders under research, promotion, and education programs. Legislation established for such programs provides that programs

be effectuated through the promulgation of an order, which must be approved by the affected producers (and in certain cases importers or end-product manufacturers) in a referendum. This subpart would establish the procedures which would be followed in developing and amending the order to effectuate such programs.

**DATE:** Comments due by July 16, 1982.

**ADDRESSES:** Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447-2615.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The Agricultural Marketing Service oversees nationally coordinated programs of research, consumer information, promotion, and nutrition education. Each such program is provided for by separate enabling legislation and effectuated through the promulgation of an order, which must be approved by affected domestic producers and in certain programs also by affected importers or end-product manufacturers in a referendum. Previously a subpart has been promulgated under each program establishing the procedures to be followed in developing and amending the order. However, all of these procedures must conform with the administrative procedure provisions in 5 U.S.C. 553. Therefore procedures under all programs are similar and may be established jointly under 7 CFR Part 1200 Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Education Programs.

This joint codification would provide greater consistency among these programs, greatly reduce labor and time in amending such procedures, and provide significant savings in publication costs in the Code of Federal Regulations and the Federal Register.

Presently four research, promotion, and education programs are in operation. These programs include Cotton Research and Promotion, Part 1205; Potato Research and Promotion Plan, Part 1207; Egg Research and Promotion, Part 1250; and Wheat and Wheat Foods Research and Nutrition Education, Part 1280. In addition, procedures to formulate a Beef Research and Information Order are contained in Part 1260. The subpart establishing procedures to formulate an order under each of these parts would be terminated upon the effective date of this subpart.

This rule would establish procedures to develop and amend any subsequent research, promotion, and education programs, including a proposal for an order which may be submitted pursuant to the Floral Research and Consumer Information Act.

#### List of Subjects in 7 CFR Part 1200

Administrative practice and procedure.

Accordingly, the following new subpart would initiate a new Part 1200 of Chapter XI of Title 7 of the Code of Federal Regulations:

### PART 1200—RULES OF PRACTICE AND PROCEDURE GOVERNING PROCEEDINGS UNDER RESEARCH, PROMOTION, AND EDUCATION PROGRAMS

#### Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate and Amend an Order

Sec.	
1200.1	Words in the singular form.
1200.2	Definitions.
1200.3	Proposals.
1200.4	Reimbursement of U.S. Department of Agriculture expenses.
1200.5	Institution of proceedings.
1200.6	Docket number.
1200.7	Judge.
1200.8	Motions and requests.
1200.9	Conduct of the hearing.
1200.10	Oral and written arguments.
1200.11	Certification of the transcript.
1200.12	Copies of the transcript.
1200.13	Administrator's recommended decision.
1200.14	Submission to Secretary.
1200.15	Decision by the Secretary.
1200.16	Execution of the order.
1200.17	Filing.
1200.18	Ex parte communications.
1200.19	Additional documents to be filed with hearing clerk.
1200.20	Hearing before Secretary.

Authority: Beef Research and Information Act, as amended, Pub. L. 94-294, 94th Cong., approved May 28, 1976, 7 U.S.C. 2901-2918; Cotton Research and Promotion Act, as amended, Pub. L. 89-502, 89th Cong., approved July 13, 1966, 7 U.S.C. 2101-2119; Egg Research and Consumer Information Act, as amended, Pub. L. 93-428, 93rd Cong.,

approved October 1, 1974, 7 U.S.C. 2701-2718; Floral Research and Consumer Information Act, Pub. L. 97-98, 97th Cong., approved December 22, 1981, 7 U.S.C. 4301-4319; Potato Research and Promotion Act, Pub. L. 91-670, 91st Cong., approved January 11, 1971, 7 U.S.C. 2611-2627; Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95-113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401-3417.

#### Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate and Amend an Order

##### § 1200.1 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

##### § 1200.2 Definitions.

As used in this subpart, the terms as defined in the Act shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) The term "Act" means the Beef Research and Information Act, as amended, Pub. L. 94-294, 94th Cong., approved May 28, 1976, 7 U.S.C. 2901-2918; the Cotton Research and Promotion Act, as amended, Pub. L. 89-502, 89th Cong., approved July 13, 1966, 7 U.S.C. 2101-2119; the Egg Research and Consumer Information Act, as amended, Pub. L. 93-428, 93rd Cong., approved October 1, 1974, 7 U.S.C. 2701-2718; the Floral Research and Consumer Information Act, Pub. L. 97-98, 97th Cong., approved December 22, 1981, 7 U.S.C. 4301-4319; the Potato Research and Promotion Act, Pub. L. 91-670, 91st Cong., approved January 11, 1971, 7 U.S.C. 2611-2627; the Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95-113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401-3417; and any subsequent research, consumer information, promotion, and nutrition education acts established as Public Law by Congress.

(b) The term "Department" means the United States Department of Agriculture.

(c) The term "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(d) The term "judge" or "administrative law judge" means any administrative law judge appointed pursuant to 5 U.S.C. 3105 and assigned to conduct the hearing.

(e) The term "Administrator" means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of

the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(f) The term "Federal Register" means the publication provided for by the Federal Register Act, approved July 26, 1935 (44 U.S.C. 1501-1511), and acts supplementing and amending it.

(g) The term "hearing" means that part of the proceeding which involves the submission of evidence.

(h) The term "order" means any order or plan or any amendment to it which may be issued pursuant to the Act.

(i) The term "proceeding" means a proceeding forming the basis on which an order may be issued.

(j) The term "hearing clerk" means the hearing clerk, U.S. Department of Agriculture, Washington, D.C.

(k) The term "board" means the board or council established by the order to administer the program.

##### § 1200.3 Proposals.

(a) An order may be proposed by any organization certified pursuant to the Act or any interested person affected by the Act, including the Secretary. Any person or organization other than the Secretary proposing an order shall file with the Administrator a written application, together with a copy of the proposal, requesting the Secretary to hold a hearing upon the proposal. Upon receipt of such proposal, the Administrator shall cause such investigation to be made and such consideration to be given as, in the Administrator's opinion, are warranted. If the investigation and consideration lead the Administrator to conclude that the proposed order will not tend to effectuate the declared policy of the Act, or that for other proper reasons a hearing should not be held on the proposal, the Administrator shall deny the application, and promptly notify the applicant of such denial, which notice shall be accompanied by a brief statement of the grounds for the denial.

(b) If the investigation and consideration lead the Administrator to conclude that the proposed order will tend to effectuate the declared policy of the Act, or if the Secretary desires to propose an order, the Administrator shall sign and cause to be served a notice of hearing, as provide herein.

##### § 1200.4 Reimbursement of U.S. Department of Agriculture expenses.

If provided for in the act or any amendment thereto, expenses incurred by the Secretary in preparing or amending the order, administering the

order, and conducting the referendum shall be reimbursed.

#### § 1200.5 Institution of proceedings.

(a) *Filing and contents of the notice of hearing.* The proceeding shall be instituted by filing the notice of hearing with the hearing clerk. The notice of hearing shall contain a reference to the authority under which the order is proposed; shall define the scope of the hearing as specifically as may be practicable; shall contain either the terms or substance of the proposed order or a description of the subjects and issues involved; and shall state the time and place of such hearing, and the place where copies of such proposed order may be obtained or examined. The time of the hearing shall not be less than 15 days after the date of publication of the notice in the *Federal Register*, as provided herein, unless the Administrator shall determine that an emergency exists which requires a shorter period of notice, in which case the period of notice shall be that which the Administrator may determine to be reasonable in the circumstances: Except that in the case of hearings on amendments to an order, the time of the hearing may be less than 15 days but shall not be less than three days after the date of publication in the *Federal Register*.

(b) *Giving notice of hearing and supplemental publicity.* (1) The Administrator shall give or cause to be given notice of hearing in the following manner:

- (i) By publication of the notice of hearing in the *Federal Register*;
- (ii) By mailing a copy of the notice of hearing to each organization known by the Administrator to be interested therein;
- (iii) By issuing a press release containing the complete text or a summary of the contents of the notice of hearing and making the same available to such newspapers as, in the Administrator's discretion, are best calculated to bring the notice to the attention of the persons interested therein; and
- (iv) By forwarding copies of the notice of hearing addressed to those Governors of the States and executive heads of territories and possessions of the United States and the mayor of the District of Columbia that are directly affected by such order.

(2) Legal notice of the hearing shall be deemed to be given if notice is given in the manner provided by paragraph (b)(1)(i) of this section failure to give notice in the manner provided in paragraphs (b)(ii), (iii), and (iv) of this

section shall not affect the legality of the notice.

(c) *Record of notice and supplemental publicity.* There shall be filed with the hearing clerk or submitted to the judge at the hearing an affidavit or certificate of the person giving the notice provided in paragraphs (b)(1)(iii) and (iv) of this section. In regard to the provisions relating to mailing in paragraph (b)(1)(ii) of this section, determination by the Administrator that such provisions have been complied with shall be filed with the hearing clerk or submitted to the judge at the hearing. In the alternative, if notice is not given in the manner provided in paragraphs (b)(1)(ii), (iii), and (iv) of this section there shall be filed with the hearing clerk or submitted to the judge at the hearing a determination by the Administrator that such notice is impracticable, unnecessary, or contrary to the public interest with a brief statement of the reasons for such determination. Determinations by the Administrator as herein provided shall be final.

#### § 1200.6 Docket number.

Each proceeding, immediately following its institution, shall be assigned a docket number by the hearing clerk and thereafter the proceeding may be referred to by such number.

#### § 1200.7 Judge.

(a) *Assignment.* No judge who has any pecuniary interest in the outcome of a proceeding shall serve as judge in such proceeding.

(b) *Power of judge.* Subject to review by the Secretary, as provided elsewhere in this subpart, the judge in any proceeding shall have power to:

- (1) Rule upon motions and requests;
- (2) Change the time and place of hearings, and adjourn the hearing from time to time or from place to place;
- (3) Administer oaths and affirmations and take affidavits;
- (4) Examine and cross-examine witnesses and receive evidence;
- (5) Admit or exclude evidence;
- (6) Hear oral argument on facts or law; and
- (7) Do all acts and take all measures necessary for the maintenance of order at the hearings and the efficient conduct of the proceeding.

(c) *Who may act in absence of judge.* In case of the absence of the judge or the judge's inability to act, the powers and duties to be performed by the judge under this part in connection with a proceeding may, without abatement of the proceeding unless otherwise ordered by the Secretary, be assigned to any other judge.

(d) *Disqualification of judge.* The judge may at any time withdraw as judge in a proceeding if such judge deems himself or herself to be disqualified. Upon the filing by an interested person in good faith of a timely and sufficient affidavit of personal bias or disqualification of a judge, the Secretary shall determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as the Secretary may deem appropriate in the circumstances.

#### § 1200.8 Motions and requests.

(a) *General.* (1) All motions and requests shall be filed with the hearing clerk, except that those made during the course of the hearing may be filed with the judge or may be stated orally and made a part of the transcript.

(2) Except as provided in § 1200.17(b) such motions and requests shall be addressed to, and ruled on by, the judge if made prior to certification of the transcript pursuant to § 1200.11 or by the Secretary if made thereafter.

(b) *Certification to Secretary.* The judge may, in his or her discretion, submit or certify to the Secretary for decision any motion, request, objection, or other question addressed to the judge.

#### § 1200.9 Conduct of the hearing.

(a) *Time and place.* The hearing shall be held at the time and place fixed in the notice of hearing, unless the judge shall have changed the time or place, in which event the judge shall file with the hearing clerk a notice of such change, which notice shall be given in the same manner as provided in § 1200.5 (relating to the giving of notice of the hearing): Except that if the change in time or place of hearing is made less than five days prior to the date previously fixed for the hearing, the judge either in addition to or in lieu of causing the notice of the change to be given, shall announce, or cause to be announced, the change at the time and place previously fixed for the hearing.

(b) *Appearances.* (1) *Right to appear.* At the hearing, any interested person shall be given an opportunity to appear, either in person or through authorized counsel or representative, and to be heard with respect to matters relevant and material to the proceeding. Any interested person who desires to be heard in person at any hearing under these rules shall, before proceeding to testify, state his or her name, address, and occupation. If any such person is appearing through a counsel or representative, such person or such counsel or representative shall, before

proceeding to testify or otherwise to participate in the hearing, state for the record the authority to act as such counsel or representative, and the names, addresses, and occupations of such person and such counsel or representative. Any such person or such counsel or representative shall give such other information respecting such appearance as the judge may request.

(2) *Debarment of counsel or representative.* (i) Whenever, while a proceeding is pending before the judge, such judge finds that a person, acting as counsel or representative for any person participating in the proceeding, is guilty of unethical or unprofessional conduct, the judge may order that such person be precluded from further acting as counsel or representative in such proceeding. An appeal to the Secretary may be taken from any such order, but the proceeding shall not be delayed or suspended pending disposition of the appeal: Except that the judge may suspend the proceeding for a reasonable time for the purpose of enabling the client to obtain other counsel or representative.

(ii) In case the judge has ordered that a person be precluded from further action as counsel or representative in the proceeding, the judge within a reasonable time thereafter shall submit to the Secretary a report of the facts and circumstances surrounding such order and shall recommend what action the Secretary should take respecting the appearance of such person as counsel or representative in other proceedings before the Secretary. Thereafter the Secretary may, after notice and an opportunity for hearing, issue such order respecting the appearance of such person as counsel or representative in proceedings before the Secretary as the Secretary finds to be appropriate.

(3) *Failure to appear.* If any interested person fails to appear at the hearing, that person shall be deemed to have waived the right to be heard in the proceeding.

(c) *Order of procedure.* (1) The judge shall, at the opening of the hearing prior to the taking of testimony, have noted as part of the record the notice of hearing as filed with the Office of the Federal Register and the affidavit or certificate of the giving of notice or the determination provided for in § 1200.5(c).

(2) Evidence shall then be received with respect to the matters specified in the notice of the hearing in such order as the judge shall announce.

(d) *Evidence.* (1) *General.* The hearing shall be publicly conducted, and the testimony given at the hearing shall be reported verbatim.

(i) Every witness shall, before proceeding to testify, be sworn or make affirmation. Cross-examination shall be permitted to the extent required for a full and true disclosure of the facts.

(ii) When necessary, in order to prevent undue prolongation of the hearing, the judge may limit the number of times any witness may testify to the same matter or the amount of corroborative or cumulative evidence.

(iii) The judge shall, insofar as practicable, exclude evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* If a party objects to the admission or rejection of any evidence or to any other ruling of the judge during the hearing, such party shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the judge. The transcript shall not include argument or debate thereon except as ordered by the judge. The ruling of the judge on any objection shall be a part of the transcript. Only objections made before the judge may subsequently be relied upon in the proceeding.

(3) *Proof and authentication of official records or documents.* An official record or document, when admissible for any purpose, shall be admissible as evidence without the presence of the person who made or prepared the same. The judge shall exercise discretion in determining whether an official publication of such record or document shall be necessary, or whether a copy would be permissible. If permissible such a copy should be attested to by the person having legal custody of it, and accompanied by a certificate that such person has the custody.

(4) *Exhibits.* All written statements, charts, tabulations, or similar data offered in evidence at the hearing shall, after identification by the proponent and upon satisfactory showing of authenticity, relevancy, and materiality, be numbered as exhibits and received in evidence and made a part of the record. Such exhibits shall be submitted in quadruplicate and in documentary form. In case the required number of copies is not made available, the judge shall exercise discretion as to whether said exhibits shall, when practicable, be read in evidence or whether additional copies shall be required to be submitted within a time to be specified by the judge. If the testimony of a witness refers to a statute, or to a report or document (including the record of any previous hearing), the judge, after inquiry relating to the identification of such statute,

report, or document, shall determine whether the same shall be produced at the hearing and physically be made a part of the evidence as an exhibit, or whether it shall be incorporated into the evidence by reference. If relevant and material matter offered in evidence is embraced in a report or document (including the record of any previous hearing) containing immaterial or irrelevant matter, such immaterial or irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the judge.

(5) *Official notice.* Official notice at the hearing may be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character: Except that interested persons shall be given an adequate period of time, at the hearing or subsequent to it, of matters so noticed and shall be given adequate opportunity to show that such facts are inaccurate or are erroneously noticed.

(6) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript in toto. In such event, it shall be considered a part of the transcript if the Secretary decides that the judge's ruling in excluding the evidence was erroneous. The judge shall not allow the insertion of such evidence in toto if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the judge erred in excluding the evidence, and that such error was substantial, the hearing shall be reopened to permit the taking of such evidence.

#### § 1200.10 Oral and written arguments.

(a) *Oral argument before the judge.* Oral argument before the judge shall be in the discretion of the judge. Such argument, when permitted, may be limited by the judge to any extent that the judge finds necessary for the expeditious disposition of the proceeding and shall be reduced to writing and made part of the transcript.

(b) *Briefs, proposed findings, and conclusions.* The judge shall announce at the hearing a reasonable period of time within which interested persons may file with the hearing clerk proposed findings and conclusions, and written

arguments or briefs, based upon the evidence received at the hearing, citing, where practicable, the page or pages of the transcript of the testimony where such evidence appears. Factual material other than that adduced at the hearing or subject to official notice shall not be alluded to therein, and, in any case, shall not be considered in the formulation of the order. If the person filing a brief desires the Secretary to consider any objection made by such person to a ruling of the judge, as provided in § 1200.9(d), that person shall include in the brief a concise statement concerning each such objection, referring, where practicable, to the pertinent pages of the transcript.

#### § 1200.11 Certification of the transcript.

The judge shall notify the hearing clerk of the close of a hearing as soon as possible thereafter and of the time for filing written arguments, briefs, proposed findings, and proposed conclusions and shall furnish the hearing clerk with such other information as may be necessary. As soon as possible after the hearing, the judge shall transmit to the hearing clerk an original and three copies of the transcript of the testimony and the original and all copies of the exhibits not already on file in the office of the hearing clerk. The judge shall attach to the original transcript of the testimony a certificate stating that, to the best of the judge's knowledge and belief, the transcript is a true transcript of the testimony given at the hearing, except in such particulars as the judge shall specify, and that the exhibits transmitted are all the exhibits as introduced at the hearing with such exceptions as the judge shall specify. A copy of such certificate shall be attached to each of the copies of the transcript of testimony. In accordance with such certificate the hearing clerk shall not upon the official record copy, and cause to be noted on other copies of the transcript, each correction detailed therein by adding or crossing out (but without obscuring the text as originally transcribed) at the appropriate place any words necessary to make the same conform to the correct meaning, as certified by the judge. The hearing clerk shall obtain and file certifications to the effect that such corrections have been effectuated in copies other than the official record copy.

#### § 1200.12 Copies of the transcript.

(a) During the period in which the proceeding has an active status in the Department, a copy of the transcript and exhibits shall be kept on file in the office of the hearing clerk where it shall be

available for examination during official hours of business. Thereafter said transcript and exhibits shall be made available by the hearing clerk for examination during official hours of business after prior request and reasonable notice to the hearing clerk.

(b) If a personal copy of the transcript is desired, such copy may be obtained upon written application filed with the reporter and upon payment of fees at a rate that may be agreed upon with the reporter.

#### § 1200.13 Administrator's recommended decision.

(a) *Preparation.* As soon as practicable following the termination of the period allowed for the filing of written arguments or briefs and proposed findings and conclusions the Administrator shall file with the hearing clerk a recommended decision.

(b) *Contents.* The Administrator's recommended decision shall include: (1) A preliminary statement containing a description of the history of the proceedings, a brief explanation of the material issues of fact, law, or discretion presented on the record, and proposed findings and conclusions about such issues, including the reasons or basis for such proposed findings; (2) a ruling upon each proposed finding or conclusion submitted by interested persons; and (3) an appropriate proposed order effectuating the Administrator's recommendations.

(c) *Exceptions to recommended decision.* Immediately following the filing of the recommended decision, the Administrator shall give notice thereof and opportunity to file exceptions thereto by publication in the Federal Register. Within a period of time specified in such notice any interested person may file with the hearing clerk exceptions to the Administrator's proposed order and a brief in support of such exceptions. Such exceptions shall be in writing, shall refer, where practicable, to the related pages of the transcript, and may suggest appropriate changes in the proposed order.

(d) *Omission of recommended decision.* The procedure provided in this section may be omitted only if the Secretary finds on the basis of the record that due and timely execution of the Secretary's functions imperatively and unavoidably requires such omission.

#### § 1200.14 Submission to Secretary.

Upon the expiration of the period allowed for filing exceptions or upon request of the Secretary, the hearing clerk shall transmit to the Secretary the record of the proceeding. Such record

shall include: All motions and requests filed with the hearing clerk and rulings thereon; the certified transcript; any proposed findings or conclusions or written arguments or briefs that may have been filed; the Administrator's recommended decision, if any; and such exceptions as may have been filed.

#### § 1200.15 Decision by the Secretary.

After due consideration of the record, the Secretary shall render a decision. Such decision shall become a part of the record and shall include: (a) A statement of findings and conclusions, including the reasons or basis for such findings, upon all the material issues of fact, law, or discretion presented on the record, (b) a ruling upon each proposed finding and proposed conclusion not previously ruled upon in the record, (c) a ruling upon each exception filed by interested persons, and (d) either (1) denial of the proposal to issue an order, or (2) if the findings upon the record so warrant, an order, the provisions of which shall be set forth and such order shall be complete except for its effective date and any determinations to be made under § 1200.16: Except that such order shall not be executed, issued, or made effective until and unless the Secretary determines that the requirements of § 1200.16 have been met.

#### § 1200.16 Execution of the order.

(a) *Issuance of the order.* The Secretary shall, if the Secretary finds that it will tend to effectuate the purposes of the Act, issue and make effective the order which was filed as part of the Secretary's decision pursuant to § 1200.15: Except that the issuance of such order shall have been approved or favored by eligible voters as required by the applicable Act.

(b) *Effective date of order.* No order shall become effective in less than 30 days after its publication in the Federal Register, unless the Secretary, upon good cause found and published with the order, fixes an earlier effective date.

(c) *Notice of issuance.* After issuance of the order, such order shall be filed with the hearing clerk, and notice thereof, together with notice of the effective date, shall be given by publication in the Federal Register.

#### § 1200.17 Filing, extension of time, effective date of filing, and computation of time.

(a) *Number of copies.* Except as provided otherwise herein, all documents or papers required or authorized by the foregoing provisions hereof to be filed with the hearing clerk shall be filed in quadruplicate. Any documents or papers so required or

authorized to be filed with the hearing clerk shall be filed with the judge during the course of an oral hearing.

(b) *Extension of time.* The time for filing of any document or paper required or authorized by the foregoing provisions to be filed may be extended by the judge (before the record is so certified by the judge) or by the Secretary (after the record is transmitted to the Secretary) upon request filed, and if, in the judgment of the judge or the Secretary, as the case may be, there is good reason for the extension. All rulings made pursuant to this paragraph shall be filed with the hearing clerk.

(c) *Effective date of filing.* Any document or paper required or authorized by the foregoing provisions to be filed shall be deemed to be filed when it is postmarked or, if otherwise delivered, when it is received by the hearing clerk.

(d) *Computation of time.* Sundays and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: Except that when such time expires on a Sunday, or a Federal holiday, such period shall be extended to include the next following business day.

#### § 1200.18 Ex parte communications.

(a) At no stage of the proceeding following the issuance of a notice of hearing and prior to the issuance of the Secretary's decision thereon shall an employee of the Department who is or may reasonably be expected to be involved in the decision process of the proceeding discuss ex parte the merits of the proceeding with any person having an interest in the proceeding or with any representative of such person: Except that procedural matters and status reports shall not be included within the limitation: And except further that an employee of the Department who is or may reasonably be expected to be involved in the decision process of the proceeding may discuss the merits of the proceeding with such a person if all parties known to be interested in the proceeding have been given notice and an opportunity to participate. A memorandum of any such discussion shall be included in the record of the proceeding.

(b) No person interested in the proceeding shall make or knowingly cause to be made to an employee of the Department who is or may reasonably be expected to be involved in the decision process of the proceeding an ex parte communication relevant to the merits of the proceeding except as provided in paragraph (a) of this section.

(c) If an employee of the Department who is or may reasonably be expected

to be involved in the decisional process of the proceeding receives or makes a communication prohibited by this section, the Department shall place on the public record of the proceeding:

- (1) All such written communications;
- (2) Memoranda stating the substance of all such oral communications; and
- (3) All written responses, and memoranda, stating the substance of all oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section, the Department may, to the extent consistent with the interest of justice and the policy of the underlying statute, take whatever steps are deemed necessary to nullify the effect of such communication.

(e) For the purposes of this section, "ex parte communication" means any oral or written communication not on the public record with respect to which reasonable prior notice to all interested parties is not given, but which shall not include requests for status reports (including requests on procedural matters) on a proceeding.

#### § 1200.19 Additional documents to be filed with hearing clerk.

In addition to the documents or papers required or authorized by the foregoing provisions of this subpart to be filed with the hearing clerk, the hearing clerk shall receive for filing and shall have custody of all papers, reports, records, orders, and other documents which relate to the administration of any order and which the Secretary is required to issue or to approve.

#### § 1200.20 Hearing before Secretary.

The Secretary may act in the place and stead of a judge in any proceeding herein. When the Secretary so acts, the hearing clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions, and orders, and the Secretary shall then, after due consideration of the record, issue the final decision in the proceeding: Except the Secretary may issue a tentative decision in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final decision.

Effective date: This subpart shall become effective on May 25, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-14806 Filed 5-28-82; 8:45 am]

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 202

[Reg. B; Docket No. R-0203]

#### Equal Credit Opportunity; Proposed Board Interpretations; Consideration of Income and Disclosure of Reasons for Adverse Action

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed Board interpretations.

**SUMMARY:** The Board proposes to adopt two interpretations of Regulation B, Equal Credit Opportunity. The Board seeks comment on whether creditors affected by the interpretations will encounter technical problems in complying with these interpretations. The first interpretation discusses how users of judgmental and credit scoring systems must treat income derived from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance to comply with the regulation's requirement that creditors not "discount or exclude from consideration" such income. The second interpretation explains how creditors should select and disclose the principal reason or reasons for adverse action. These interpretations derive from questions that have been raised about the application of Regulation B to credit scoring systems, but the basic principles apply to judgmental systems as well.

**DATE:** Comments must be received on or before July 1, 1982.

**ADDRESS:** Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to Docket No. R-0203.

**FOR FURTHER INFORMATION CONTACT:** Lucy Griffin, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (202-452-2412).

**SUPPLEMENTARY INFORMATION:** (1) *Introduction.* In response to requests for clarification on how certain provisions of its Regulation B (12 CFR Part 202) apply to the operation of numerical credit scoring systems,<sup>1</sup> the Board asked

<sup>1</sup> Basically, credit scoring is the use of statistical techniques to assign points or weights to various applicant characteristics (e.g., income, credit

for public comment (44 FR 23865, April 23, 1979) on four questions about Regulation B's application to credit scoring systems:

- May a credit scoring system score the fact that an applicant has more than one job or multiple sources of income, and may it score secondary income differently from primary income?

- How must a scoring system consider the amount of an applicant's income derived from part-time employment, pension, or alimony?

- How must a creditor using a scoring system select the specific reasons for adverse action?

- Under what circumstances may a creditor employing a credit scoring system use the reasons for adverse action contained in Regulation B's model statement?

The Board received almost 300 written comments from members of Congress, industry, academics, and others. The comments expressed a wide diversity of views about how Regulation B's rules should apply to credit scoring systems. The multiplicity of viewpoints and the underlying technical complexity of the questions raised in the comment process led to a thorough reconsideration of the issues and the policy options available. Based on that review, the Board issued for public comment (45 FR 56818, August 26, 1980) two proposed interpretations. The first proposal addressed several issues concerning consideration of income and income reliability. The second proposal set forth several principles governing the selection and disclosure of adverse action. Both proposed interpretations affirmed the Board's conclusion, based upon an analysis of the comments and the Equal Credit Opportunity Act, that the rules in Regulation B apply to all creditors, whether they evaluate creditworthiness judgmentally or through a credit scoring system.

The Board received almost 300 written comments on these proposals from members of Congress, federal and state agencies, industry, consumers, and academics. Generally, creditors (retailers, oil companies, financial institutions, and trade associations) claimed that a properly designed credit scoring system is an accurate, objective mechanism for determining

history) or other factors relevant to the transaction (e.g., type of security) in order to predict the likelihood that the applicant will satisfactorily repay the credit. In Regulation B, an empirically and statistically derived credit scoring system is contrasted with the judgmental evaluation performed by a credit officer or committee; compare the definition of "a demonstrably and statistically sound, empirically derived credit system" in § 202.2(p) with the definition of "judgmental system of evaluating applicants" in § 202.2(i).

creditworthiness. They suggested that to preserve the empirical and statistical character of such a system, a creditor should be allowed wide latitude to include in or exclude from a particular system the amount and sources of an applicant's income depending on whether those factors were related in a statistically significant way to creditworthiness as established by the creditor developing the system. They also advocated that wide latitude be given to determining the most appropriate way for selecting and disclosing the principal reason or reasons for an adverse credit decision.

Consumer commenters (including several members of Congress and a number of individual consumers) generally were concerned that the Board not reduce or eliminate what they perceived as the basic protections already afforded by the law. They were opposed to allowing creditors the degree of flexibility sought by the industry because of the belief that such flexibility might be used to mask illegally discriminatory practices.

Based on a review of the comments and its own analysis, the Board has redrafted the proposed interpretations. Before adopting them in final form, however, the Board wishes to provide an opportunity for comment on technical problems creditors might encounter in complying with the interpretations. The Board also solicits comments on whether a period of time is needed for technical adjustments to existing credit scoring systems to comply with the interpretations. Because comments are only being solicited on the technical difficulties creditors would encounter in complying with the interpretations, the Board finds it is not necessary to follow the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957). Instead, the Board finds that a 30 day comment period is sufficient.

The first interpretation (§ 202.601) addresses several issues concerning consideration of income and income reliability. The interpretation clarifies that Regulation B applies to credit scoring systems as well as to judgmental systems. The interpretation also advises that income need not be considered, but that, if income is considered, protected income must be considered on an individual basis and not assigned a weight based on aggregate statistics.

The second interpretation (§ 202.901) sets forth several principles governing the selection and disclosure of reasons for adverse action. The interpretation advises creditors that the process used to select specific reasons for adverse

action must identify the factors that were most significant in the applicant's failure to achieve a passing score in a credit scoring system. The interpretation also advises creditors that the reasons must be taken from those factors actually considered for that applicant. Finally, the interpretation advises creditors on proper use of the model form for disclosing reasons for adverse action.

(2) *Regulatory flexibility analysis.* The economic impact of either interpretation is unlikely to be large. Creditors currently using credit scoring systems which treat protected income in a manner that violates the first interpretation will have to modify their systems. This will entail the retraining of persons making loan evaluations and the probable expense of further statistical analysis. Most creditors have the tools needed for making such changes as part of their procedures for normal periodic updates of their systems. System modifications to conform to the interpretation, however, might require a system update earlier than would normally be performed. The economic impact of the second interpretation, governing the selection and disclosure of reasons for adverse action, is likely to be even smaller, as it should not require any new statistical analysis. The impact of either interpretation on users of judgmental systems should involve at most the expense of new forms and instructions for loan officers. Offsetting these costs, the clarifications provided by the interpretations will probably help both applicants and creditors. With more precise instructions on the proper treatment of protected income, creditors who previously may have been reluctant to use income in their credit systems may now do so. The benefits of the second interpretation will accrue primarily to applicants who are rejected because of incorrect information and to applicants who are unaware of their credit weaknesses.

#### List of Subjects in 12 CFR Part 202

Banks, banking; Civil rights; Consumer protection; Credit; Federal Reserve System; Marital status discrimination; Minority groups; Penalties; Religious discrimination; Sex discrimination; Women.

#### PART 202—EQUAL CREDIT OPPORTUNITY

(3) *Text of interpretations.* Pursuant to the authority granted in Section 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(a)), the Board proposes to adopt the following two interpretations

§§ 202.601 and 202.901) of Regulation B (12 CFR Part 202) to read as follows:

**§ 202.601 Consideration of Income.**

(a) Regulation B prohibits creditors from discounting or excluding the income of an applicant (or the spouse of the applicant) from consideration because of a prohibited basis or because the income is derived from alimony, child support, separate maintenance, part-time employment, retirement benefits or public assistance ("protected income").<sup>2</sup> A creditor may consider, however, the probability of any income continuing in evaluating an applicant's creditworthiness, and may consider the extent to which alimony, child support or separate maintenance is likely to be consistently made. Regulation B applies equally to all methods of credit evaluation—whether performed judgmentally or through the use of a credit scoring system.<sup>3</sup>

(b) Creditors need not consider income at all. However, creditors that do consider income should consider the amount of income as required in § 202.6(b)(5). A credit scoring system will not be deprived of its status as a "demonstrably and statistically sound, empirically derived" credit scoring system because it aggregates income (including a type of income which, by itself, would not be selected as a predictive characteristic).

(c) Creditors have asked whether evaluating or deriving a point score for certain types of income (such as Social Security and alimony) during the development of the system constitutes "consideration" of that income for purposes of the regulation, enabling the creditor to discount or exclude such income based upon these aggregate statistics. In the Board's view, the

statute requires that evaluation of protected income be made on an individual basis, and not based upon aggregate statistical relationships such as those underlying credit scoring models. Thus, creditors may not use blanket rules which automatically deem a certain type of protected income to be unreliable. Nor may the average reliability of a particular type of protected income be used to predict the reliability of the same types of income for an individual applicant.

(d) For creditors that do consider income, there are several acceptable methods under § 202.6(b)(5) which creditors using credit scoring systems may use for this purpose. First, creditors can score the amount of all income stated by the applicant without taking steps to evaluate the income. This method could be used in a system which is based on the income the applicant states; the creditor need not actually verify the amount. Second, based on an individual evaluation of each component of the applicant's income, the creditor may score reliable income separately from income that is not reliable. Alternatively, the creditor may include a portion or disregard a portion of income to the extent that it is not reliable, before aggregating and scoring all reliable income. Third, if the creditor does not evaluate all income components, any component of protected income that is not evaluated must be treated as reliable. In considering the separate components of an applicant's income, the creditor may not automatically discount or exclude from consideration any income of a type protected by § 202.6(b)(5).

(e) Creditors have asked whether credit scoring systems may place values on the number of sources from which earned income is received without violating the regulation's prohibition against discounting income. The regulation does not prohibit consideration of the number of earned income sources for an individual applicant. For example, a creditor may take into account the fact that an individual applicant has more than one source of earned income—a full-time and a part-time job, or two part-time jobs. Alternatively, a creditor might score an individual applicant's earned income from a second source differently than the applicant's earned income from a primary source. Creditors may not, however, treat as an adverse factor the fact that an individual applicant's only source of earned income is derived from a part-time job.

**§ 202.901 Disclosure of reasons for adverse action.**

(a) The Board has been asked for an interpretation of § 202.9 of Regulation B regarding the selection and disclosure of the reasons for adverse action<sup>4</sup> where a credit scoring system is used, alone or in conjunction with a judgmental evaluation. Although the issue has arisen in the context of credit scoring, as a general principle the provisions of Regulation B apply equally to both judgmental and credit scoring systems of credit evaluation. The reasons for adverse action disclosed under § 202.9(a)(2) and (b)(2) must relate to factors actually scored or reviewed by the creditor. The creditor must disclose the specific reason or reasons for the adverse action.

(b) Many credit systems contain features that call for automatic adverse action because of one or more negative factors in the applicant's record (such as the applicant's previous bad credit history with that creditor, a declaration of bankruptcy, or the fact that the applicant is a minor) that cannot be offset by other factors. When a creditor takes adverse action because of an automatic factor, the creditor must disclose that specific factor.

(c) If the creditor does not automatically reject the application, and bases the decision on a credit scoring system, the reasons disclosed must relate only to those factors actually scored in the system, not to factors that are not included in the credit scoring system. Similarly, in a judgmental system, the reasons disclosed must relate to the factors in the applicant's record actually reviewed by the person making the decision and must accurately describe the reasons for adverse action. If the credit evaluation system employs both judgmental and credit scoring components, the factors to be disclosed will be determined by whether the final decision resulted from the judgmental or the scoring system assessment of the application. Thus, if the creditor initially credit scores an application and takes adverse action as a result of that scoring, the reasons for adverse action must relate only to the factors actually scored in the system. If the application passes the credit scoring stage successfully but the creditor then takes adverse action based on the judgmental assessment, one or more of the reasons disclosed must relate to the factors in the applicant's record that were reviewed judgmentally.

Any notification given to an applicant against whom adverse action is taken shall

<sup>2</sup>Section 202.6(b)(5) states in relevant part:

A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of the applicant because of a prohibited basis or because the income is derived from part-time employment, or from an annuity, pension, or other retirement benefit; but a creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness. Where an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, a creditor shall consider such payments as income to the extent that they are likely to be consistently made. Factors that a creditor may consider in determining the likelihood of consistent payments include, but are not limited to, whether the payments are received pursuant to a written agreement or court decree; the length of time that the payments have been received; the regularity of receipt; the availability of procedures to compel payment; and the creditworthiness of the payor. . . .

<sup>3</sup>The only differences in evaluation procedures for the two methods of judging creditworthiness sanctioned by the law relate to consideration of age and receipt of public assistance. (See § 202.6(b)(2)(ii) and (iii).)

<sup>4</sup>Section 202.9(a)(2) states in relevant part:

be in writing and shall contain \* \* \* a statement of specific reasons for the action taken.

Section 202.9(b)(2) states in relevant part:

A statement of reasons for adverse action shall be sufficient if it is specific and indicates the principal reason(s) for the adverse action. A creditor may formulate its own statement of reasons in check list or letter form or may use all or a portion of the sample form printed [in this subsection], which, if properly completed, satisfies the requirements of subsection (a)(2)(i). Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient.

(e) The regulation does not require that any one method be used for selecting reasons for the adverse credit decision, nor does it mandate that a specific number of reasons be disclosed. However, disclosure of more than four reasons is not likely to be helpful to the applicant. The Board recognizes that there may be a number of valid methods for selection of reasons for denial which meet the requirements of Regulation B. One method, for example, would be to identify those factors for which the applicant's score fell furthest below the average score for each of these factors achieved by applicants whose total score was at or slightly above the minimum passing score.<sup>5</sup>

(f) Creditors may identify reasons for adverse action by mathematical or manual selection. No factor or factors may be arbitrarily excluded from the pool of factors subject to disclosure. The creditor must disclose reasons actually considered (such as "age of automobile") even if the relationship of that factor to predicting creditworthiness may not be clear to the applicant.

(g) Creditors have also asked about proper use of the sample form set forth in § 202.9(b)(2) when providing reasons for adverse action. The sample form is illustrative and may not be appropriate for all creditors. It was designed to disclose those factors which creditors most commonly consider. Some of the reasons listed on the form could be misleading when compared to the factors actually scored. In such cases, it is improper to complete the form by simply checking the closest identifiable factor listed. For example, a creditor that considers only bank references (and disregards finance company references altogether) should disclose "insufficient bank references" (not "insufficient

<sup>5</sup>For example, if a scoring system with a maximum score of 300 points has a cut-off score of 200 points, the creditor could use applicants whose total scores fall between 200 and, for example, 205 points to determine the average score for those factors.

credit references"). Similarly, a creditor that considers bank references and other credit references as separate factors should treat the two factors separately in disclosing reasons. The creditor should either add those other factors to the form or check "other" and include the appropriate explanation.

By order of the Board of Governors of the Federal Reserve System, May 25, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-14708 Filed 5-28-82; 9:45 am]

BILLING CODE 5210-01-M

## 12 CFR Part 202

[Reg. B; Docket No. R-0185]

### Equal Credit Opportunity; Proposed Withdrawal of Proposed Amendments

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed withdrawal of proposed amendments.

**SUMMARY:** The Board proposes to withdraw amendments to the business credit provisions of Regulation B which it published for comment in October 1978. The Board specifically solicits comment, however, on whether creditors should be required to give business credit applicants a written notice of adverse action in certain loan transactions under \$100,000. The amendments to the business credit rules would have (1) eliminated the partial exemption that currently exists with respect to record keeping and adverse action notification requirements in certain loan transactions under \$100,000; (2) subjected business credit to the general bar in the regulation against asking an applicant's marital status; and (3) incorporated official staff interpretation EC-0009 into the regulation to make clear that creditors must give business applicants some notice, oral or written, of action taken on an application within a reasonable time. The amendments would have affected only the mechanical requirements of the regulation and their withdrawal will not affect the substantive provisions of the Equal Credit Opportunity Act and Regulation B which will continue to prohibit discrimination on the basis of sex, marital status, race, etc. in any aspect of a business credit transaction.

**DATE:** Comments must be received on or before July 1, 1982.

**ADDRESS:** Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223,

20th and Constitution Avenue, N.W., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to Docket No. R-0185.

#### FOR FURTHER INFORMATION CONTACT:

Claudia J. Yarus, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

#### SUPPLEMENTARY INFORMATION: (1)

**Introduction.** Regulation B (12 CFR Part 202) prohibits discrimination, in any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, age, receipt of public assistance, or the exercise of rights under the Consumer Credit Protection Act. The regulation applies to all credit transactions, including business credit.

The regulation sets certain mechanical requirements that creditors must follow with regard to applications that they receive. Sections 202.9 and 202.12(b) of Regulation B provide, respectively, that a creditor must give the applicant notice of the action taken on an application and retain, for 25 months, the records regarding the application. When the creditor rejects a credit application it must give an "adverse action" notice consisting of a written statement of reasons (or of the right to request the reasons) for the credit denial, together with a short summary of the applicant's rights under the Equal Credit Opportunity Act.

Because of the specialized nature of the business credit application process, Section 203.3(e) of Regulation B provides a partial exemption for business credit transactions from these notification and record keeping requirements. An applicant for business credit may request written notice of reasons for adverse action, but does not receive the written notice automatically. The business applicant may also request to have records of the application retained for 25 months. If there is no such request, the creditor may discard its records of the application 90 days after it rejects the credit request.

In October 1978 the Board published for comment proposed changes to these business credit provisions (43 FR 49987). The proposed amendments would have applied to direct loan applications in which the aggregate of any amount already owed to a creditor and the amount applied for is less than \$100,000. Creditors would have been required in such cases to give written notification of adverse action to the applicant, and to

retain the records of the application for 25 months.

The proposed rulemaking was in response to petitions from the President's Interagency Task Force on Women Business Owners and the staff of the Federal Trade Commission. The Interagency Task Force and the FTC staff both expressed concern about effective enforcement of the act in business credit transactions. With regard to the adverse action notice, they contended that unless a creditor gives notice, women and minority group members who own small businesses may not realize that the act applies to business credit. The FTC staff also suggested that subjecting business credit applications to record retention would ensure the availability of documentary evidence to both private litigants and enforcement agencies.

Another proposal related to marital status inquiries. Regulation B generally prohibits creditors from inquiring about an applicant's marital status except in the case of applications for secured credit. Section 202.3(e)(1) of Regulation B provides, however, that a creditor who receives an application for business credit is not subject to this restriction. The Interagency Task Force on Women Business Owners expressed concern that the current exemption may dilute the protection of the act for women business owners. The Board published for comment a proposed amendment that would have eliminated the exemption, making business credit subject to the general information bar against marital status inquiries.

Based on a review of the comments received and its own analysis, the Board proposes to withdraw the proposed amendments. Because of the time that has elapsed since the amendments were published, however, the Board is soliciting comment specifically on whether there have been intervening developments which suggest that creditors should be required to give business credit applicants a written notice of adverse action for direct loans in which the aggregate of any amount already owed to a creditor and the amount applied for is less than \$100,000. The Board understands that some creditors automatically provide a written notice of adverse action to their business credit applicants and that this is useful to the applicants. The Board is particularly interested in learning what impact, if any, the requirement of an adverse action notice would have on current creditor practices if the Board should decide to adopt this part of the amendment proposed in 1978. The Board finds that it is not necessary to follow

the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957). Instead, the Board finds that a 30 day comment period is sufficient.

The Board's proposed withdrawal of the business credit amendments is based on a number of factors. In the intervening years since the amendments were proposed, little or no concrete evidence of the specific problems that these amendments were intended to alleviate (and no general evidence of widespread problems) has been brought to the attention of the Board. In light of the costs and burdens that would be associated with the implementation of these amendments, their adoption appears unwarranted at this time. The regulation already provides that business credit applicants may receive written notice and have records retained on request, and any existing problems could be handled, for example, through educational efforts. The likely benefits of prohibiting inquiry about an applicant's marital status also appear to the Board to be rather limited. Because most applications for business credit are for secured credit, creditors would in most cases continue to be able to inquire about marital status.

The proposal published by the Board also would have codified within the text of the regulation an official staff interpretation, EC-0009, which was issued on November 2, 1977. That staff interpretation requires creditors to give business applicants some notice, either oral or written, of action taken on an application within a reasonable time. Official staff interpretation EC-0009 will remain in effect even if the Board withdraws the proposed amendments.

Creditors are also reminded that the proposed amendments which the Board proposes to withdraw would have affected only the mechanical requirements of the regulation. The substantive provisions of the Equal Credit Opportunity Act and Regulation B continue to prohibit discrimination on the basis of sex, marital status, race, etc. in any aspect of a business credit transaction.

(2) *Regulatory flexibility analysis.* In 1981 the denial rate at commercial banks for business credit applicants desiring to start a new business was estimated to be approximately 50 percent. The denial rate estimated for existing businesses was 27 percent.<sup>1</sup>

<sup>1</sup> *Survey of Commercial Bank Lending to Small Business*, February 1982, Cynthia Glassman and Peter Struck. The denial rate is an estimate of the proportion of written credit applications turned down by all federally insured commercial banks that had at least \$1 million in commercial and industrial loans in their portfolios on December 31,

Many of these denials would have required written "adverse action" notification and record retention for 25 months under the proposed amendments. At the 1981 level of denials, the annual compliance cost of the proposed amendments to the banking industry as a whole could be substantial. Although the impact on after-tax profits would likely be minimal for virtually all banks, many of the relatively small short-term loans that are currently available to small businesses could become unprofitable. Many banks find it difficult to provide affordable credit to their small business customers during periods of high interest rates. The proposed amendments could only aggravate the credit problems of small businesses, because the cost of compliance would ultimately be passed on to borrowers as increased cost of credit and reduced credit availability.

Small banks would likely be affected more than other banks by the proposed amendments. Their business loans tend to be exclusively to small business. Small banks' loan portfolios contain relatively few loans over \$100,000, and their average loan size is less than that for other banks. Therefore, the amendments would likely result in a greater cost per dollar of loan for small banks and their customers.

The potential negative impact of the proposed amendments on cost and availability of relatively small short-term small business loans would affect all creditors subject to the act, not only commercial banks.

The potential benefits of the proposed amendments appear to be limited. Survey evidence shows that small business credit is more costly and less accessible to some groups protected by the act,<sup>2</sup> but evidence suggesting that the disparity is caused by unlawful discrimination rather than a legitimate evaluation of risk is meager. Furthermore, it is unlikely that the proposed amendments could effectively uncover any unlawful discrimination that may exist. The business credit process is complex, and the multitude of factors considered in approving or denying business credit make such discovery difficult.

1980. These figures do not include informal applications and may reflect unusually weak credit demand caused by high interest rates. Thus, the number of rejected applications subject to the proposed amendments may be much larger. Estimates in the survey reflect the banks' perceptions of their small business lending, not the perceptions of the small business community.

<sup>2</sup> *Federal Monetary Policy and Its Effect on Small Business*, H.R. Report of the Committee on Small Business, 1980.

**List of Subjects in 12 CFR Part 202**

Banks, banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Religious discrimination, Sex discrimination, Women.

(3) *Text of 1978 proposal.* For the convenience of commenters the text of the 1978 proposal is included in this material. At that time, the Board proposed to amend § 202.3 by removing paragraph (e)(1), by renumbering existing paragraphs (e)(2), (3), and (4) as paragraphs (e)(1), (2), and (3), respectively, and by revising the paragraphs renumbered (e)(1) and (3), to read as follows:

§ 202.3—Special Treatment for Certain Classes of Transactions

(e) *Business credit.* The following provisions of this part shall not apply to extensions of credit of the type described in subsection (a)(4):

(1) Section 202.9(a) relating to notifications, except that:

(i) This exemption is not available regarding applications for or existing extensions of direct loans where the aggregate of the amounts owed by the applicant to the creditor and any amount applied for is less than \$100,000; and

(ii) In the case of any application or account where this exemption is available, the creditor nevertheless shall notify the applicant, orally or in writing, within a reasonable time of any action taken regarding the application or account; and if the applicant, within 30 days after a notification of adverse action is given, requests in writing the reasons for such action, the creditor shall furnish a written statement of specific reasons for the adverse action and the ECOA notice within 30 days of such a request, in accordance with § 202.9(b);

(2) Section 202.10 relating to furnishing of credit information; and

(3) Section 202.12(b) relating to record retention, except that:

(i) This exemption is not available regarding applications for or existing extensions of direct loans where the aggregate of the amounts owed by the applicant to the creditor and any amount applied for is less than \$100,000; and

(ii) In the case of any application or account where this exemption is available, the creditor nevertheless shall comply with § 202.12(b) if the applicant, within 90 days after adverse action has been taken, requests in writing that the records relating to the application or account be retained.

(4) *Authority.* 15 U.S.C. 1691.

By order of the Board of Governors of the Federal Reserve System, May 25, 1982.

William W. Wiles,  
Secretary of the Board.

[FR Doc. 82-14707 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

**FEDERAL DEPOSIT INSURANCE CORPORATION****12 CFR Part 350****Special Reporting Basis for Insured Savings Banks**

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Deposit Insurance Corporation ("FDIC") proposes to modify the basis upon which insured savings banks prepare the reports of condition and income that are filed with the FDIC. This proposed rule contains two parts: the first part requires that all debt and equity securities acquired by a savings bank on or after January 1, 1983, be reported on a current value basis; and the second part permits savings banks to defer and amortize all gains and losses on dispositions of financial assets acquired prior to January 1, 1983. The effect of this rule would be to provide savings banks with the ability to restructure their asset portfolios while placing a market discipline over their decisions to acquire or hold investment securities.

**DATE:** Comments must be received by August 2, 1982.

**ADDRESS:** Comments should be sent to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, or delivered to Room 6108 at the same address between the hours of 9:00 a.m. and 5:00 p.m. on business days. Comments received may be inspected in Room 6108 between 9:00 a.m. and 4:15 p.m. on business days.

**FOR FURTHER INFORMATION CONTACT:** Paul L. Sachtleben, Projects and Planning Specialist, (202) 389-4141, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

**SUPPLEMENTARY INFORMATION:** The current economic difficulties of thrift institutions generally are well known. If the unrealized economic losses in bond and mortgage portfolios were recognized by marking them to market (as opposed to the current accounting practice of carrying them at amortized historical cost), the average result would be a substantial charge against net worth. Because of the unique asset/liability structure of savings banks and the changed economic environment, risk considerations dictate that asset maturities be kept reasonably consistent with the short-term liabilities which finance them. Accounting measurements and financial reporting on a continuing

current value basis would further encourage maturity matching. Application of such a standard to the entire balance sheet would not change the current economic position of the institution. However, current value financial reporting would bring that position into focus to facilitate a better evaluation of the performance of the institution both by its management and by the FDIC.

The losses currently being reported by many thrift institutions in part are the delayed result of using the historical cost basis of reporting which has de-emphasized interest rate risk. Additionally, in many cases, the accounting result of a transaction may have an overriding influence on management decisions. For example, management may be deterred from a decision to sell a bond and reinvest the proceeds in a manner more consistent with a prudent business strategy when the transaction triggers accounting recognition of a loss. The FDIC believes that this is an inappropriate basis upon which to make a decision. As a consequence, accounting-driven anomalies such as the carrying of tax-exempt securities by institutions not in a taxable position can and do result. In short, the traditional historical cost-based accounting measurements which savings banks continue to apply today have become less satisfactory because their relevance has been reduced in the current environment of interest rate volatility.

The FDIC believes that current value reporting by savings banks is a desirable goal since it stresses that the discipline of the marketplace is preferable to traditional accounting conventions as the determinant of funding and investment decisions. Nevertheless, the proposed regulation limits the application of current value accounting to debt and equity securities acquired on or after January 1, 1983, because of the difficulties inherent in assigning current values to the remaining financial assets and to financial liabilities. The market values of debt and equity securities can generally be determined from their current market prices, a measurement which is based on verifiable evidence. The current value of other financial assets and liabilities must be measured as the present value of expected future cash inflows or outflows. This computation is a function of three factors: (1) The amounts of the expected future cash flows, (2) the timing of the expected future cash flows, and (3) the appropriate interest rate at which to discount the expected future cash flows.

While these factors can be developed at present for any specific financial asset or liability, each one will depend to a greater or lesser extent on a variety of estimates, assumptions, and judgments which lack verifiability. Therefore, the FDIC encourages the savings bank industry and the accounting profession to develop objective standards for measuring the present value of expected future cash flows associated with financial assets and liabilities lacking current market prices. Once a consensus has been reached, whether for a single class of asset or liability such as 1-4 family conventional mortgages or for a broader segment of the balance sheet such as loans, the FDIC will consider extending the current value reporting requirement beyond debt and equity securities.

The purpose of the optional provision of the proposed regulation is to furnish savings banks with both the opportunity and the flexibility to narrow the maturity gap between their assets and liabilities, not to bolster earnings artificially through accounting devices. The ability to defer losses will therefore provide savings banks with a foundation upon which to make more prudent investment decisions concerning continued retention or disposition of existing financial assets. Additionally, the proposed regulation may serve to increase potential liquidity for savings banks. Therefore, as savings banks reduce their present asset/liability mismatches through comprehensive asset restructuring programs and/or the repayment of borrowings, the proposed option will enable these institutions to better withstand future changes in market interest rates.

The present asset/liability structure of savings banks and the attendant maturity and interest rate imbalances are the product of many factors; however, the form of ownership of a savings bank does not appear to be one of them. In general, both mutual and stock savings banks are experiencing similar problems as a result of these imbalances. Because the proposed regulation is limited in scope to regulatory reporting only, the traditional historical cost basis of accounting for reporting to other users of savings bank financial data (including stockholders) need not be affected. For this reason, the Corporation has determined that the proposed regulation should apply to all insured savings banks.

#### Periodic Restatement

The proposed § 350.3 would require savings banks to restate the book values of newly acquired debt and equity securities to their current values

quarterly. Since the regulation relates only to the preparation of reports of condition and income, the existing accounting records of savings banks will need to be supplemented, at a minimum, by workpaper schedules on a current value basis to assure proper reporting to the FDIC. The revaluations of debt and equity securities to current values will establish new amounts of premium and discount each quarter. Computations of new rates of amortization or accretion applicable to these restated securities will follow at a similar frequency. Therefore, this ongoing procedure is more involved than under the present historical cost reporting basis where such rates are set for the life of an asset or liability at the time of acquisition.

Table A below illustrates the type of supplemental workpaper recordkeeping necessary for current value reporting for debt securities. The example presents the pro forma entries which would be made over a six-month period for a bond investment were the bank's accounting records maintained on this reporting basis rather than on a historical cost basis.

#### Method of Amortization

The proposed § 350.4 would allow a savings bank, at its option, to defer gains and losses on all dispositions of financial assets acquired prior to January 1, 1983. This election would apply to every disposition; selective application to individual transactions would not be permitted. Savings banks would be required to amortize the gains and losses using the interest method. The FDIC believes that the interest method will reflect most accurately the effects on an institution's financial condition of a sale or other disposition of low-yielding assets and subsequent use of the proceeds in a more profitable manner. Application of the interest method will result in an annual amortization that represents the difference between the interest that would have been earned from the assets disposed of, and that which would be earned if the proceeds were invested in new assets with the same remaining contractual life and repayment requirements as the disposed assets. The assumed rate of earnings on the assets acquired by reinvestment of the proceeds should be the rate of return provided the purchaser of the disposed assets. The regulation requires that the yield to the purchaser must be calculated assuming the same remaining life as is being used to amortize the loss. When income tax benefits or deferred acquisition credits reduce the amount amortized, each period's amortization

should be ratably adjusted for such amounts.

Tables B and C below illustrate the interest method of amortization of deferred losses on two types of savings bank financial assets. The first example assumes the savings bank sells \$50,000 principal amount of a 25-year, 9% mortgage which it carries on its books at par for a yield to maturity of 9%. The mortgage is priced to yield 16% to the purchaser until its scheduled maturity. The sales price of \$30,877.56 indicates a loss of \$19,122.44 which, in the absence of income tax benefits, is deferred and amortized over the 25-year remaining contractual life of the mortgage. The second example assumes the savings bank sells \$100,000 par value of a 10-year, 8% bond which it carries on its books at par for a yield to maturity of 8%. The bond is priced to yield 15% to the purchaser until its scheduled maturity. The sales price of \$64,320 indicates a loss of \$35,680 which, in the absence of income tax benefits, is deferred and amortized over the 10-year remaining life of the bond.

In both examples, had income tax benefits been available to the savings bank, each loss to be deferred and amortized would have been reduced by the appropriate tax rate.

TABLE A.—CURRENT VALUE WORKPAPER ENTRIES

	Debit	Credit
Jan. 1, 1983:		
Investments.....	\$985,800	
Cash and due from banks.....		\$985,800
To record the purchase of a \$1,000,000 par value, 14% bond, due 1-1-95, to yield 14.25%.		
Mar. 31, 1983:		
(a) Investments.....	119	
Income earned, not collected.....	35,000	
Bond income.....		35,119
To record income and discount accretion on the bond. Bond income: (\$985,000 × .1425) ÷ 4 = \$35,119.		
Mar. 31, 1983:		
(b) Investments.....	28,481	
Holding gain.....		28,481
To restate the carrying value of the bond to reflect its current value of \$1,014,400 and its new yield of 13.75%.		
June 30, 1983:		
(a) Income earned, not collected.....	35,000	
Investments.....		130
Bond income.....		34,870
To record income and premium amortization on the bond. Bond income: (\$1,014,400 × .1375) ÷ 4 = \$34,870.		
June 30, 1983:		
(b) Holding loss.....	41,870	
Investments.....		41,870
To restate the carrying value of the bond to reflect its current value of \$972,400 and its new yield of 14.50%.		
July 1, 1983:		
Cash and due from banks.....	70,000	
Income earned, not collected.....		70,000

TABLE A.—CURRENT VALUE WORKPAPER ENTRIES—Continued

	Debit	Credit
To record the receipt of the semiannual interest payment on the bond.		
Carrying Value of the Bond During this Period		
Date of Entry		Carrying Value
Jan. 1, 1983.....		\$985,800
Mar. 31, 1983 (a).....		985,919
Mar. 31, 1983 (b).....		1,014,400
June 30, 1983 (a).....		1,014,270
June 30, 1983 (b).....		972,400

TABLE B.—AMORTIZATION SCHEDULE

[For loss from sale of 9% coupon, \$50,000 par, 25-year mortgage (carried at par) at a price of \$30,877.56 to yield 16% to maturity]

Year	Interest method interest income on mortgage sold based on book yield to maturity	Interest method interest income on mortgage sold based on sales price yield to maturity	Interest method amortization of deferred loss before any applicable tax benefits (col. 2-col. 1)
	(1)	(2)	(3)
1.....	\$4,477.37	\$4,933.25	\$455.88
2.....	4,425.04	4,915.68	490.65
3.....	4,367.80	4,895.09	527.29
4.....	4,305.20	4,870.96	565.76
5.....	4,236.72	4,842.66	605.94
6.....	4,161.82	4,809.49	647.68
7.....	4,079.89	4,770.61	690.72
8.....	3,990.28	4,725.03	734.75
9.....	3,892.26	4,671.59	779.34
10.....	3,785.05	4,608.95	823.91
11.....	3,667.77	4,535.52	867.75
12.....	3,539.50	4,449.45	909.95
13.....	3,399.20	4,348.54	949.34
14.....	3,245.73	4,230.24	984.51
15.....	3,077.87	4,091.57	1,013.71
16.....	2,894.26	3,929.02	1,034.76
17.....	2,693.43	3,738.45	1,045.03
18.....	2,473.75	3,515.06	1,041.31
19.....	2,233.47	3,253.18	1,019.71
20.....	1,970.65	2,946.19	975.54
21.....	1,683.18	2,586.32	903.14
22.....	1,368.74	2,164.45	795.71
23.....	1,024.80	1,669.90	645.10
24.....	648.60	1,090.16	441.57
25.....	237.11	410.55	173.44
Total.....	75,879.42	95,001.86	19,122.44

TABLE C.—Amortization Schedule

[For Loss from sale of 8% coupon, \$100,000 par, 10-year bond (carried at par) at a price of \$64,320 to yield 15% to maturity] \*

Year	Interest method interest income on bond sold based on book yield to maturity	Interest method interest income on bond sold based on sales price yield to maturity	Interest method amortization of deferred loss before any applicable tax benefits (col. 2-col. 1)
	(1)	(2)	(3)
1.....	\$8,000.00	\$9,709.80	\$1,709.80
2.....	8,000.00	9,975.89	1,975.89
3.....	8,000.00	10,283.39	2,283.39
4.....	8,000.00	10,638.74	2,638.74
5.....	8,000.00	11,049.39	3,049.39
6.....	8,000.00	11,523.95	3,523.95
7.....	8,000.00	12,072.37	4,072.37
8.....	8,000.00	12,706.12	4,706.12
9.....	8,000.00	13,438.52	5,438.52

TABLE C.—Amortization Schedule—Continued

[For Loss from sale of 8% coupon, \$100,000 par, 10-year bond (carried at par) at a price of \$64,320 to yield 15% to maturity]

Year	Interest method interest income on bond sold based on book yield to maturity	Interest method interest income on bond sold based on sales price yield to maturity	Interest method amortization of deferred loss before any applicable tax benefits (col. 2-col. 1)
	(1)	(2)	(3)
10.....	8,000.00	14,281.83	6,281.83
Total.....	80,000.00	115,680.00	35,680.00

### Cost and Benefits of the Proposal

The following information is being set out in compliance with the Corporation statement of policy "Development and Review of FDIC Rules and Regulations" adopted by the Board of Directors on May 21, 1979 (44 FR 31007, May 30, 1979; etc.). No regulatory flexibility analysis as set out in the Regulatory Flexibility Act, Pub. L. No. 96-354 (to be codified in 5 U.S.C. 602-612) will be undertaken. This is done under authority of section 3 of that Act which says that no flexibility analysis need be done if the head of the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Requiring savings banks to adopt current value reporting for newly acquired debt and equity securities as specified in the proposal would impose some burden on the affected institutions. Similarly, some burden would be imposed on those savings banks choosing to avail themselves of the optional portion of this proposed regulation.

Depending on whether or not the bank availed itself of the optional treatment of gains and losses on dispositions of financial assets, the burden might include: the cost of the annual certified public accountant review of the deferred gain/loss account; the cost of systems changes to facilitate the revaluation of affected debt and equity securities and the accrual adjustments resulting from the quarterly revaluations; and the cost to complete supplemental schedules which will be added to present reports of condition and income for monitoring the deferred gain/loss account and revaluation activity.

The FDIC's preliminary assessment of the implementation burden associated with this proposed regulation included solicitation of cost estimates from accounting firms and savings banks. The results of these discussions were not conclusive, inasmuch as the cost of the

certified public accountant's review and systems changes would vary depending on the quality of existing systems and recordkeeping procedures. Comment is specifically requested on this issue.

The adoption of this proposed regulation would provide certain benefits for the savings bank industry and the public. Bank management and boards would be more cognizant of the effect of market conditions on their debt and equity securities. Savings banks would be provided with the opportunity and flexibility to narrow the maturity gap between their assets and liabilities through comprehensive restructuring programs and, under certain circumstances, to dispose of assets that can be sold on a favorable yield basis.

As of December 31, 1981, there were 331 insured savings banks, eight of which has assets of less than \$25 million and 109 of which had assets between \$25 and \$100 million.

After consideration of the issues discussed above, the Board of Directors of the FDIC certifies, based on information now available, that adoption of this proposal will not have a significant economic impact on a substantial number of small entities. Comments have specifically been requested regarding cost factors associated with the implementation of the provisions of this proposal by savings banks. Such comments will be fully considered by the Board and, if warranted, a final regulatory flexibility analysis will be published with any such final rule the FDIC may promulgate.

### Alternative

In addition to the valuation and reporting basis proposed in the regulation, other accounting alternatives that would afford savings banks the opportunity to restructure their asset portfolios while deferring recognition of the depreciation present in them, were considered by the FDIC. One such alternative, a one-time restatement of assets and liabilities to their current values with prospective amortization of the initial excess book value, would provide savings banks the flexibility to restructure their asset portfolios. Under this approach, the deferred charge (excess book value) would be amortized (expensed) on a straight-line basis over the average life of the restated investment securities and loans, while the discount on the restated assets would be accreted to income using the interest method. This alternative was found objectionable due to the earnings impact resulting from the use of distinctly different amortization methods for the deferred charge and the

restated assets. The earnings of a savings bank that had a high proportion of mortgage loans relative to investments in debt securities would be artificially bolstered by this accounting methodology. Conversely, the reported earnings of a savings bank that had a large investment in debt securities relative to mortgage loans would be unduly penalized by such an approach.

The FDIC also considered approaches where the amortization period exceeded the remaining life of the asset. Such approaches were also rejected because of the impact on reported earnings.

#### Issues for Specific Comment

The FDIC is particularly interested in receiving comment on the following issues:

(1) With respect to the valuation requirements of proposed section 350.3:

(a) Should the revaluations be based on spot market prices (or interest rates) or on some average for the reporting period?

(b) With what frequency should the revaluation be made?

(c) Should net holding gains or losses on debt and equity securities be credited or charged directly to net worth accounts or be reflected in net income for the period?

(d) To what extent should the difference between the selling price and carrying value of a debt or equity security sold between revaluation dates be classified as a holding gain or loss?

(2) With respect to the optional deferral provisions of proposed § 350.4:

(a) Should deferred gains and losses on dispositions of debt securities be amortized to the call date rather than the contractual maturity?

(b) Should redeemable preferred stock be considered debt securities for purposes of amortizing deferred gains and losses?

(c) What is the appropriate amortization period for deferred gains and losses on dispositions of common and preferred stocks?

(d) What is the appropriate amortization period for deferred gains and losses on dispositions of other financial assets?

(3) At least two state banking commissioners have voiced objection to the concept of loss deferral accounting. The FDIC is specifically interested in receiving comments from banking commissioners as to their willingness to accept the changes in regulatory accounting procedures along the lines proposed.

(4) Commentators are specifically requested to provide dollar cost estimates of the burden associated with the implementation of procedures under

this proposed regulation, particularly with respect to the quarterly revaluations and the attendant changes in calculating amortization schedules for the periodically revalued debt and equity securities.

(5) Commentators are also requested to discuss the effects the proposed regulation may have on the housing market and the municipal bond market.

FDIC intends to submit to the Office of Information and Regulatory Affairs of the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (12 U.S.C. 3501 *et seq.*) any additional reporting burdens that may be created by the current value accounting rule when that rule becomes effective.

#### List of Subjects in 12 CFR Part 350

Accounting; Banks, Banking, Reporting requirements; Savings banks.

In view of the foregoing, it is proposed that 12 CFR Part 350 be added as follows:

#### PART 350—SPECIAL REPORTING BASIS FOR INSURED SAVINGS BANKS

Sec.

350.1 Purpose and scope.

350.2 Definitions.

350.3 Valuation of certain financial assets acquired on or after January 1, 1983.

350.4 Treatment of gains and losses on disposition of financial assets.

Authority: Sec. 2 (7)(a), Pub. L. No. 797, 64 Stat. 876 as amended by sec. 2, Pub. L. No. 86-671, 74 Stat. 547; title IX, sec. 910(g), Pub. L. No. 91-609, 84 Stat. 1812; secs. 6(c)(3), (9) and (10), Pub. L. No. 95-389, 92 Stat. 617; title III, secs. 302, 310(a) and (b), Pub. L. No. 95-630, 92 Stat. 3675 and 3678 (12 U.S.C. 1817(a)); and sec. 2(g) "Seventh" and "Tenth," Pub. L. No. 797, 64 Stat. 881 as amended by title III, sec. 309, Pub. L. No. 95-630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth").

##### § 350.1 Purpose and scope.

(a) *Purpose.* This part is issued to assure that financial data provided or made available to the Federal Deposit Insurance Corporation and the boards and managements of savings banks are presented in a manner which provides for a more accurate evaluation of future performance of savings banks.

(b) *Scope.* This part applies to all insured savings banks.

##### § 350.2 Definitions.

For the purposes of this Part 350, the following definitions apply:

(a) "Appropriate current interest rate" means the effective interest rate that would be received by the savings bank on the same or similar securities at the time of revaluation. All relevant factors such as collateral, credit risk and term to maturity should be considered.

(b) "Book value" or "carrying value" means an amount at which an asset is stated in the savings bank's financial statements after addition or deduction of any premium or discount.

(c) "Current value" means an amount assigned to a financial asset following its revaluation. The current value of debt and equity securities should be assigned at current market prices or, for debt securities lacking current market prices, at the present value of the amounts to be received in the future determined by using appropriate current interest rates.

(d) "Debt securities" means those marketable obligations which are commonly regarded as debt securities for regulatory reporting purposes: U.S. Treasury securities; U.S. Government agency and corporation obligations; securities of states and political subdivisions in the United States (other than obligations of industrial development authorities); and other bonds, notes, and debentures. Securities of states and political subdivisions in the U.S. and other bonds, notes, and debentures are generally acquired through a broker or dealer in securities rather than through direct negotiations between the insured savings bank (acting alone or with a group of financial institutions) and the obligor. Hence, the term debt securities does not include private placements or direct loans to governmental units or other borrowers.

(e) "Disposition" means the sale of a financial asset or the prepayment at a discount of a savings bank's mortgage loans by existing borrowers.

(f) "Equity securities" means preferred and common stocks other than (1) investments in subsidiaries or service corporations and (2) investments accounted for by the equity method.

(g) "Financial assets" means assets for which the savings bank receives payment of interest as compensation for the use of its funds, including lease financing receivables and assets acquired on a discount basis with no stated rate of interest, and equity securities.

(h) "Holding gain" means the amount by which an asset's current value immediately following a revaluation exceeds its carrying value immediately prior to the revaluation. The carrying value immediately prior to a revaluation includes amortization of any premium or accretion of any discount (using the interest method of amortization) for the period since the last revaluation.

(i) "Holding loss" means the amount by which an asset's carrying value immediately prior to a revaluation exceeds its current value immediately

following the revaluation. The carrying value immediately prior to a revaluation includes amortization of any premium or accretion of any discount (using the interest method of amortization) for the period since the last revaluation.

(j) "Insured savings bank" means, only for the purpose of this Part 350, a bank in stock or mutual form insured in accordance with the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) which conducts a savings bank business pursuant to the laws of the state in which it is chartered.

(k) "Interest method of amortization" means the method of amortization which results in recognition of interest at a constant rate when applied to the carrying value of an asset at the beginning of any given accounting period.

(l) "Straight-line method of amortization" means the method of amortization which results in a constant amount of income or expense during each accounting period, regardless of the carrying value of an asset.

#### § 350.3 Valuation of certain financial assets acquired on or after January 1, 1983.

For purposes of preparing reports of condition and income, all insured savings banks are required to periodically restate the recorded values of all debt and equity securities that are acquired or funded on or after January 1, 1983. At the end of each quarterly reporting period the book values of the debt and equity securities subject to this reporting requirement shall be restated to their reasonably estimated current values to reflect changes in these values. Holding gains or losses shall be computed at the end of each quarter (or, in the case of the disposition of securities subject to this reporting requirement prior to the end of a quarter, on the date of disposition) and included in the determination of net income for the reporting period. For all other financial assets acquired or funded on or after January 1, 1983, discount or premium, if any, should be accreted or amortized using the interest method.

#### § 350.4 Treatment of gains and losses on disposition of financial assets.

Effective January 1, 1983, insured savings banks may elect to defer and amortize all gains and losses on dispositions of financial assets that were acquired prior to January 1, 1983, for purposes of preparing reports of condition and income that are filed with the FDIC provided, that:

(a) The savings bank board of directors shall specifically authorize,

and note such authorization in their official records, the reporting treatment of gains and losses permitted in this § 350.4. The Board of directors shall also approve written investment strategies that outline how the sales proceeds will be used to improve the institution's future profitability and/or reduce interest-rate risk. The FDIC regional director should be notified, within 10 days after the aforementioned official authorization, of the savings bank's election to defer and amortize gains and losses on dispositions of financial assets and be provided one copy of the official authorization and a copy of the written investment strategies.

(b) The state supervisory authority has provided the savings bank a specific or blanket concurrence to adopt for state law or state reporting purposes the treatment of gains and losses permitted in this § 350.4.

(c) The net amount of the deferred gains and losses (net of related income taxes computed in accordance with generally accepted accounting principles) are carried in a separate account and are readily identifiable in the institution's statement of conditions.

(d) For dispositions of financial assets other than common stocks and preferred stocks the deferred gains and losses are recognized by periodic charges to income based on the interest method. The periodic amortization will equal the amount of discount/premium that would have been accreted/amortized, using the interest method, had the asset been purchased at its sales price on the date of its disposition and held to maturity.

(e) For common stocks and preferred stocks the deferred gains and losses are recognized by periodic charges to income based on the straight-line method of amortization. The amortization period for such gains and losses will not exceed ten years.

(f) On an annual basis the amortization schedule for the deferred gain/loss account is reviewed for reasonableness by a qualified independent certified public accountant. The written scope and results of such review should be maintained in the files of the savings bank and made available for FDIC review for as long as the deferred gain/loss account remains on the books of the savings bank.

By order of the Board of Directors.

Dated: May 24, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 82-14743 Filed 5-28-82; 8:45 am]

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Ch. VII

#### Semi-Annual Agenda of Regulations

**AGENCY:** National Credit Union Administration.

**ACTION:** Publication of Semi-Annual Agenda of Regulations.

**SUMMARY:** Pursuant to the Regulatory Flexibility Act and agency policy, NCUA is publishing a list of regulations under review as of April 30, 1982.

**ADDRESS:** National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

#### FOR FURTHER INFORMATION CONTACT:

(a) On the Regulatory Flexibility Act or the Agenda, Robert Monheit, Senior Attorney/Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration at the above address. Telephone: (202) 357-1030. (b) On a particular regulation, contact the person named in the listing for that regulation at the above address.

**SUPPLEMENTARY INFORMATION:** On January 1, 1981, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) became effective. This law requires, among other things, that each agency publish a regulatory flexibility agenda listing regulations that the agency expects to propose that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). NCUA has defined "small entities" to include credit unions with less than \$1 million in assets. NCUA believes, at this time, that none of the regulations listed in the agenda set forth below will have a significant economic impact on a substantial number of these small credit unions.

On June 1, 1981, NCUA published a statement of policy (IRPS 81-4, 46 FR 29248) setting forth the procedures for the development of new regulations and the review of existing regulations. NCUA has decided to continue to publish its agenda in a manner that is broader than that required by the Regulatory Flexibility Act. NCUA believes that the agenda is a useful tool to enable the credit union community and the public to track regulatory development and to effectively participate in that process. The format of this agenda has been changed from previous publications in order to make it easier for the public to track the rulemaking and review process. A separate section, "Completed Reviews", has been added, listing final actions

taken since the last publication of the agenda.

## AGENDA

### I. Completed Reviews—Listed Below are Regulatory Reviews that have been Completed Since the Last Publication of the Agenda

#### 1.a. Section 701.35, Share, Share Draft, and Share Certificate Accounts—deregulation.

*b. Need:* To permit Federal credit unions maximum flexibility in designing share, share draft, and share certificate accounts to meet the needs of their members, to permit payment of dividends without ceilings set by regulation, and to remove required advertising and disclosure requirements.

*Legal Basis:* 12 U.S.C. 1757(6), 1766(a).

*c. Status:* Advance Notice of Proposed Rulemaking issued December, 1981 (46 FR 62663). Proposed rule issued March 10, 1982 (47 FR 10234). Final rule issued April 27, 1982 (47 FR 17978), effective April 27, 1982. Final rule places responsibility for determining dividend rates, account structures, terms and conditions on the Federal credit union, within the limitations of the Federal Credit Union Act. Final rule requires that advertising and disclosures concerning accounts be accurate.

*d. For Further Information Contact:* Randall J. Miller, staff Economist, telephone: (202) 357-1090.

#### 2.a. Section 701.38, Borrowed Funds From Natural Persons—conforming amendments.

*b. Need:* To eliminate restrictions on Federal credit union borrowing tied to share account restrictions that were eliminated.

*Legal Basis:* 12 U.S.C. 1757(6), 1766(a).

*c. Status:* Final rule issued April 27, 1982 (47 FR 17978), effective April 27, 1982.

*d. For Further Information Contact:* Randall J. Miller, Staff Economist, telephone: (202) 357-1099.

#### 3.a. Section 701.21-1A, Interest Rates on Loans to Members.

*b. Need:* Since the economic conditions justifying their NCUA Board's decision in December, 1980 to raise the ceiling from the statutory 15 percent to 21 percent remain basically unchanged, an extension of the ceiling at 21 percent is necessary to permit Federal credit unions to plan beyond the June 3, 1982 expiration date.

*Legal Basis:* 12 U.S.C. 1757(5)(A)(vi)(I), 1757(5)(A)(ix).

*c. Status:* Final rule issued March 10, 1982 (47 FR 10199), extending the 21 percent ceiling to Sept. 4, 1983.

*d. For Further Information Contact:* Randall J. Miller, Staff Economist, telephone: (202) 357-1090.

*4.a. Section 749.3, Storage Provided by the Administration—eliminating the program of free offsite storage of credit union vital records.*

*b. Need:* To reduce operating costs of NCUA.

*Legal Basis:* 12 U.S.C. 1776(a), 1783.

*c. Status:* Final rule issued Feb. 24, 1982 (47 FR 8006), effective April 1, 1982, discontinuing the free storage program.

*d. For Further Information Contact:* Troy T. Robinson, Office of Services, telephone: (202) 357-1003.

#### 5.a. Part 748, Minimum Security Device and Procedures.

*b. Need:* Would simplify and update existing regulations, and deregulate unnecessary provisions.

*Legal Basis:* 12 U.S.C. 1785.

*c. Status:* Final rule issued April 27, 1982 (47 FR 17980), effective April 27, 1982. Final rule eliminated mandatory minimum specifications for security devices, eliminated reporting requirement and modified others.

*d. For Further Information Contact:* Thomas A. Straslicka, Department of Supervision and Examination, telephone: (202) 357-1065.

*6.a. Part 720, Disclosure of Official Records—prohibiting the release of confidential documents except under certain conditions.*

*b. Need:* Would clarify existing agency policy on the implementing of the Freedom of Information Act.

*Legal Basis:* 5 U.S.C. 552, 12 U.S.C. 1766, 1789.

*c. Status:* Final rule issued Dec. 29, 1981 (46 FR 62833), effective Dec. 29, 1981.

*d. For Further Information Contact:* Anne K. Scully, Staff Attorney, Office of General Counsel, telephone: (202) 357-1030.

#### 7.a. Section 701.32, Payment on Shares by Public Units.

*b. Need:* Review to deregulate and eliminate unnecessary provisions.

*Legal Basis:* 12 U.S.C. 1766, 1752, 1757(6), 1785(f) and 1787.

*c. Status:* Final rule repealing § 701.32 issued April 27, 1982 (47 FR 17979), effective April 27, 1982.

*d. For Further Information Contact:* Thomas C. Buckman, Department of Supervision and Examination, telephone: (202) 357-1065.

### II. Regulations Under Review—Listed Below are Regulatory Reviews Currently Under Consideration

*1.a. Part 721, Group Purchasing and Insurance Activities—permitting Federal credit unions to inform their*

*members of, or to endorse, group purchasing and insurance plans.*

*b. Need:* Final regulations issued September 28, 1981 (46 FR 47435) are revised to further increase the flexibility of operations of Federal credit unions and to reduce regulatory burdens.

*c. Status:* Final rule issued September 28, 1981 (46 FR 47435) effective date delayed indefinitely (47 FR 8006). New proposed rule issued Feb. 24, 1982 (47 FR 8027) which would not require investigation reports nor require prior notice to members of the sale of mailing lists, and would simplify reimbursement calculation. Comment period closing April 16, 1982 but extended to June 30, 1982.

*d. For Further Information Contact:* Linda M. Cohen, Director, Division of Chartering and Education, telephone: (202) 357-1080.

*2.a. Part 760, Flood Insurance—governing FCU lending secured by improved realty, or a mobile home when either is located in a flood plain.*

*B. Need:* Would provide a plain English version of present NCUA flood insurance regulations.

*Legal Basis:* 12 U.S.C. 1757, 1789, 42 U.S.C. 4102a, 4106.

*c. Status:* Proposed rule issued October 15, 1980 (45 FR 68398), comment period closed December 15, 1980. Under review by staff. Intended to require only what is required under Federal law concerning flood insurance.

*d. For Further Information Contact:* John L. Culhane Jr., Senior Attorney, Office of General Counsel, telephone: (202) 357-1030; or Ben R. Henson, Division of Chartering and Education, telephone: (202) 357-1080.

*3.a. Section 701.20, Surety Bond Coverage for Federal Credit Unions—setting forth minimum standards.*

*b. Need:* Would update and simplify standards, deregulate unnecessary provisions, and reduce minimum requirements where possible.

*Legal Basis:* 12 U.S.C. 1761a, 1761b, 1766.

*c. Status:* Proposed rule issued June 2, 1981 (46 U.S.C. 29482), comment period closed July 31, 1981. Final rule under study by staff.

*d. For Further Information Contact:* Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

*4.a. Part 747, Subpart I, Equal Access to Justice Act—rules and procedures applicable to recovery of attorneys fees and other expenses in agency adjudications.*

*b. Need:* Implements the Equal Access to Justice Act.

*Legal Basis:* 5 U.S.C. 504, 12 U.S.C. 1766, 1789.

*c. Status:* Interim rule issued October 1, 1981 (46 FR 48120) effective October 1, 1981, with comment period closing November 30, 1981. Final rule to be presented to the NCUA Board in June 1982.

*d. For Further Information Contact:* Anne K. Scully, Staff Attorney, Office of General Counsel, telephone: (202) 357-1030.

*5.a. Sections 701.2 and 701.14, Incorporation by Reference of the "Accounting Manual for Federal Credit Unions"—deregulation to status of guideline for safe and sound practices and for full and fair disclosure.*

*b. Need:* In light of the increasing divergence in the operation of Federal credit unions, would permit the use of accounting methods and procedures that differ from those in the manual. Proposed rule would give greater flexibility to Federal credit unions.

*Legal Basis:* 5 U.S.C. 552(a)(1), 12 U.S.C. 1766, 1789.

*c. Status:* Proposed rule issued October 5, 1981 (46 FR 48940), comment period extended to April 15, 1982 (47 FR 633). Final rule to be presented to the NCUA Board May 20, 1982.

*d. For Further Information Contact:* Harry Moore or Joseph Visconti, Department of Supervision and Examination, telephone: (202) 357-1065.

*6.a. Sections 701.26, 701.27-1, 701.28, Joint Operations and Services, including Credit Union Service Center, Purchase and Sale of Accounting Services.*

*b. Need:* To review and consolidate redundant provisions and to update and revise if necessary.

*Legal Basis:* 12 U.S.C. 1766 and 1789.

*c. Status:* Proposed rule issued November 25, 1981 (46 FR 57693). Comment period closed January 22, 1982.

*d. For Further Information Contact:* Joseph W. Petrosky, Department of Supervision and Examination, telephone: (202) 357-1065.

*7.a. Section 701.21-4, Loans to Officials—to require board of director approval of loans to officials under certain conditions.*

*b. Need:* To review existing regulation to simplify, update, and revise.

*Legal Basis:* 12 U.S.C. 1757(5)(A)(iv).

*c. Status:* Regulatory review to be presented to the NCUA Board during September 1982.

*d. For Further Information Contact:* Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

*8.a. Section 701.27-2, Credit Union Service Organization.*

*b. Need:* Review to deregulate, simplify, and eliminate unnecessary restrictions.

*Legal Basis:* 12 U.S.C. 1766, 1789.

*c. Status:* Proposed rule issued March 10, 1982 (47 FR 10232) expanding investment opportunities in such organizations, permitting such organizations to charge fees and earn profits, and providing a list of approved activities. Comment period closes May 10, 1982.

*d. For Further Information Contact:* Todd A. Okun, Assistant General Counsel, Office of General Counsel, telephone: (202) 357-1030.

*9.a. Part 703, Investments and Deposits.*

*b. Need:* Review to determine extent to which regulatory restrictions should be removed.

*Legal Basis:* 1757(7)(C), 1757(7)(D), 1757(8).

*c. Status:* Advance Notice of Proposed Rulemaking and review memorandum under consideration by staff.

*d. For Further Information Contact:* Robert M. Fenner, Deputy General Counsel or Ross Kendall, Staff Attorney, Office of General Counsel, telephone: (202) 357-1030.

*10.a. Part 745, Clarification and Definition of Account Insurance Coverage.*

*b. Need:* Review to determine whether regulation provides coverage to the extent permitted by statute.

*Legal Basis:* 12 U.S.C. 1781.

*c. Status:* Staff considering draft of proposed rule to expand definition of trust account to include employees' interests in deferred compensation plan.

*d. For Further Information Contact:* Steven R. Bisker, Senior Attorney, Office of General Counsel, telephone: (202) 357-1030.

*11.a. Section 701.1, Organizing a Federal Credit Union.*

*b. Need:* Review to deregulate and eliminate repetitious provisions already contained in the Federal Credit Union Act, Federal Credit Union Bylaws, or in guidelines set forth in other publications.

*Legal Basis:* 12 U.S.C. 1766, 1789.

*c. Status:* Draft proposed rule under consideration by staff.

*d. For Further Information Contact:* John W. Lander, Department of Chartering and Education, telephone: (202) 357-1060.

*12.a. Part 742, Liquidity Reserves.*

*b. Need:* Review to deregulate.

*Legal Basis:* 12 U.S.C. 1762.

*c. Status:* Proposed rule eliminating liquidity reserve requirement to be presented to the NCUA Board May 20, 1982.

*d. For Further Information Contact:* Robert M. Fenner, Deputy General Counsel, or Barbara Burrows, Staff Attorney, Office of General Counsel, telephone: (202) 357-1030.

### III. Regulations to Be Reviewed—Listed Below are Target Dates or Status Reports for the Review of Regulations Later This Year

*1.a. Part 735, Employee Responsibility and Conduct—review to update.*

*b. Status:* A memorandum concerning the need to revise this regulation has been submitted to the NCUA Board.

*c. For Further Information Contact:* James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 357-1030.

*2.a. Section 701.36, Federal Credit Union Ownership of Fixed Assets—review to update and revise if necessary.*

*b. Status:* Preliminary review under study by staff.

*c. For Further Information Contact:* Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

*3.a. Parts 706 and 707, Conversion from Federal to State Credit Union, and Conversion from State to Federal Credit Union—review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.*

*b. Status:* Preliminary review under study by staff.

*c. For Further Information Contact:* Jon Lander, Department of Chartering and Education, telephone: (202) 357-1060.

*4.a. Parts 708 and 709, Mergers of Credit Unions, Division of Assets, Liabilities, and Capital—review to determine whether regulations on these subjects are necessary or whether they may be covered in a manual.*

*b. Status:* Under review by staff in light of recent policy decisions by NCUA Board.

*c. For Further Information Contact:* Jon Lander, Department of Chartering and Education, telephone: (202) 357-1060.

*5.a. Part 741, Requirements for Insurance—review to update, revise, and simplify.*

*b. Status:* Preliminary review under consideration by staff.

*c. For Further Information Contact:* Chester Slevinski, Department of the Insurance Fund, telephone: (202) 357-1010.

*6.a. Part 740, Advertisement of Insured Status, review to update, simplify and revise if necessary.*

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Chester Slevinski, Department of the Insurance Fund, telephone: (202) 357-1010.

7.a. Section 700.1 Definitions—review to update and clarify.

b. Status: Proposed rule delayed pending review of reserve regulations.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

10.a. Section 702.3, Full and Fair Disclosure—review to update, revise, and simplify.

b. Status: Policy on classification of loans issued by NCUA Board April 1, 1982. No further rulemaking intended.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

11.a. Section 702.1 and 702.2, Reserves—review to update, simplify and revise if necessary.

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Randall Miller, Staff Economist, telephone: (202) 357-1090.

12.a. Section 701.12, Supervisory Committee Audit—review to determine whether the regulation on this subject is necessary or whether the subject might better be covered in a manual.

b. Target Date: December 1, 1982.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

13.a. Section 701.19, Retirement Benefits for Employees of Federal Credit Unions—review to update, revise and simplify if necessary.

b. Target Date: Preliminary review drafted and under consideration by staff.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

14.a. § 701.33, Compensation of Officials—review to update, revise and simplify if necessary.

b. Status: Preliminary review under consideration by staff.

c. For Further Information Contact: Ross P. Kendall, Staff Attorney, Office of General Counsel, telephone: (202) 357-1030.

16.a. Part 750—Tort Claims Against the Government—review to update, simplify and revise if necessary.

b. Target Date: December 31, 1982.

c. For Further Information Contact: Jay C. Keithley, Senior Attorney, Office

of General Counsel, telephone: (202) 357-1030.

17.a. Section 701.37-1, Treasury Tax and Loan Accounts—review to simplify and revise.

b. Status: Staff preparing review memorandum.

c. For Further Information Contact: Layne Bumgardner, Department of Supervision and Examination, telephone: (202) 357-1065.

18.a. Section 701.31, Nondiscrimination Requirements—review to simplify and revise.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Harry J. Blaisdell, Department of Chartering and Education, telephone: (202) 357-1080; or John L. Culhane, Jr., Senior Attorney, Office of General Counsel, telephone: (202) 357-1030.

19.a. Part 704, Corporate Central Federal Credit Unions—review to update, simplify, and revise.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Layne Bumgardner, Director, Department of Supervision and Examination, telephone: (202) 357-1065.

20.a. Part 711, Management Interlocks—review to simplify and revise.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Ross P. Kendall, Staff Attorney, Office of General Counsel, telephone: (202) 357-1030.

21.a. Part 725, Central Liquidity Facility—review to update and simplify.

b. Target Date: September 30, 1982.

c. For Further Information Contact: Charles Filson, Central Liquidity Facility, telephone: (202) 357-1130.

22.a. Part 747, Rules of Practice and Procedure review to simplify and revise.

b. Target Date: November 30, 1982.

c. For Further Information Contact: Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 357-1030.

23.a. Section 701.6, Fees Paid by Federal Credit Unions—review to revise and simplify if necessary.

b. Target Date: May 31, 1982.

c. For Further Information Contact: John R. Sander, Planning and Budget Officer, Office of Services, telephone: (202) 357-1100.

Rosemary Brady,  
Secretary, National Credit Union  
Administration.  
May 21, 1982.

[FR Doc. 82-14765 Filed 5-28-82; 8:45 am]

BILLING CODE 7535-01-M

## 12 CFR Part 701

### Deregulation of "Organizing a Federal Credit Union," "Standard Form of Bylaws", "Amendment of Bylaws and Charters"

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

**SUMMARY:** This proposed rule would deregulate the majority of § 701.1 entitled "Organizing a Federal Credit Union" and would delete §§ 701.3 and 701.4 entitled "Standard form of bylaws" and "Amendment of bylaws and charters", respectively, of NCUA's Rules and Regulations. The proposal would eliminate repetitious statements, procedures, and other provisions already contained in the Federal Credit Union Act, the Federal Credit Union Bylaws or which represent guidelines covered in other publications and forms. This proposed action is being requested as part of NCUA's continuing effort to conduct a review of its rules and regulations. The proposal further emphasizes the NCUA Board's commitment to encourage groups to obtain new Federal credit union charters and to encourage boards of directors to submit charter changes to serve as many qualifying people as possible within the authority of the Federal Credit Union Act.

**DATE:** Comments must be received on or before July 26, 1982.

**ADDRESS:** Comments should be sent to Rosemary Brady, Secretary, National Credit Union Administration Board, 1776 G Street, NW, Washington, D.C. 20456. Telephone: (202) 357-1100.

**FOR FURTHER INFORMATION CONTACT:** Jon W. Lander, Department of Chartering and Education, at the above address. Telephone: (202) 357-1060.

**SUPPLEMENTARY INFORMATION:** Effective March 6, 1980, NCUA published a final rule revising the chartering and charter amendment policies and procedures for Federal credit unions. This revision was promulgated after an extensive study of the regulations and guidelines implementing NCUA chartering policy. The policy adopted was designed to accomplish three objectives:

- (1) To provide more flexibility in administering the policy,
- (2) To provide more support and more guidelines to new and developing Federal credit unions, and
- (3) To provide for a more open and public participation process.

It is the view of the NCUA Board that changing social, commercial, and economic conditions necessitate the

need for even more flexibility in the decision-making process. The NCUA Board is convinced that in these difficult economic and budgetary times, boards of directors must be free to adopt charter changes that are permitted by statute and will be the most beneficial for their credit union. Along the lines, the NCUA Board has already delegated additional authority to the regional directors to approve/disapprove new charters, charter amendments and mergers. The NCUA Board, through deregulation, intends to further emphasize its goal to develop and maintain sound credit union services for as many qualifying people as possible within the authority of the Federal Credit Union Act. It is in this spirit that the following proposal is offered.

#### Analysis of Proposed Changes

1. It is proposed that procedures describing the charter application process be deleted as duplicative and unnecessary. Several of the steps in the charter application process are covered in Section 103 of the Federal Credit Union Act and Article XI of the Federal Credit Union Bylaws. Those steps not expressly covered in the Federal Credit Union Act or Bylaws are included as guidelines in the Chartering and Organizing Manual and/or on the charter application forms. Since the majority of new Federal credit union charters are investigated by league organizers or volunteers, the steps not explicitly covered in the Federal Credit Union Act or the Federal Credit Union Bylaws should more properly be in the form of rules and regulations. The guidelines, examples, and procedures set forth in the manual are intended to be illustrative rather than all inclusive.

2. It is proposed that the current portion of the regulation describing charter application forms and investigations documentation be deleted as duplicative and unnecessary. Section 104 of the Federal Credit Union Act specifically describes the investigation of an organization certificate and the requirements thereof. Also, section 109 of the Federal Credit Union Act delineates common bond and membership requirements.

3. It is proposed that the published notice of intent to charter a community Federal credit union be deleted as unnecessary. It is the view of the NCUA Board that a sufficient amount of time has elapsed (2 years) to evaluate the effectiveness of this requirement. In the majority of community cases coming before the NCUA Board, no responses have been received as a result of the public notice. Our records indicate that

the NCUA Board acted upon 84 community charter cases during the 2-year period 4/1/80 to 4/1/82 which involved a published public notice. In 53 of these cases (63%), there were no comments received in response to the public notice. In only 8 cases (less than 10%), were there any responses from organizations or individuals other than credit unions or credit union members opposing a community proposal. Of the approximate 340 total comments received on these 84 cases, only 17 (5%) were from an organization or individual other than a credit union or credit union member. NCUA procedures require that regional directors write each credit union that might be impacted by a community charter proposal. Also, the NCUA Board recently approved a change in community chartering guidelines to limit approval authority for regional directors to those cases where the total population does not exceed 35,000. This change is consistent with the 25,000 population limit that was in effect prior to March 6, 1980 (effective date of regulation requiring a public notice). With these procedures in place, the public notice requirement poses an additional burden and unnecessarily delays the investigation and decision-making process.

4. It is proposed that the current portion of the regulation that describes standard "usual wording" be deleted as this information is duplicated in the Chartering and Organizing Manual.

5. It is proposed that the current portion of the regulation that describes disapproval of a charter application or charter amendment be retained but the wording made more concise.

6. It is proposed that § 701.3 of the regulation be eliminated in its entirety. The statements are informational in nature and duplicate the authority contained in Section 108 of the Federal Credit Union Act.

7. It is proposed that § 701.4 of the regulation be eliminated in its entirety. The statements are informational in nature and duplicate the authority contained in Article XXI of the bylaws.

#### Procedures for Regulatory Development

The NCUA Board certifies that these proposed changes, if adopted will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than \$1,000,000 in assets). Since the regulation applies primarily to new groups organizing credit unions, the proposed changes, if adopted, will reduce the burden on members of the general public. No additional burdens are proposed. Instead, duplicate procedures are being eliminated to make

it easier for new FCUs to be chartered. Therefore, a regulatory analysis is not required. 5 U.S.C. 605(b).

#### List of Subjects in 12 CFR Part 701

Credit Unions, Reporting requirements.

Accordingly, the NCUA Board proposes to amend 12 CFR 701.1, 701.3 and 701.4. By the NCUA Board, May 20, 1982.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Rosemary Brady,

Secretary of the Board.

#### PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. It is proposed that 12 CFR 701.1 be amended to read as follows:

##### § 701.1 Organizing a Federal Credit Union.

(a) Persons desiring to form a Federal credit union shall submit a charter application to NCUA in accordance with the requirements of Sections 103, 104 and 109 of the Federal Credit Union Act and Article XI of the Federal Credit Union Bylaws.

(b) If a charter application or charter amendment is disapproved, the officials will be advised in writing of the basis for the decision.

##### §§ 701.3 [Removed]

2. It is proposed that 12 CFR 701.3 be removed.

##### § 701.4 [Removed]

3. It is proposed that 12 CFR 701.4 be removed.

[FR Doc. 82-14773 Filed 5-28-82; 8:45 am]

BILLING CODE 7535-01-M

#### 12 CFR PART 721

##### Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration.

ACTION: Extension of comment period.

**SUMMARY:** Based on requests from interested parties, the NCUA Board is extending the comment period on the proposed rule regarding its insurance/group purchasing regulation.

**DATE:** Comments must be received by June 30, 1982.

**ADDRESS:** Send comments to Robert Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:**

Joseph Myers, Department of Chartering and Education, National Credit Union Administration, (202) 357-1080.

**SUPPLEMENTARY INFORMATION:**

On February 24, 1982 (47 FR 8027) NCUA proposed to revise its insurance/group purchasing regulation. April 16, 1982 was set as the close of the comment period. Subsequently, however, several commenters requested an opportunity to provide additional information to the NCUA Board. Accordingly, the comment period is hereby extended until June 30, 1982.

By the National Credit Union Administration Board on May 13, 1982.

Rosemary Brady,  
Secretary of the Board.

[FR Doc. 82-14768 Filed 5-28-82; 8:45 am]  
BILLING CODE 7535-01-M

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 82-ACE-12]

**Transition Area, Wentzville, Mo.;  
Proposed Designation**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to designate a 700-foot transition area at Wentzville, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Wentzville, Missouri, Airport, utilizing the Foristell VOR as a navigational aid. This proposed action will change the airport status from VFR to IFR.

**DATES:** Comments must be received on or before July 7, 1982.

**ADDRESSES:** Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace

Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Wentzville, Missouri. To enhance airport usage, a new instrument approach procedure is being developed for the Wentzville, Missouri, Airport, utilizing the Foristell VOR as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure, based on this navigational aid, entails designation of a transition area at Wentzville, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the

terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

**Wentzville, Missouri**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wentzville, Missouri Airport (Latitude 38°49'15" N, Longitude 90°50'05" W) and within 2 miles each side of the FTZ VORTAC 040° T extending from the 5-mile radius area to 5.5 miles southwest of the Wentzville Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

**Note.**—The FAA has determined that this proposed 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 19, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-14685 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission****18 CFR Part 271**

[Docket No. RM79-76-114 (Texas-23)]

**High-Cost Gas Produced From Tight  
Formations; Proposed Rulemaking**

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Clearfork Formation be designated as a tight formation under § 271.703(d).

**DATE:** Comments on the proposed rule are due on June 24, 1982.

**PUBLIC HEARING:** No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on June 9, 1982.

**ADDRESS:** Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Leslie Lawner, (202) 357-8511, or Walter W. Lawson, (202) 357-8556.

**SUPPLEMENTARY INFORMATION:**

Issued: May 25, 1982.

**I. Background**

On April 13, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that a portion of the Clearfork Formation, located in Pecos County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that a portion of the Clearfork Formation (Clearfork) be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

**II. Description of Recommendation**

The recommended portion of the Clearfork Formation is located in Pecos County, Texas, Railroad Commission

District 8. The recommended area is located approximately 12 miles southeast of Imperial, Texas, and is within the H&TC RR Block 2 and H&GN RR Block 9 Surveys in Pecos County. The Clearfork Formation is a typical limebank deposit, and is a continuous geologic formation throughout the recommended area. It is overlain by a thin Triassic formation and underlain by eroded Ordovician rocks.

The top of the Clearfork is encountered at measured depths ranging from about 2,900 feet on the west, to 3,000 feet on the east. A well log for the George T. Abell No. 1-A well is included in the recommendation as a type log, showing a typical Clearfork section, occurring between the measured depths of 2,895 and 4,124 feet.

**III. Discussion of Recommendation**

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* goes permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the recommended portion of the Clearfork Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

**IV. Public Comment Procedures**

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North

Capitol Street, N.E., Washington, D.C. 20426, on or before June 24, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-114 (Texas-23) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than June 9, 1982.

**List of Subjects in 18 CFR Part 271**

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

**PART 271—CEILING PRICES**

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulation, as set forth below, in the event Texas' recommendation is adopted.

**Kenneth A. Williams,**  
*Director, Office of Pipeline and Producer Regulation.*

Section 271.703 is amended by adding paragraph (d)(116) to read as follows:

**§ 271.703 Tight formations.**

\* \* \* \* \*

(d) *Designated tight formations.*

\* \* \* \* \*

(116) *Clearfork Formation in Texas.* RM79-76-114 (Texas-23).

(i) *Delineation of formation.* The Clearfork Formation is found in Pecos County in Texas. The designated area is located approximately 12 miles southeast of the city of Imperial, Texas, within the H&TC RR Block 2 and H&GN RR Block 9 Surveys.

(ii) *Depth.* The top of the Clearfork Formation ranges from a measured depth of 2,900 feet in the west, to 3,000 feet in the east. A typical Clearfork

section occurs between the measured depths of 2,895 and 4,124 feet on the well log of the George T. Abell No. 1-A well.

[FR Doc. 82-14711 Filed 5-28-82; 8:45 am]  
BILLING CODE 6717-01-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### 20 CFR Parts 651 and 654

#### Preference in Federal Procurement for Labor Surplus Areas Under Executive Orders 12073 and 10582

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Labor is proposing to modify its regulations for classifying labor surplus areas under Executive Order 12073 and areas of substantial unemployment under Executive Order 10582 in order to delete references to Defense Manpower Policy No. 4A (DMP-4A), to change the date of the annual listing of labor surplus areas so that the annual listing will be effective on a fiscal year basis, and to revise the complaint procedures.

**DATE:** Interested persons are invited to submit written comments on or before July 1, 1982.

**ADDRESS:** Comments may be mailed to Joyce A. Kaiser, Administrator, Office of Policy, Evaluation and Research, Room 9000, 601 D Street NW., Washington, D.C. 20213.

**FOR FURTHER INFORMATION CONTACT:** James W. Higgins, Division of Labor Market Information. Telephone: (202) 376-8499.

#### SUPPLEMENTARY INFORMATION:

Executive Orders 10582 and 12073, and the Buy American Act of 1933, authorize the Department of Labor to classify labor surplus areas to encourage the purchase of goods and services by the Federal government and the placement of Federal facilities in areas with the highest unemployment. Firms which agree to perform most of the work in such labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

Prior to June 23, 1980, the Secretary of Labor had certain duties pursuant to the Federal Emergency Management Agency's Defense Manpower Policy No. 4A (DMP-4A). 32A CFR Part 134 (1979). Effective June 23, 1980, DMP-4A was replaced by DMP-4B, in order to recognize Executive Order 12073 and to preserve the mobilization aspects of the labor surplus area program. 45 FR 34884

(May 23, 1980). Although specific responsibilities had been assigned to the Secretary of Labor under DMP-4A, those responsibilities were not carried over to DMP-4B. Accordingly, the Department of Labor is proposing to delete all references to DMP-4A in its regulations for classifying labor surplus areas.

The regulations for classifying labor surplus areas in 20 CFR Part 654, Subparts A and B, establish June 1 as the annual date of the eligibility determinations. In order to make the annual listing conform to the fiscal year period, the Department of Labor is proposing to amend its regulations to change the annual date of the eligibility determinations to October 1. The change would become effective October 1, 1983, and would require extending the current listing for four months beyond its expiration date of May 31, 1983. Under the proposed modification, the current listing would remain in effect through September 30, 1983, when it would be replaced by the next annual listing of labor surplus areas on October 1, 1983.

Section 654.5(b) of the Department's regulations for classifying labor surplus areas indicate that until the end of Fiscal Year 1981, Current Population Survey (CPS) data would be used in classifying civil jurisdictions within those standard metropolitan statistical areas and for central cities for which CPS data were used to determine annual unemployment data prior to January 1, 1978. With the expiration of Fiscal Year 1981, it is proposed that the current § 654.5(b) be deleted.

It is also proposed that § 654.9, concerning the filing of Employment Service-related complaints, be modified to reflect the fact that the classification of labor surplus areas no longer involves the Department of Labor's regional offices but is done exclusively in the Department's national office. As a result, the complaint procedure would be modified to have complaints sent directly to the Assistant Secretary for Employment and Training rather than to a Department of Labor regional office. Other minor technical, editorial, and clarifying amendments are proposed as well.

The proposed rule is not expected to have any economic or inflationary impact and it is certified, pursuant to 5 U.S.C. 605(b) that the changes will not have significant impact on a substantial number of small entities. The financial and other impact of this regulation is less than specified in Section 1(b) of Executive Order 12291 (46 FR 13193), for designation as a major rule which requires a regulatory impact analysis.

Therefore, a regulatory analysis was not prepared for this proposed rule.

**Authority:** 41 U.S.C. 10a *et seq.*; 29 U.S.C. 49 *et seq.*; E.O. 12073; E.O. 10582, as amended by E.O. 11051 and 12148.

#### List of Subjects in 20 CFR Part 651

Employment, Labor.

#### List of Subjects in 20 CFR Part 654

Agriculture, Employment, Government procurement, Housing standards, Labor, Migrant labor, Unemployment.

#### Proposed rule:

Accordingly, it is proposed to amend Part 651 and Part 654, Subparts A and B, of Chapter V of Title 20, Code of Federal Regulations, as follows:

#### PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

#### PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

##### Part 654 and § 651.9 [Amended]

1. It is proposed to amend the table of contents for Part 654, and § 651.9 *Consolidated table of contents for Parts 651-658*, by removing the reference to "654.2 Description of DMP-4A.", by adding a reference to "654.10 Transition provision."; and by revising the heading for Subpart A to read "Subpart A—Responsibilities Under Executive Order 12073."

2. The heading for Subpart A of Part 654 is proposed to be revised as follows:

#### Subpart A—Responsibilities Under Executive Order 12073

\* \* \* \* \*

##### § 654.1 [Amended]

3. Section 654.1 is proposed to be amended by removing from the first sentence therein the phrase "Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP-4A)), and."

##### § 654.2 [Removed]

4. Section 654.2 is proposed to be removed.

##### § 654.3 [Amended]

5. Section 654.3 is proposed to be amended by removing from the first sentence therein the word "also."

**§ 654.4 [Amended]**

6. Section 654.4 is proposed to be amended as follows:

a. In paragraph (a)(3) the period after the word "above" would be removed and "; or" inserted in lieu thereof.

b. In paragraph (a)(4) the period after the parenthetical phrase would be removed and "; or" inserted in lieu thereof.

c. In paragraph (c) the words ", for the purposes of Defense Manpower Policy No. 4A" would be removed.

d. In paragraph (d) the date "June 1" would be removed and the date "October 1" inserted in lieu thereof.

**§ 654.5 [Amended]**

7. Section 654.5 is proposed to be amended as follows:

a. In paragraph (a) the words "Provided, however, That no" would be removed and ". No" inserted in lieu thereof.

b. Paragraph (b) would be removed.

c. Paragraph (c) would be redesignated as paragraph (b); and would be amended by inserting the words "the unemployment rate during" after the words "without regard to" in the first sentence therein; and by removing the words "or (b)" from the second sentence therein.

**§ 654.6 [Amended]**

8. Section 654.6 is proposed to be amended by removing from paragraph (a) the words "and (b)"; and by removing from paragraph (b) the citation "§ 654.5(c)" and inserting in lieu thereof the citation "§ 654.5(b)."

**§ 654.7 [Amended]**

9. Section 654.7 would be amended by inserting at the end thereof the following sentence: "The Assistant Secretary periodically may cause these lists to be published in the Federal Register."

**§ 654.8 [Amended]**

10. Section 654.8 would be amended by removing from the introductory language the words "Defense Manpower Policy No. 4A" and inserting in lieu thereof the words "Executive Order 12073."

11. Section 654.9 would be revised to read as follows:

**§ 654.9 Filing of complaints.**

Complaints alleging that the Department of Labor has violated the labor surplus area regulations should be mailed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, D.C. 20210. Such complaints should include: (a) The allegations of wrong-doing; (b) the date of the incident; and (c) any other relevant information available to

the complainant. The Assistant Secretary shall make a determination and respond to the complainant after investigation of the incident. If the complaint is not resolved following this investigation, the Assistant Secretary, at his discretion, may offer, in writing by certified mail, the complainant a hearing before a Department of Labor Administrative Law Judge: *Provided*, That the complainant requests such a hearing from the Assistant Secretary within 20 working days of the certified date of receipt of the Assistant Secretary's offer of a hearing.

12. A new § 654.10 would be added, to read as follows:

**§ 654.10 Transition provisions.**

The annual list of labor surplus areas for the period June 1, 1982, through May 31, 1983, shall be extended through September 30, 1983.

13. Section § 654.14 would be revised to read as follows:

**§ 654.14 Filing of complaints.**

Complaints arising under Subpart B of this part alleging that the Department of Labor has violated the labor surplus area regulations shall be made pursuant to the procedures set forth at § 654.9.

Signed at Washington, D.C., this 24th day of May 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-14659 Filed 5-28-82; 8:45 am]

BILLING CODE 4510-30-M

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****25 CFR Part 250****Indian Fishing—Hoopa Valley Indian Reservation**

May 18, 1982.

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Interior is proposing to revise its conservation regulations governing Indian fishing on the Hoopa Valley Reservation in response to recommendations for changes received from Indians of the reservation. The most significant proposed change is a ban on gillnet fishing during the fall chinook run from 9 a.m. Monday to 5 p.m. Wednesday of each week and from 9 a.m. to 5 p.m. on Thursdays and Fridays.

**DATE:** Comments must be received no later than July 1, 1982.

**ADDRESS:** Written comments should be addressed to the Area Director, Sacramento Area Office, Bureau of Indian Affairs, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

**FOR FURTHER INFORMATION CONTACT:**

Wilson Barber, Superintendent, Northern California Agency, Bureau of Indian Affairs, P.O. Box 367, Hoopa, California 95546, telephone number (916) 625-4285.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. 2, 9 and 13 and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection of Indian fishing rights.

These regulations are being transferred from Part 258 to Part 250 as part of a complete reorganization of Title 25 of the Code of Federal Regulations. A redesignation table was published in the Federal Register on March 30, 1982 (47 FR 13326), making the transfer effective.

Normally tribal governments are responsible for regulation of Indian fishing on a reservation. Tribal regulation on the Hoopa Valley Indian Reservation has not been possible because the reservation is shared by two tribes, one of which does not currently have a functioning government. The Bureau of Indian Affairs has made major efforts to assist the Yurok Tribe in developing an organized government that will be able to participate with the Hoopa Valley Tribe in regulation of the Indian fishery. To date, however, these efforts have not met with success. While the efforts to resolve the organizational problems continue, the Department will continue to regulate the fishery to assure the continued existence of this valuable tribal asset.

In early December 1981, Deputy Assistant Secretary of the Interior—Indian Affairs (Policy), Roy Sampsel, visited the reservation and adjoining areas to discuss with the Indian community the state of the fishery resource. One frequent comment made to Mr. Sampsel was that the Indians of the reservation were not asked to participate in the writing of the regulations or in their subsequent changes. In response to this and other comments, it was proposed that a questionnaire be developed for the purpose of soliciting the opinions of the Indian community regarding revisions to the regulations. Further, Mr. Sampsel proposed that a committee of Indian

volunteers be called to oversee this questionnaire process.

In response to Mr. Sampsel's suggestion, a fishery screening committee was formed. That committee developed a set of proposed revisions to the current regulations. It also developed a pamphlet, which was distributed to the Indian community, containing the proposed changes, a copy of the existing regulations, and a questionnaire soliciting the views of the Indian community on the regulations and the proposed changes. Four hundred persons returned the questionnaire. One hundred and twenty-one identified themselves as persons holding fisher's identification cards. Another 115 said they did not have a card and 164 declined to say whether they had a card. The questionnaires were sent only to persons who are eligible to fish under the current regulations. Comments on the proposals developed by the fishery screening committee were also received from the Hoopa Valley Tribe, the Karok Tribe and owners of sportfishing camps along the Klamath River.

The 164 individuals who declined to say whether they had identification cards also urged that no changes at all be made in the regulations until the resolution of two lawsuits, *Short v. United States*, No. 102-83 in the Court of Claims, dealing with the rights to share in timber receipts from unallotted trust lands, and *Puzz v. Department of the Interior*, No. C-80-2908 TEH, in the United States Court for the Northern District of California, concerning the authority of the Hoopa Valley Business Council. Some of these individuals assert that the current regulations are adequate, but none explain what harm they anticipate would result from amending the regulations prior to the resolution of the two lawsuits.

Almost all other persons who commented urged that some changes be made in the regulations. It is our view, as discussed below, that a number of changes should be made in the regulations both to make them more effective in conserving the resource and to alleviate unnecessary burdens on the persons governed by the rules. Accordingly, we are proposing that the regulations be amended as discussed below:

1. It is proposed to add a new paragraph (c) to § 250.1 to make it clear that these rules apply to the activities of eligible Indians involving fish caught on the reservation regardless of where those activities occur within the United States. This change would make clear the intent of the present regulations so there will be no doubt that an Indian accused of selling fish off the

reservation may be tried in the court of Indian offenses. This change was supported by 187 of those persons who answered the questionnaire.

2. It is proposed to rewrite § 250.2 to state in more understandable language what it currently says in legal jargon—that a person who violates the regulations may still be prosecuted after the regulations are changed so long as what that person did was a violation of the regulations in effect at the time the person did it. This change was supported by 193 respondents to the questionnaire.

3. It is proposed to delete the statement in paragraph (b) of § 250.3 that persons not governed by the regulations must comply with all other applicable laws when fishing on the reservation. This language could be construed as a legal conclusion by the Secretary that may or may not be warranted depending upon the facts of a particular case. It is proposed to delete the language as being unnecessary and ambiguous. This change was supported by 191 respondents to the questionnaire.

4. A new paragraph (f) to § 250.3 is proposed to provide that the court records involving alleged violations that occurred when the fishers were under the age of 18 will be kept confidential and that the records may only be released upon approval of the court. This change was supported by 195 respondents.

5. It is proposed to revise the definition of consumptive or subsistence fishing to include the taking of fish to be eaten by any members of an eligible Indian's family—not just members of the immediate family.

6. It is proposed to change the definition of fishing gear to delete boats and motors. This would exclude boats and motors from property subject to forfeiture for violations of the regulations.

7. It is proposed to modify the definition of gillnet to make it more accurate.

8. It is proposed to modify the definition of set-net to include a gillnet that is anchored on at least one end. The present definition states that a set-net is anchored at each end. This change would permit more rapid changes in the deployment of a net to conform to shifting currents.

9. It is proposed to define snag gear based on the language in the regulations of the California Fish and Game Commission concerning multiple hook restrictions. 14 Calif. Admin. Code 2.10. The new definition is proposed so that eligible fishers will be on notice as to what types of gear are prohibited. The definition is based on California's

regulations to avoid any confusion that might result from using a different definition and to enable the Indian court to use state court case law in deciding cases. This change was previously published in the *Federal Register* last year in 46 FR 55542, dated November 10, 1981.

10. It is proposed to modify § 250.6 to permit Indians found fishing without an identification card in their possession to avoid a citation or arrest by presenting evidence later that they have an identification card. If an enforcement officer can determine on the scene that the person is eligible to fish then no citation, arrest or seizure would occur. Such a person may, however be required to show within seven days that he or she possesses an identification card. Failure to make this showing would result in suspension of fishing rights until the showing is made. If the enforcement officer is unable to determine that the person has been issued an identification card, the officer may cite the person and seize any gear or fish. Any seized fish will be preserved for seven days. If the person shows within seven days that he or she has been issued an identification card, the fish are returned. Otherwise, the fish are forfeited and the person may be subject to other penalties for fishing without an identification card. These procedures are modeled after the procedures used by the California Highway Patrol when officers stop a driver who is not carrying a driver's license. There were 167 respondents to the questionnaire who supported this proposal.

11. It is proposed to make substantial changes to logsheet reporting requirements because the provisions put into effect last year have not worked. The requirement that all logsheets that are due have to be submitted before a fishing card is issued for the next year would be deleted. The fishing cards that have been issued have no expiration date and are not issued annually. Fishing rights have not been suspended for failure to file the logsheets because such a penalty has been regarded as too drastic. It is also proposed to require the forms be submitted only for months in which a fisher caught at least one anadromous fish. Many persons only fish one or two months a year. Requiring them to file negative reports for the other ten or eleven months is a regulatory burden that cannot be adequately justified by the benefits from receiving such reports. The BIA will make a major effort this year to make sure each person who holds a fisher's identification card receives copies of the

logsheets and to encourage them to complete the reports and send them in.

12. It is proposed to revise § 250.7 to prohibit any fisher from fishing any net that is not identified with his or her number and to forbid the fishing of nets with more than one identification number on them. This proposed change was previously published last November in 46 FR 55543, dated November 10, 1981. The fishery screening committee proposed slightly different language from the original proposal and proposed stating that the identification number could be attached at either one of the two ends of the net. It is also proposed to state that another eligible fisher may accompany the person whose number is on the net to provide assistance.

This proposal has been very controversial because frequently different members of a family check the same net at different times. This proposal is not designed to make that practice illegal. Each eligible fisher can have his or her own detachable float with his or her personal number on it. These floats may be obtained from the BIA or a sealed empty bleach bottle can serve that function. When a different family member goes to tend a net previously tended by another family member, he or she removes the first person's float, attaches his or her own, and takes the other float back to the house.

The reason for this requirement is to make it clear who is legally responsible for a net being fished in violation of the regulations. The person whose float is on the net will be held responsible. An alternative is simply to hold the person who owns the net responsible regardless of who was tending the net. This is the approach most cities use when dealing with illegally parked cars. The owner is held responsible even if it wasn't the owner who parked the car illegally. Most Indians who have expressed an opinion to Department officials so far seem to prefer the approach we are proposing rather than holding the owner liable for all violations.

13. It is proposed to ban the use of gillnets on the reservation from 9 a.m. Mondays to 5 p.m. Wednesdays and from 9 a.m. to 5 p.m. on Thursdays and Fridays during the fall chinook run. These closures would be in effect only from July 15, 1982 to September 30, 1982. After September 30, 1982, fishing with gillnets would be prohibited only from 9 a.m. to 5 p.m. on Mondays. The fishery screening committee proposed 9 a.m. to 5 p.m. closures during the week. The Hoopa Valley Business Council recommended that there be daytime closures seven days a week and 24-hour closures on Mondays and Tuesdays.

The fishery screening committee gave the following reasons for proposing the daytime closures:

a. As a demonstration of the Indian community's concern for what had happened to their birthright—Klamath River salmon.

b. To better allocate the resource among the Indians living along the rivers.

c. To reduce friction with sport fishers.

d. To increase spawner escapement.

The committee expressed the hope that being the first user group to propose restrictions on itself would lead to greater restraint on the part of other user groups. Because the committee is unsure whether its proposed action will have the desired effect, it limited its recommendation to 1982 only.

An additional benefit of reducing the total number of fishing hours is that monitoring the harvest will be easier since harvest monitor personnel need be on the river only during the times fishing is taking place.

The Hoopa Valley Business Council urged additional closures because the daytime-only closures would probably have only a minimal effect on reducing the harvest. Given the high harvest level last year on a depressed run, additional restrictions are advisable. Some eligible fishers are able to fish only during daylight hours on weekends. In order to give them an opportunity to fish, we have not adopted the Business Council's recommendation that weekend daylight gillnet fishing be banned too.

The committee's recommendation for weekday daytime closures was supported by 156 respondents to the questionnaire.

14. It is proposed to require only one end of a set-net to be anchored. Many people place their nets to fish eddies. The net, to be properly placed, needs to conform to the actual shape of the eddy, which changes from time to time. Traditionally this was accomplished by staking only one end of the net and allowing the current to form the unstaked end into the proper shape.

15. It is proposed to prohibit setting a net in a manner that impedes boats from reaching a dock. The fishery screening committee recommended this provision in order to reduce friction with sport fishers.

16. It is proposed to modify the prohibition against placing nets close to the mouths of tributaries by requiring nets to be at least 100 feet—instead of only 20 feet—from the mouth of a tributary. It is also proposed, however, to apply this restriction only to those streams that can be used for spawning purposes by anadromous fish. There

were 188 respondents to the questionnaire who supported this proposal.

17. It is proposed to permit the use of traps that will catch eels but not other anadromous species. Language in § 250.8(a) and § 250.4(g) will also be modified to clarify that fishing for eels is covered by these regulations. A committee proposal to permit the use of traps to catch eels was supported by 201 respondents.

18. It is proposed to authorize the BIA agency to issue special gillnets and identification numbers to eligible Indians for the purpose of fishing for elderly and incapacitated eligible fishers. Persons fishing such nets would not be permitted to fish their own net at the same time. Fish caught in these "community nets" would be distributed according to rules established by the agency and provided to each person fishing such a net. In the past there have been disputes over which fish were caught in a community net and which were caught in the fisher's personal net. It is also proposed to permit specifically the payment of persons fishing such nets provided the payment is not based on the weight or number of fish caught. Permitting payment (in a manner that is clearly compensation for labor rather than a sale of fish) should improve the prospect for developing a workable community assistance program. There were 190 respondents to the questionnaire who supported this proposal.

19. It is proposed to add a new provision requiring that all fish caught in a gillnet be preserved or consumed before they rot. This provision was proposed last year in 46 FR 55542, dated November 10, 1981. This requirement is needed to reduce waste of the resource. The proposed daytime closure will assist in addressing this problem. The proposed changes, however, would still permit a net to be in the water Friday evening until Monday morning. Especially when water temperatures are higher, captured fish can rot in the water in that length of time. This requirement is needed to assure that nets are checked as frequently as necessary to avoid waste.

There have also been instances where some persons have dumped fish apparently because they were unable to arrange an illegal sale of the fish. The addition of the provision may help, to a small extent, to discourage the catching of fish for purposes of sale.

20. It is proposed to add an additional paragraph to § 250.8 permitting an eligible fisher to assist another eligible fisher in emergency situations that could

lead to the loss of gear or life. There were 187 respondents to the questionnaire who supported this proposal.

21. It is proposed to modify § 250.9 to require the marking of only those fish that leave the reservation. The marking requirement is designed to put potential buyers on notice that purchase of the fish is illegal. Since almost all fish in illegal commerce leave the reservation, marking only fish that leave the reservation will be adequate. It is also proposed to change from requiring the clipping of the top of the tail to requiring the removal of the dorsal fin because it is much easier to remove that fin. Both of these measures are designed to reduce the burden on Indian fishers of complying with these regulations in a manner that does not compromise the goals of the regulations. It is also proposed to delete the option of marking the fish with an indelible dye.

Apparently this marking method has not been used. Since marking with the dye was required on only one side of the fish, it has been necessary to retain fish as evidence or photograph both sides of the fish to establish in court that it had not been marked. Deletion of this requirement will make it possible to show that a fish was not marked with a single photograph demonstrating that the dorsal fin has not been removed.

22. It is proposed to require anyone transporting 15 or more fish off the reservation at one time to obtain a transportation permit in addition to removing the dorsal fins. The permits, which could be obtained from enforcement officers or from appropriate officials of the Hoopa Valley Tribe, would state the destination of the fish and when and how they would be taken to that destination. This approach was proposed by the Hoopa Valley Business Council. More careful monitoring of the transportation of substantial quantities of fish is needed to prevent large-scale commercial fishing activity.

23. It is proposed to revise § 250.14 to require enforcement officers to notify owners of unattended nets directly when their nets are seized. Currently notice of the seizure of an unattended net is published in the newspaper. Under the proposed revision, publication would be used only if the officer is unable to contact the owner by mail.

24. It is proposed to assign responsibility for selling seized fish to the Superintendent of the Northern California Agency instead of to law enforcement officers. This change was proposed last year in 46 FR 55542, dated November 10, 1981. It is also proposed to state that the regulations do not prohibit

undercover agents from selling fish caught on the reservation as part of their duties and to state that the regulations do not authorize purchase from anyone other than the Superintendent or someone known by the buyer to be authorized to sell seized fish on behalf of the Superintendent. We have been informed that one state court mistakenly concluded that these regulations authorized the purchase of illegally caught fish from an undercover law enforcement officer. These changes are proposed to avoid such a misunderstanding of the intent of the regulations in the future.

25. It is proposed to add a new paragraph (d) to § 250.14 directing the Agency Superintendent to conduct an investigation into any allegation of misconduct by any law enforcement officer under the superintendent's supervision and to make available to the complainant, upon written request, the findings of the investigation.

26. It is proposed to make the following revisions in § 250.15 concerning penalties for violations of the rules:

a. Persons who violate the time closures for the first time would have their net placed on the bank and fish seized. The seizure of the fish can be contested in court if the fisher wishes. If a person commits a second violation the maximum penalty is a \$300 fine, three months in jail, suspension of tribal fishing rights for 90 days during the fishing season, or forfeiture of fishing gear or any combination of these. For a third or subsequent violation the maximum penalties are a \$500 fine, six months in jail, suspension of fishing rights for 120 days during the fishing season, or forfeiture of fishing gear or any combination of these.

b. Persons who violate the gear marking requirements or who allow an ineligible person to assist them would be liable for no more than a \$100 fine or forfeiture of fish or fishing gear or a 30 day suspension of fishing rights during the fishing season or any combination of these. The penalty for a second violation would be \$200 fine, forfeiture of fish or gear, or 60 day suspension of fishing rights or any combination of these. For third and subsequent violations the maximum fine is \$300 and a 90 day suspension of fishing rights.

c. For a first offense persons who violate the restrictions on the type of gear that can be used would be liable for a maximum fine of \$100, a maximum jail sentence of ten days, maximum suspension of fishing rights for 30 days, forfeiture of fish or fishing gear or any combination of these. For a second violation the maximum fine increases to

\$200. The maximum jail time increases to 15 days and the possible suspension of fishing rights is 60 days. For third or subsequent violations the maximums are a \$300 fine, 20 days in jail and 90 days suspension of tribal fishing rights.

d. Persons who fail to present proof that they have a fishing identification card within seven days after having been asked to present the card while fishing may have their fishing rights suspended pending proof of compliance with the requirement that they have a fishing card. For a second violation a maximum penalty of 60 days suspension of fishing rights may be imposed. For a third or subsequent violation the penalty can be as much as a 90 day suspension of fishing rights.

e. Persons who violate the ban on commercial fishing or the fish marking requirements are subject to a maximum \$500 fine or a maximum jail sentence of six months or both. Fishing rights during the fall chinook runs may also be suspended for 180 days.

f. Persons who violate the restriction on impeding boats from docking may be fined no more than \$25 or sentenced to perform a maximum of two days of community service.

g. Persons who refuse to obey a lawful order of the court of Indian offenses may be fined a maximum of \$100 and have their fishing rights suspended for up to 60 days. Violation of a court order suspending fishing rights, however, can result in a \$200 fine and a 30 day jail sentence or both.

h. For purposes of calculating whether there have been one or more previous violations only violations occurring within the previous three years could be counted.

With the exception of the penalties dealing with commercial fishing (including the marking requirements that are designed to make the sale of fish more difficult), the penalties being proposed are somewhat lighter than the current penalties, but significantly greater than those proposed by the fishery screening committee. The maximum possible penalties are retained for commercial fishing violations, because the desire to over harvest the resource in order to make money continues to be the most serious of those threats to the resource that are subject to these regulations. Penalties for other offenses, especially first offenses, have been made lighter because those violations pose a less serious threat to the resource.

Many persons have complained that the regulations are difficult to understand. We have made an effort to write the rules as simply as we can.

Some portions of the regulations dealing with what happens in the courts and how decisions are made to change the rules during the season describe fairly complicated processes and cannot be simplified as much as we would like. The rules that fishers need to know in order to fish legally, however, can be stated simply. We are planning to hand out pamphlets to all fishers describing those rules in simple language. If these proposed rules are adopted that pamphlet would read like this:

*From July 15, 1982, Through September 30, 1982*

You may not fish with a gillnet on Monday after 9 a.m.

You may not fish with a gillnet on Tuesday at all.

You may not fish with a gillnet on Wednesday until after 5 p.m.

You may not fish with a gillnet on Thursday between 9 a.m. and 5 p.m.

You may not fish with a gillnet on Friday between 9 a.m. and 5 p.m.

You may fish with a gillnet at all other times.

*After September 30, 1982, you may Fish With a Gillnet on the Reservation at any Time Except from 9 a.m. to 5 p.m. on Mondays*

You may not use a gillnet that is longer than one hundred feet.

You may fish two gillnets at the same time so long as the length of both added together is not more than 100 feet.

You may not use more than two gillnets at any one time. You may not use a drift-net below the Highway 101 Bridge. Any set-net you use must be anchored on at least one end. You may not place a net in any creek or within one hundred feet of the mouth of any of these creeks:

Blue Creek	Pine Creek
Mill Creek	Roach Creek
Supply Creek	Terwer Creek
Hunter Creek	Ah-Pah Creek
Pecwan Creek	Mettah Creek
Surpur Creek	Tully Creek
Tectah Creek	Socfish Creek
Hostler Creek	Tish-Tang Creek
McGarvey Creek	Omagar Creek
Tarup Creek	Bear Creek
Morek Creek	Johnson Creek
Beaver Creek	Hospital Creek
Campbell Creek	Salt Creek
Richardson Creek	

You may not set a net within 500 feet in any direction of the mouth of the Trinity River.

You may use a trap only if it will catch only eels.

You may use no other trap, and you may not use wire, fencing materials, snag gear, explosives, stunning agents or chemicals in any form to catch fish.

You may not set a net within 400 feet of the test seining operation of the U.S.

Fish and Wildlife Service or the California Department of Fish and Game.

You may not set a net in a manner that makes it hard for a boat to reach a dock.

You must preserve, eat or make ceremonial use of any fish you catch before it rots.

You must have your identification number on any net you are fishing, but you may help someone else fish if that person is with you and has his or her identification number on the net.

If someone else uses or tends your net, that person must put his or her own identification number on the net and yours must be removed.

Only one number can be on the net at any one time.

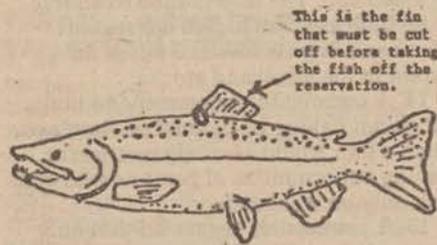
So you can change the identification number when necessary, you should have the number on a special float that can be easily attached and detached from the net. The BIA will provide you with a float for that purpose or you may use an empty plastic bottle that has been sealed. Many persons use bleach bottles for that purpose.

You must have your fisher's identification card with you at all times when you are fishing or transporting fish.

You may not sell or trade any fish.

The fish you catch may be used only for ceremonial purposes or for eating by you, other Indians of the reservation or members of the family of any Indian of the reservation.

If you are taking fish off the reservation, you must cut off the dorsal (top) fin before taking them off the reservation.



If you want to take 15 or more fish off the reservation at one time, you must go to a BIA enforcement officer or to a Hoopa tribal fisheries officer and get a permit for that purpose.

Once a month you must report the fish you catch on the attached form. If you need help completing the form, BIA enforcement officers, Fish and Wildlife employees or Hoopa tribal fisheries employees will help you. If you need

more forms, they will see that you get them.

If you catch fish below the Highway 101 Bridge you must bring them to the Fish and Wildlife inspection stations located there for the biologists there to look at.

You may not let anyone who does not have an identification card use your nets or help you fish.

If you have any questions about these rules, BIA enforcement officers will help you. If they give you any advice they will write down what they told you for their own records. They will give you a copy of what they have written if you want.

*Recommendations received but not being proposed.*

1. The fishery screening committee recommended that the regulations state that these regulations preempt any state jurisdiction over Indian fishing. The question of whether the state has any remaining jurisdiction over Indian fishing even though the Federal Government is regulating such fishing is presently at issue in a number of cases that are in the courts. Under the current caselaw, resolution of that issue involves a number of factual issues. The answer can change, depending on the situation at any given time. For that reason we believe the preemption issue is best left to the courts.

2. The Hoopa Valley Business Council recommended that these regulations state they may be superseded by any ordinances the council might enact. While we might have no objection to a particular ordinance the council might adopt, we are not prepared to agree in advance to the validity of such ordinances.

3. The fishery screening committee recommended the closure of the Klamath River to fishing during November to commemorate KAMUS, the Indian New Year. Many Indians who commented on the committee's proposals said they were unaware that it was traditional not to fish the river during that month. Because the harvest during past Novembers has usually been quite low, there appears to be no special conservation need to close the river during that month. The committee's proposal was part of a package that did not include night-time closures on Mondays and Tuesdays, which we are proposing. It is doubtful whether the committee would have recommended a November closure if it had assumed there would be the Monday and Tuesday closures during the fall run.

4. The fishery screening committee also recommended that drift-nets be permitted below the Highway 101 Bridge

after December 2, 1982. The committee anticipated that adoption of this recommendation would result in some increase in the harvest of sturgeon. The U.S. Fish and Wildlife Service is just beginning to develop good data on the sturgeon runs in the Klamath River. We do not wish to encourage an increased harvest of sturgeon until more is known about the strength of the run.

5. The Hoopa Valley Business Council recommended daytime closures on weekends as well as weekdays. Many Indians are unable to fish during the week and feel unsafe fishing at night. We believe some daytime fishing opportunity should continue to be available for those people. Because harvests during the daytime are much less than nighttime harvests, permitting daytime fishing two days a week will have a very limited impact on the size of the total harvest.

6. The fishery screening committee recommended that the rule prohibiting the placement of nets that cover more than one-third of the distance from bank to bank be changed to prohibit only covering more than one-third of the swift-flowing channel of the river. This proposal would probably be unworkable because of problems in determining with precision where the swift-flowing channel is at each location along the river.

7. The committee also recommended that persons wishing to remove fish from the reservation be permitted to obtain a transportation permit in lieu of removing the dorsal fin. Removing the dorsal fin is required in order to put buyers on notice that the fish was caught on the reservation and may not be sold. Issuance of a permit for transportation purposes would not accomplish this purpose.

8. The committee also recommended that in-season adjustments be the responsibility of the Area Director of the Bureau of Indian Affairs instead of the Director of the U.S. Fish and Wildlife Service. It is intended that in-season adjustments be made primarily based on biological considerations. For that reason it is preferable to have the decision made by the Fish and Wildlife Service.

9. The committee recommended substantially higher penalties for almost all offenses—including commercial fishing offenses. The committee's recommendations provided for almost no jail sentences. Because of the substantial threat to the resource posed by commercial fishing, it is particularly important to retain significant penalties. The committee proposed establishing minimum penalties. The overall effect would be to reduce substantially the

discretion of the court. The degree to which a particular offense represents a serious threat to the resource if a person is not punished depends to a great extent on the particular circumstances of the case. It is advisable to accord the court rather broad discretion to take those particular circumstances into account.

10. Several commenters urged strict penalties for persons not carrying their fisher's identification cards when fishing. While failure to carry the card causes some unnecessary enforcement problems, it does not pose a serious threat to the resource. For that reason it is proposed to provide only light punishment for that offense.

11. One commenter objected to requiring a fisher to bring in proof that the fisher has a card when an officer is unable to determine on the scene that a card has been issued to that person. Failure to carry the card—especially in the absence of sufficient other identification to permit the officer to verify on the spot that the person has been issued a card—causes a much greater inconvenience to the officer than the burden on the fisher to carry the card. Requiring the fisher to make a showing that the card has been issued is intended to give that person an incentive for carrying the card in the first place.

12. One commenter urged that nets be limited to 50 feet in length. Reducing by half the permissible length of the net could make it considerably more difficult for Indians to catch the fish they need for their own consumption needs.

13. A commenter urged that a minimum mesh size of 7.25 inches be imposed. Presumably, this proposal is made in order to limit the Indian harvest of steelhead. The information available to us indicates the Indian harvest of steelhead is quite low and poses no threat to the steelhead stocks.

14. A commenter recommended that all gillnet fishing be banned on Sundays. Such a ban would severely restrict the fishing opportunities of persons who can fish only on weekends.

15. A commenter suggested that only reservation residents be permitted to fish on the reservation. We do not believe the law would support exclusion of all non-reservation residents from fishing.

16. It was recommended that a permit be required for all fish taken from the reservation. Such a requirement would impose a major burden on Indian fishers and the BIA and it would do little to protect the resource.

17. One commenter urged that escapement be assured not only for propagation and sports fishing but also

for harvest by Karok and Shasta Indian people living along the Klamath and Salmon Rivers. The restrictions imposed on harvests on the reservation are intended to provide an opportunity for other Indians fishing above the reservation to harvest fish in addition to providing enough fish for spawning escapement.

18. A commenter urged that members of the Karok Tribe be included as eligible fishers on the reservation. Some Karok Indians meet the present criteria and are eligible to fish on the reservation. We know of no legal basis, however, for recognizing an Indian fishing right on the reservation for everyone who is a Karok Indian.

19. The Hoopa Valley Business Council recommended that all penalties be applicable to anyone who is 18 years old and that persons who are 16 years old or 17 years old be liable for all penalties except incarceration. Based on past experience in regulating the fishery, we do not see a need to provide more severe penalties for persons in this age group.

20. The Hoopa Valley Business Council has recommended that snagging and snag gear be defined as follows: "The use of a fishing pole, multiple point hook and weight to hook fish as they swim by. The use of a multiple point hook when used in conjunction with bait or lure shall not be considered snagging provided the multiple hook is 1.0 inches or less between any two points." We will give further consideration to this recommendation but, at present, we prefer the definition we have proposed because it is consistent with the definition used by California.

21. The Hoopa Valley Business Council urged that all biological personnel doing work on the reservation be required to obtain a special permit to work on the reservation. The people who do this work are state, tribal and Federal employees and should have documents identifying them as such. No purpose would be served by requiring them also to obtain a special permit authorizing them to work on the reservation.

22. The Hoopa Valley Business Council recommended that we include a provision stating that the Bureau of Indian Affairs is not responsible for damage to fish held or stored under these regulations unless neglect is proven. It is unlikely that such a statement in the regulations would alter the liability the BIA would otherwise have for damage to seized fish.

23. The Hoopa Valley Business Council recommended that the identification number be placed on the

end of the net closest to the center of the stream to avoid the danger that an enforcement vessel would damage a net while checking the identification number. In some instances it may be a substantially greater burden for a fisher to have to go out into the river to change the identification float. Enforcement officers can use binoculars, if necessary, to check the identification number from a distance.

24. The Council also recommended that the Rest Home be required to report the fish that it receives from community fishers. This information can be collected from the fishers themselves.

25. Several commenters recommended that enforcement officers carry with them a complete list of everyone who has a fisher's identification card. We intend to do this, but we do not think it necessary to state it in the regulations. Even with such a list, however, identification of some type may be necessary for the officer to establish the identity of the individual.

26. One commenter recommended that daytime closures be limited to the area below the Highway 101 Bridge. Although some of the reasons for the daytime closures may be more important below the bridge, those reasons also apply above the bridge.

27. Some commenters urged that the court not be given discretion to release information about juveniles who have been before the court. Confidentiality is adequately protected by requiring a court to decide in each case where information is sought whether its release is justified. Giving the court discretion permits release of information when there is a sound reason for it while guarding against unwarranted harm to the individual that can result from having a "record" in the courts.

28. One commenter recommended that snagging be legalized. In some circumstances—such as where a barrier of some kind slows the migration of fish—permitting snagging can result in a serious depletion of the resource. This recommendation has also not been proposed because the current status of the resource does not justify changes in the rules that are likely to result in a higher harvest level.

29. Some persons assert that the present definition of an eligible fisher is arbitrary because it excludes many Indians who could prove they have rights on the reservation but happen not to be members of the Hoopa Valley Tribe, happen not to have become plaintiffs in the *Short case* (many because they were too young at the time) and happen to have been away from the reservation for an extended period of time sometime in the past ten

years. The Bureau of Indian Affairs intends to consider this problem further, but has not yet developed a specific proposal to be published for comment in these proposed regulations.

30. A proposal to authorize non-Indian spouses of disabled eligible fishers to fish has not been adopted because of serious legal questions concerning the authority of the Interior Department to regulate such fishing.

The primary authors of this document are David Etheridge, Office of the Solicitor, Division of Indian Affairs, Department of the Interior, and John Bushman, Northern California Agency, Bureau of Indian Affairs.

It has been determined that this proposed rule is not a major rule as that term is defined in Executive Order 12291 of February 17, 1981, 46 FR 13193, because it will have a limited economic impact on a small number of people.

It has been determined that this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354.

The information collection requirement contained in § 250.9 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. § 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

#### List of Subjects in 25 CFR 250

Fisheries, Fishing, Indians—lands, and penalties.

It is proposed to revise 25 CFR Part 250 to read as follows:

#### PART 250—INDIAN FISHING—HOOPA VALLEY INDIAN RESERVATION

- |        |   |
|--------|---|
| Sec.   |   |
| 250.1  | Purpose and information collection.                       |
| 250.2  | Effect of changes in the regulations.                     |
| 250.3  | Application.  |
| 250.4  | Definitions.  |
| 250.5  | Eligible Fisher—Eligible Indian.                          |
| 250.6  | Fishers identification cards required.                    |
| 250.7  | Identification of gear.                                   |
| 250.8  | Permissible and prohibited fishing.                       |
| 250.9  | Catch marking and transportation of fish.                 |
| 250.10 | Consultation.   |
| 250.11 | In-season and emergency regulations.                      |
| 250.12 | Fish catch reporting.                                     |
| 250.13 | Identification of persons fishing.                        |
| 250.14 | Enforcement.  |
| 250.15 | Penalties.  |
| 250.16 | Forceable assault and impeding a law enforcement officer. |
| 250.17 | Hoopa Valley Indian Reservation Court of Indian Offenses. |
| 250.18 | Execution of judgments pending appeals.                   |

Authority: 43 U.S.C. 1457, 25 U.S.C. 2, 9, and 13, and the Reorganization Plan No. 3 of 1950 (65 Stat. 1262).

#### § 250.1 Purpose and information collection.

(a) The regulations contained in this Part govern fishing by eligible Indians on the Hoopa Valley Indian Reservation. The purpose of these regulations is to protect the fishery resources and to establish procedures for the exercise of the fishing rights of Indians of the Reservation until a Reservation-wide management mechanism is established with the capability to manage and regulate the Indian fisheries on the Reservation. The regulations are intended to promote reasonably equal access to the fishery resources of the Reservation by all Indians of the Reservation, and to assure adequate spawning escapement.

(b) The limited extent to which regulation is undertaken by this Part is not intended nor should it be construed as a conclusion that the Secretary does not have the authority to take additional measures to protect fishery resources on the Reservation if it is later determined that such measures are necessary.

(c) The regulations of this part govern all eligible Indians of the Hoopa Valley Indian Reservation. Violations of these regulations occurring either on or off the reservation are punishable in the court of Indian offenses.

(d) [Reserved for information collection.]

#### § 250.2 Effect of changes in the regulations.

A person who violates the regulations of this Part may still be prosecuted after the regulations are changed so long as what that person did was a violation of the regulations in effect at the time the person did it.

#### § 250.3 Application.

(a) The provisions of these regulations and all in-season adjustment orders issued under them apply to the waters of the Klamath and Trinity Rivers and their tributaries within the exterior boundaries of the Hoopa Valley Indian Reservation.

(b) Any person who is not an Indian of the Reservation as determined under § 250.5 is not regulated under this Part at this time.

(c) Children under the age of 10 years are not liable for violation of the provisions of this part. Such children are not eligible to receive fisher identification cards, but may accompany adult eligible fishers. Adults in the company of such children shall be held liable for actions of such children that

are in violation of the provisions of this Part.

(d) Children between the ages of 10 and 18 are entitled to fisher identification cards and are subject to the provisions of this Part, but such children are not subject to a fine or incarceration for violation of the provisions of this part.

(e) Eligible Indian fishers who are 17 or 18 years old are subject to all penalties prescribed in this part except incarceration.

(f) All court and enforcement records concerning violations or alleged violations which occurred when the violators or alleged violators were under the age of 18 shall be strictly confidential. Records may only be released to other agencies or persons by petition to and approval of the Court of Indian Offenses. Nothing in this paragraph shall bar the use of statistical compilations of juvenile records or the use of a violator's prior record in the sentencing phase of a Court of Indian Offenses prosecution.

#### § 250.4 Definitions.

"Channel" means the wetted area from bank to bank.

"Commercial fishing" means the taking of fish or fish parts with the intent to sell or trade them or profit economically from them.

"Consumptive or subsistence fishing" means the taking of fish to be eaten by Indians of the Reservation or their families.

"Drift-net (pole net)" means a gillnet which is not staked, anchored or weighted, but drifts free.

"Eligible fisher—eligible Indian" means any Indian who is determined to be an Indian of the Reservation under § 250.5.

"Enforcement Officer" means:

- (a) any enforcement officer of the Department of the Interior;
- (b) Any U.S. Marshal;
- (c) Any tribal enforcement officer; or
- (d) Any person deputized to enforce these regulations.

"Fish or fishing" means the fishing for, catching, or taking or the attempted fishing for, catching, or taking of any anadromous fish within the exterior boundaries of the Reservation. Placement of a net in the water constitutes fishing regardless of whether or not the person who placed the net in the water intended to catch fish.

"Fishers identification card" means the identification (I.D.) card issued by the Hoopa Valley Tribe to its members or the card issued by the Bureau of Indian Affairs identifying the holder as a person eligible to fish as an Indian of the Reservation. The identification card

shall include the name, basis for eligibility to fish, address, birthdate, color or hair, color of eyes, height, weight, identification number, and photograph of the holder and the disclaimer provided in § 250.5.

"Fishing gear" means any gillnet, seine, hook-and-line, and other apparatus used for taking fish.

"Gillnet" means a flat net suspended vertically in the water with meshes that allow the head of a fish to pass through or become entangled.

"Hand dip net" means a section of netting distended by a rigid frame operated by a process commonly recognized as dipping. Such nets may be of any size.

"Identification number" means the identification number assigned by the Bureau of Indian Affairs identifying the eligible fisher by number. This number is to be obtained by the eligible fisher and placed on his or her fishing gear where required by these regulations.

"Logsheet" means that record maintained by eligible fishers of fish caught for reporting catch data for use by a biologist in developing fish run and spawning escapement information.

"Reservation" means the Hoopa Valley Indian Reservation as extended, including those parts known as the "Extension" and the "Hoopa Square."

"Secretary" means the Secretary of the Interior or his/her designated representative.

"Set-net" means a gillnet which is staked or anchored or weighted on at least one end so that it does not drift free.

"Snag gear" means and includes:

(a) Any multiple hook with shortest distance between hook points greater than 1.25 inches or shank longer than two inches, and

(b) Any weight exceeding one-half ounces attached to any multiple hook or to the line, directly or indirectly, within 18 inches of any multiple hook.

"Stretched measure" means the distance between the inside of one knot and the outside of the opposite (vertical) knot on one mesh of a gillnet.

Measurement shall be taken when the mesh is stretched vertically while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three while under tension.

"Subsistence or consumptive fishing" means the taking of fish to be eaten by Indians of the Reservation or their families.

#### § 250.5 Eligible Fisher—Eligible Indian.

(a) The following persons may exercise fishing rights under the authority of this Part:

(1) Enrolled members of the Hoopa Valley Tribe,

(2) Plaintiffs in the case entitled *Jessie Short et al. v. United States*, Ct. Cls. No. 102-63, and

(3) Persons who are allottees or direct descendants of allottees on the Hoopa Valley Indian Reservation, who currently and for eight (8) of the past ten (10) years have resided on the Reservation or within 60 miles thereof.

(b) Disclaimer: Determination of eligibility to fish under paragraph (a) of this section shall not be considered evidence of entitlement or lack of entitlement or in any way affect eligibility for enrollment or other tribal benefits or rights on the Hoopa Valley Indian Reservation.

(c) Except as provided under § 250.3(c) an eligible Indian as determined under this section who allows an ineligible person to assist in an Indian fishery on the Reservation is subject to the penalties set out in § 250.15.

#### § 250.6 Fishers identification cards required.

(a) Persons qualifying as an "Eligible Fisher" or "Eligible Indian" under § 250.5 shall obtain an Indian fishers identification card and have it in his or her possession before exercising any Indian fishing rights or transporting fish caught on the Reservation in the exercise of Indian fishing rights.

(b) (1) When an Indian, as defined in § 250.5, is stopped by a law enforcement official and is unable to produce his or her I.D. card the law enforcement official shall make every reasonable effort to determine whether that person was issued an identification card.

(2) If the enforcement official can determine that the person is eligible to fish then no penalty or seizure of gear or fish shall occur. However, that fisher may be issued a citation requiring him or her to appear within seven (7) days and offer proof that he or she still possesses an identification card. If that person does not appear within the specified time, he or she shall be given notice that his or her tribal fishing rights have been suspended until proof of compliance is presented and he or she shall be subject to the penalties prescribed in § 250.15.

(3) (i) If the enforcement officer cannot determine with certainty that the fisher has a current identification card then the officer shall issue that person a citation and may seize any gear or fish within that person's possession.

(ii) If any fish are seized they shall be frozen and stored by the BIA for seven (7) days.

(iii) If the fisher appears within the seven (7) days and presents proof of issuance of a valid I.D. card any gear or fish seized shall be returned to him or her.

(iv) If the fisher does not appear within seven (7) days the fisher shall forfeit any fish seized and may be subject to the penalties prescribed in § 250.15.

(4) Repeated violators of § 250.6(b)(2) or (3) are subject to the penalties prescribed in § 250.15.

(c) Fisher identification card. A fisher identification card shall be issued to tribal members by the Hoopa Valley Tribe or by the Bureau of Indian Affairs, Hoopa Agency, to applicants who fulfill eligibility requirements in § 250.5(a). Such cards may be obtained by contacting the Agency Superintendent, P.O. Box 367, Hoopa, California 95546, telephone number (916) 625-4285, or the Hoopa Valley Tribal Office. The card shall be signed by the card holder. The card shall be countersigned by the authorized official of the Bureau of Indian Affairs or the Hoopa Valley Tribe certifying that the card holder is recognized as eligible to exercise Indian fishing rights on the reservation.

(d) Each eligible Indian who fishes must file logsheets reporting catch data. The logsheet shall be mailed or delivered to the address printed on the logsheet by the 15th day of the month following the period covered by the logsheet. A fisher must file a logsheet for each month during which that person catches at least one anadromous fish. Logsheets will be provided to Indian fishers by the Bureau of Indian Affairs.

#### § 250.7 Identification of gear.

(a) At the time an eligible fisher applies for a fisher identification card he or she shall be assigned an identification number and shall be required to attach the identification number to any net he or she is using for fishing on the reservation. Each net must have floats or corks attached which float and are visible at all times the net is in the water.

(b) All fishing nets shall be conspicuously marked so that the fisher's identification may be read without removing the gear from the water. Only one number may be on the net at one time and it shall be attached to either end of the net. In absence of proof to the contrary, unmarked nets shall be presumed not to be used in the exercise of the fishing rights of Indians of the Reservation and will be subject to seizure by a law enforcement official.

(c) Except as may be provided for elsewhere in this Part, no eligible Indian

fisher may allow his or her identification number to be used on a net that he or she is not attending or fishing.

(d) Except as may be provided for elsewhere in this part, no eligible Indian fisher may attend or fish a net that is not marked with his or her own identification number unless he or she is accompanied by the eligible fisher whose identification number is on the net.

(e) The person whose number is on the net is liable if the net is being used in a manner that violates the regulations of this part.

(f) Nothing in the regulations of this Part prohibits an eligible Indian fisher from requesting or giving assistance to another eligible fisher where the person needing assistance is faced with an emergency situation that could lead to loss of gear or life.

#### § 250.8 Permissible and prohibited fishing.

(a) Except as otherwise prohibited by these regulations the Hoopa Valley Indian Reservation is open to the taking of anadromous fish by eligible Indians for subsistence and ceremonial purposes unless specifically closed by the regulations of this Part or by properly adopted in-season and emergency regulations promulgated hereafter.

(b) During the period of July 15, 1982 through September 30, 1982, fishing with gillnets is permitted as follows:

Sunday—fishing permitted all day  
Monday—fishing prohibited after 9:00 a.m.  
Tuesday—fishing prohibited all day  
Wednesday—fishing prohibited until after 5:00 p.m.  
Thursday—fishing prohibited from 9:00 a.m. to 5:00 p.m.  
Friday—fishing prohibited from 9:00 a.m. to 5:00 p.m.  
Saturday—fishing permitted all day

(c) After September 30, 1982, fishing with gillnets is permitted seven (7) days per week and twenty-four hours per day except that all nets must be out of the water between the hours of 9:00 a.m. and 5:00 p.m. on Monday of each week.

(d) Fishing is permitted under these regulations for subsistence and ceremonial purposes only.

(e) Commercial fishing is prohibited by these regulations.

(f) Fish caught on the Hoopa Valley Indian Reservation may not be sold.

(g) Drift-net fishing is not permitted below the Highway 101 Bridge.

(h) No eligible fisher may use more than two gillnets, the combined length of which may not exceed one hundred (100) feet.

(i) Set-nets or drift-nets may be joined end-to-end so as to form a single straight-line net as long as the new length does not exceed 100 feet.

(j) At least one end of a set-net shall be anchored or staked at all times it is in use.

(k) The anchoring of nets to any boat dock or placement of nets in such a manner as to impede boat traffic from docking at or departing from any boat dock is prohibited.

(l) No set-net or combination of set-nets, staggered or joined, may be placed in the Klamath River or Trinity River in such a way that it covers more than one-third (1/3) of the distance across the wetted area of any channel.

(m) No set-nets may be placed in any tributary creek of either the Klamath and Trinity Rivers or within one hundred (100) feet of the mouth of any of the following creeks:

(1) Blue Creek	(15) Pine Creek
(2) Mill Creek	(16) Roach Creek
(3) Supply Creek	(17) Terwer Creek
(4) Hunter Creek	(18) Ah-Pah Creek
(5) Pecwan Creek	(19) Mettah Creek
(6) Surpur Creek	(20) Tully Creek
(7) Tectah Creek	(21) Soctish Creek
(8) Hostler Creek	(22) Tish-Tang Creek
(9) McGarvey Creek	(23) Omagar Creek
(10) Tarup Creek	(24) Bear Creek
(11) Morek Creek	(25) Johnson Creek
(12) Beaver Creek	(26) Hospital Creek
(13) Campbell Creek	(27) Salt Creek
(14) Richardson Creek	

(n) No set-nets may be placed within five hundred (500) feet in any direction of the confluence of the Klamath and Trinity Rivers.

(o) The use of traps that will catch any fish other than eels, and the use of wire, fencing materials, snag gear, explosives, stunning agents or caustic or lethal chemicals in any form is expressly prohibited in all fisheries.

(p) No set-net may be placed within 400 feet of the test seining operation of the U.S. Fish and Wildlife Service or the California Department of Fish and Game.

(q) Any eligible Indian as determined under this Part who knowingly and maliciously misappropriates the use of another eligible Indian's I.D. number shall be subject to the penalties set out in § 250.15.

(r) Set-net locations: Set-net locations shall be determined by the individual Indian fishers in accordance with tradition and custom and in a manner consistent with the provisions of this § 250.8. Disputes over set-net locations are to be resolved between the parties. If no satisfactory resolution is reached then all disputes are to be referred by the parties to elders or knowledgeable adults of the community for the particular area in which the unresolved dispute takes place.

(s) Dip-net and hook-and-fishing: Eligible Indians may engage in dip-net fishing or hook-and-line fishing at all

times on the Reservation except when fishing is prohibited for all persons by emergency regulations promulgated hereafter for conservation purposes. Fishers identification cards shall be carried by all eligible Indians when engaged in dip-net or hook-and-line fishing.

(t) Special fishing for rest home, elderly and incapacitated persons of the Hoopa Valley Indian Reservation:

(1) The Northern California Agency of the Bureau of Indian Affairs may issue special gillnets and I.D. numbers to eligible Indian fishers for the purpose of fishing for the Hoopa Square rest home and other eligible persons who are elderly, incapacitated or otherwise incapable of fishing for themselves. Such gillnets shall be clearly marked with numbers assigned by the Bureau of Indian Affairs.

(2) Only eligible Indian fishers may attend these nets and when fishing such a special community net an eligible Indian may not fish any other net.

(3) All fish caught in these special nets shall be distributed pursuant to rules and procedures established by the Northern California Agency.

(4) Nothing in these regulations shall prohibit payments to fishers using these special nets from appropriate funding sources. Payment may not be based on the number or weight of the fish caught. Any community fisher who violates this section is subject to the penalties prescribed in § 250.15.

(u) Research and test fisheries: Fish capture techniques including trapping, netting and electrofishing may be employed by biologist of fisheries management agencies working on the rivers for biological research, enhancement or other resource management purposes. Indians of the Reservation may observe research and test fisheries upon making arrangements with the agency conducting the research activity.

#### § 250.9 Catch marking and transportation of fish.

(a) *Marking.* (1) Fish which will not be transported outside the reservation boundaries do not need to be marked.

(2) Any eligible fisher shall mark each fish by removing the dorsal fin prior to removing it from the reservation.

(b) *Off-reservation transportation of fish.* (1) No eligible Indian fisher may transport off the reservation at one time 15 or more fish of any species or size caught on the reservation without having in his or her possession a valid transportation permit issued pursuant to this section. A transportation permit may be obtained from any enforcement officer or, in the case of Hoopa tribal

members, from the Fisheries Department of the Hoopa Valley Tribe. Violations of this section shall be subject to the penalties set forth in § 250.15. The permit so issued shall state the following:

- (i) The name and address of the person to whom the permit is issued.
- (ii) The date of issue.
- (iii) License number of the vehicle to be used to transport the fish.
- (iv) The name and address of the person to receive the fish.
- (v) The estimated time of arrival.
- (vi) The quantity of fish to be transported.
- (vii) The name of the issuing officer and agency.

#### § 250.10 Consultation.

The Bureau of Indian Affairs Agency Superintendent or a designated representative of the Superintendent shall hold meetings as needed on the reservation to consult with Indians of the Reservation on the status of the fishery, ocean harvests, in-season adjustments to the regulations, and other relevant matters. At the end of each presentation, comments will be received from those in attendance. A written summary of those comments shall be maintained as a record by the Bureau of Indian Affairs, Northern California Agency.

#### § 250.11 In-season and emergency regulations.

(a) The Director of the U.S. Fish and Wildlife Service or a specifically authorized delegate of the Director is authorized to make in-season and emergency changes to the regulations when necessary to ensure proper management of the fisheries of the Klamath and Trinity Rivers. This authority includes the following powers:

(1) To close all or part of an Indian fishery when, in the Director's judgment, a closure is necessary to meet conservation needs.

(2) To re-open all or part of an Indian fishery when, in the Director's judgment that action will not jeopardize spawning escapement.

(b) In-season or emergency regulations shall be effective 24 hours after publication in the *Eureka Times Standard*. They shall stay in effect until modified or rescinded by the Director. Failure to complete subsequent provisions of this section shall not affect the validity of any in-season or emergency adjustment.

(c) Notification of in-season or emergency adjustments:

(1) The Superintendent of the Northern California Agency is responsible for having each emergency

or in-season adjustment to the fishing regulations published in the *Eureka Times Standard* as a legal notice at least twenty-four (24) hours before it is to become effective, and in the *Del Norte Triplicate*, *Klamity Courier*, and the *Arcata Union* as promptly as possible.

(2) The BIA Area Director shall have each in-season adjustment or emergency regulations published in the *Federal Register* as promptly as possible.

(3) The Superintendent of the Northern California Agency shall attempt to post each emergency or in-season adjustment at least twenty-four (24) hours before it is to become effective at each of the following locations:

- (i) Hoopa Post Office;
- (ii) Hoopa Shopping Center;
- (iii) Northern California Agency, Bureau of Indian Affairs;
- (iv) Willow Creek Post Office;
- (v) Willow Creek Public Library;
- (vi) Weitchpec Bulletin Board, Pierson's Store;
- (vii) Weitchpec Elementary School;
- (viii) Pecwan Church;
- (ix) Pecwan Elementary School;
- (x) Requa Community Center;
- (xi) Resighini Rancheria Office;
- (xii) Klamath Post Office;
- (xiii) Requa Inn;
- (xiv) U.S. Coast Guard Station, Requa;
- (xv) Klamath Grocery Store;
- (xvi) Klamath Field Office, Bureau of Indian Affairs;
- (xvii) Bureau of Indian Affairs, Eureka;
- (xviii) Bureau of Indian Affairs, Redding;
- (xix) Crescent City Post Office;
- (xx) Crescent City Court House;
- (xxi) Eureka Post Office; and
- (xxii) Eureka Courthouse.

(4) If the owners of the property at the following locations so desire, a courtesy copy of the notice will be provided:

- (i) Hoopa Tribal Office,
- (ii) Young's Bar,
- (iii) Dad's Camp,
- (iv) Chub's Camp,
- (v) Gensaw's Landing,
- (vi) Notchkeo,
- (vii) Terwar,
- (viii) Bacon's Camp,
- (ix) Sim's Camp,
- (x) Mattz's Dock, and
- (xi) Others that may so request.

#### § 250.12 Fish catch reporting.

(a)(1) Any eligible fisher who catches fish on the Klamath River below Highway 101 Bridge shall bring such fish for inspection to the U.S. Fish and Wildlife Service inspection stations located along that portion of the river.

(2) All eligible fishers shall allow access to harvested fish to biologists, enforcement officers and Indian trainees for the purpose of monitoring the harvest and to check for compliance with the provisions of this part.

(b) Fish catch data shall be compiled and summarized by the U.S. Fish and Wildlife Service and made available upon request. It will not be permissible to release catch information for individual fishers of the Reservation.

(c) U.S. Fish and Wildlife Service will compile in-season catch data from information obtained from fishers spot checks, landing counts, creel census, and from other information collected by state and Federal officials.

#### § 250.13 Identification of persons fishing.

Each eligible fisher shall produce for examination the applicable Indian fishers identification card required under these regulations upon demand of an enforcement officer.

#### § 250.14 Enforcement.

Eligible Indians who violate these regulations or any in-season or emergency adjustment promulgated under these regulations shall be subject to prosecution before the Court of Indian Offenses for the Hoopa Valley Indian Reservation. The pertinent provisions of 25 CFR Part 11 and the Indian Civil Rights Act of 1968 apply.

(a) *Citations:* Law enforcement officers may issue citations to any eligible Indian the officer believes has committed a violation of the regulations of this Part. Such citation shall state when and where the person cited is expected to appear in court and the offense with which the person is charged.

(b) *Seizure:* Confiscation of fishing gear and fish.

(1) Any net or other fishing gear used in violation of these regulations and any fish caught or possessed in violation of these regulations may be seized by a law enforcement officer. Fishing gear or fish so seized shall be held pending disposition by court order except as specifically provided for in these regulations.

(2) When a net or other fishing gear is seized and the owner is unknown to the enforcement officer, the officer shall, without unreasonable delay, commence proceedings in the Court of Indian Offenses by petitioning the Court for a judgment forfeiting the fishing gear and/or fish. When a net or other fishing gear is seized and the owner is known and the fishing gear is marked with an identification number the enforcement officer shall, without unreasonable delay, notify by registered mail the

holder of the identification number that his/her fishing gear has been seized. The notice of seizure shall state the date of seizure, the place of seizure, and the time of seizure, and shall direct the person whose gear has been seized to directly notify the Court to arrange to have the matter placed on the Court Calendar.

(3) Upon filing of such petition, the enforcement officer shall set out details of the seizure citing time, place and location of such seizure. A notice of seizure shall be left at the site where the fishing gear and/or fish were confiscated. The Court upon receipt of the petition shall fix a time for a hearing and cause notices for unidentified gear or fish to be posted and published. Notices shall be posted for 14 days at both courthouses of the Court of Indian Offenses. The Clerk of the Court shall publish notices in local news media having circulation on the Reservation. Such notices shall be published for a period of five (5) days and shall set forth the reason for the hearing. Once a person claims seized fishing gear or fish the publication of the notice shall cease.

(4) Any fishing gear or fish ordered forfeited shall be disposed of as directed by the Secretary.

(5) Any person who satisfies the court that he or she is the owner of any fishing gear or fish seized under this section may intervene in the forfeiture proceeding on behalf of the fishing gear or fish.

(6) Except as may be specifically provided for in these regulations all fish seized shall be promptly sold by the Superintendent, Northern California Agency, except that two fish may be retained by law enforcement officers for evidentiary purposes in the Court of Indian Offenses, and the proceeds held pending adjudication of the charge that was the basis for the seizure. Proceeds from sales of fish that are found, upon adjudication, to have been taken in violation of these regulations shall be transferred to a special Hoopa-Yurok Fund in the U.S. Treasury. Nothing in this section shall be construed to prevent undercover law enforcement officers from selling fish as part of their duties. The regulations of this Part do not authorize the purchase of fish from anyone other than the Superintendent, Northern California Agency or a delegate of the Superintendent who has furnished to the buyer proof of authority to sell fish.

#### (c) Arrests:

(1)(i) Each judge of the Court of Indian Offenses is authorized to issue warrants for the arrest of an eligible Indian.

(ii) No arrest warrant may be issued except upon a written affidavit based

upon reliable information or belief alleging that there is probable cause to believe that the person to be arrested has violated the regulations of this Part.

(2) A law enforcement officer may arrest any individual without a warrant if that officer has probable cause to believe that person is violating the regulations contained in this Part in the officer's presence.

(3) Any eligible Indian charged with a violation of the regulations of this Part may be admitted to bail in an amount set by the Court of Indian Offenses. The Court may release a prisoner on his or her own recognizance in an appropriate case.

(d) *Complaint procedures:* Any person regulated under this Part may file a complaint, in writing, against a law enforcement officer. The Superintendent of the Northern California Agency shall, without unreasonable delay, conduct an investigation into any allegation of misconduct by a BIA law enforcement officer in carrying out the duties of that office. Upon completion of the investigation the Superintendent shall make available to the complainant, upon written request, the findings of the investigation.

#### § 250.15 Penalties.

(a) Any eligible Indian who violates the time closure provisions, paragraphs (a), (b), or (c) of § 250.8 shall be subject to the following penalties:

(1) *1st violation:* A law enforcement officer who finds a net which is otherwise in conformance with these regulations shall remove the net from the water and place the net on the bank and seize any fish trapped in the net. The officer shall leave a notice on the net which sets forth the reason(s) the net was removed from the river and the amount of fish, if any, that was seized. The officer, without unreasonable delay, shall cause a certified letter to be mailed to the holder of the identification number of the net. Said letter shall set forth the right of that person to institute proceedings in the Court of Indian Offenses challenging the validity of the alleged violation(s) and the seizure of any fish. If no proceeding is instituted within 15 days from receipt of the formal notice, that person shall be deemed to have waived his or her right to contest the validity of the alleged violation(s) and any fish seized shall then be disposed of by the Secretary or his/her representative.

(2) *2nd violation:* All fish seized shall be forfeited and the holder of the identification number on the net seized shall be subject to no more than a \$300 fine or three months in jail or suffer

suspension of tribal fishing rights for 90 days during the fishing season or forfeiture of fishing gear or any combinations of the above.

(3) *3rd or subsequent violations:* The eligible Indian fisher regulated under this Part shall suffer no more than \$500 fine or 6 months in jail or suffer suspension of tribal fishing rights for 120 days during the fishing season or forfeiture of fishing gear or any combinations of the above.

(b) Any eligible Indian fisher who violates § 250.7 or § 250.5(c) of this Part shall be subject to the following penalties:

(1) *1st violation:* Not more than \$100 fine or forfeiture of fish or fishing gear or thirty (30) days suspension of tribal fishing rights during the fishing season or any combination of the above.

(2) *2nd violation:* Not more than a \$200 fine or forfeiture of fish or fishing gear or sixty (60) days suspension of tribal fishing rights during the fishing season or any combination of the above.

(3) *3rd or subsequent violations:* Not more than a \$300 fine or forfeiture of fish or fishing gear or ninety (90) days suspension of tribal fishing rights during the fishing season or any combination of the above.

(c) Any eligible Indian fisher who violates §§ 250.8(g), (h), (i), (j), (k), (l), (m), (n), (o), or (p) shall be subject to the following penalties:

(1) *1st violation:* Not more than \$100 fine or 10 days in jail or forfeiture of fish or fishing gear or suffer 30 days suspension of tribal fishing rights during the fishing season or any combination of the above.

(2) *2nd violation:* Not more than a \$200 fine or 15 days in jail or forfeiture of fish or fishing gear or suffer 60 days suspension of tribal fishing rights during the fishing season or any combination of the above.

(3) *3rd or subsequent violations:* Not more than \$300 fine or 20 days in jail or forfeiture of fish or fishing gear or suffer 90 days suspension of tribal fishing rights during the fishing season or any combination of the above.

(d)(1) If an eligible Indian fisher fails to appear after being issued a citation pursuant to § 250.6(b)(2) and offer proof that he or she has an identification card, the Court of Indian Offenses may, on petition of the prosecutor, order suspension of the fisher's fishing rights pending the presentation of the required proof.

(2) If an eligible fisher violates § 250.6 a second time, a penalty may be imposed of not more than sixty (60) days suspension of tribal fishing rights during the fall chinook run.

(3) For a third or subsequent violation of § 250.6 the penalty may be not more than ninety (90) days suspension of tribal fishing rights during the fall chinook run.

(e) Any eligible Indian regulated under this part who violates paragraph (e), (f), (g), or (t) of § 250.8 or § 250.9 shall be fined not more than \$500, sentenced to jail for a period of not to exceed six (6) months or have his or her tribal fishing rights suspended for not more than one hundred eighty days during the fall chinook runs.

(f) Any eligible Indian regulated under this part who violates the prohibition against impeding boat and dock traffic contained in § 250.8(k) shall be fined not more than \$25 or sentenced to perform no more than two (2) days community service as directed by the Court of Indian Offenses.

(g) Any eligible Indian who refuses to obey a lawful order of the Court of Indian Offenses shall be fined not more than \$100 or suffer suspension of fishing rights for a period not to exceed sixty (60) days or any combination thereof.

(h) Any eligible Indian who violates a lawful order of the Court of Indian Offenses suspending that persons tribal fishing rights shall be fined not more than \$200 or sentenced to jail for a period not to exceed thirty (30) days, or both.

(i) Except as otherwise provided for in this part, for purposes of determining imposition of fines and sentences under this part, the number of prior violations shall include all violations occurring in the previous three (3) years.

#### § 250.16 Forceable assault and impeding a law enforcement officer.

Any person who forcibly assaults, resists, impedes, or interferes with a law enforcement officer engaged in the enforcement of the regulations of this part shall be prosecuted in the Federal courts under 18 U.S.C. 1111 and 1114.

#### § 250.17 Hoopa Valley Indian Reservation Court of Indian Offenses.

The Hoopa Valley Indian Reservation Court of Indian Offenses established under 25 CFR Part 11 has jurisdiction which is limited to trying persons accused of violating these regulations and determining whether nets, or other fishing gear and fish are forfeited.

#### § 250.18 Execution of judgments pending appeal.

Notwithstanding the provisions of § 11.6 of this title, the judgment of the trial court is not automatically stayed upon the filing of an appeal. A judgment may be stayed only by the order of the trial court or the court of appeals.

Dated: May 18, 1982.

Kenneth Smith,  
Assistant Secretary—Indian Affairs.

[FR Doc. 82-14769 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-02-M

## Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 916

#### Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

**SUMMARY:** The Office of Surface Mining (OSM) is announcing procedures for the public comment period and for a hearing on the substantive adequacy of proposed amendments to the Kansas permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Kansas program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments and the procedures that will be followed for the public hearing.

**DATES:** Written comments must be received on or before 4:00 p.m. on July 1, 1982 to be considered in the Director's decision on whether to approve or disapprove the proposed amendments.

A public hearing on the proposed modifications has been scheduled for June 23, 1982 from 7:00 p.m. to 9:00 p.m.

Any person interested in making an oral or written presentation at the hearing should contact Richard Reike at the address and phone number listed below by June 11, 1982. If no person has contacted Mr. Reike to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the *Federal Register*.

**ADDRESSES:** Written comments should be mailed or hand delivered to: Richard Reike, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

The public hearing will be held at the Holiday Inn, Highway 69 North, Pittsburg, Kansas. Copies of the Kansas program, the proposed modifications to the program, a listing of scheduled

public meetings, and all written comments are available for review at the OSM State Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays: Office of Surface Mining, Missouri State Office, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Mined Land Office, 107 West 11th Street, Pittsburg, Kansas 66726; Kansas Corporation Commission, Legal Office, State Office Building, 4th Floor, 915 Harrison, Topeka, Kansas 66617.

**FOR FURTHER INFORMATION CONTACT:** Richard Reike, Director, Kansas State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 274-3920.

**SUPPLEMENTARY INFORMATION:** On February 26, 1980, OSM received a proposed regulatory program from the State of Kansas. On September 4, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 58569-59576). The State of Kansas resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of six minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 Federal Register (46 FR 5892-5899).

To correct the minor deficiencies outlined in the Secretary's conditional approval, Kansas submitted amended statutory provisions to OSM on May 20, 1981. Receipt of these amendments to remove conditions and a request for public comments were announced in the August 25, 1981 Federal Register (46 FR 42874-42875). The amendments to satisfy the conditions of approval were approved on April 14, 1982 (47 FR 16012-16014). At the same time that Kansas submitted provisions to satisfy the conditions, the State also submitted other proposed statutory amendments. Although listed as "Additional amendments" in the August 25, 1981 Federal Register, comment on these amendments was not specifically invited. Therefore, in accordance with 30 CFR 732.17, notice of receipt and request for public comment on these additional amendments is being published today.

House Bill 2182 enacted May 14, 1981, amended the Kansas Mined Land Conservation and Reclamation Act (MLCRA) as follows:

(1) Section 49-403 of the MLCRA was amended to include the definitions of geologist and geology.

(2) Section 49-405c of the MLCRA was amended to include a provision that a penalty be placed in an interest-bearing escrow account in the event the person contests the amount of the penalty or the fact of the violation.

(3) Section 49-406 was amended to provide:

(a) For geologists to certify maps that accompany permit applications;

(b) That bonding requirements may be satisfied by depositing cash, negotiable bonds, negotiable certificates of deposit or irrevocable letters of credit with the State treasurer.

(4) Added a provision excluding the extraction of coal incidental to highway construction from the provisions of the Kansas MLCRA.

(5) Added a provision creating the mined-land reclamation fund in the State treasury.

See Administrative Record KS-234 for the full text of these amendments.

The Director now seeks public comment on whether these statutory amendments are consistent with SMCRA.

#### Additional Determinations

##### *Executive Order 12291*

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions or amendments. Therefore, this proposed program amendment is exempt from preparing a Regulatory Impact Analysis and regulatory review by OMB.

##### *Regulatory Flexibility Act*

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act 5, U.S.C. 601 *et seq.*, that this action will not have a significant effect on a substantial number of small entities.

##### *National Environmental Policy Act*

Pursuant to Section 702(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, FONSI, or environmental assessment need be prepared on this rulemaking.

##### List of Subjects in 30 CFR Part 916

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95-87, Secs. 102, 201 and 503; 30 U.S.C. 1202, 1211, and 1253)

Dated: May 26, 1982.

J. Steven Griles,  
Director, Office of Surface Mining.  
[FR Doc. 82-14792 Filed 5-28-82; 8:45 am]  
BILLING CODE 4310-05-M

### 30 CFR Part 925

#### Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Missouri Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Surface Mining (OSM) is announcing procedures for the public comment period and opportunity for a hearing on the substantive adequacy of proposed amendments to the Missouri permanent regulatory program.

This notice sets forth the times and locations that the Missouri program and proposed amendments are available for public inspection, the comment period during which interested persons may submit comments on the proposed amendments, and the procedure that will be followed for the public hearing.

**DATES:** Written comments must be received on or before 4:00 p.m. on July 1, 1982 to be considered in the Director's decision on whether to approve or disapprove the amendments.

A public hearing on the proposed amendments has been scheduled for June 21, 1982, from 7:00 p.m. to 9:00 p.m. Any person interested in making an oral or written presentation at the hearing should contact Richard Rieke at the address and telephone number listed below by June 11, 1982. If no person has contacted Mr. Rieke by the above date to express an interest in participating in the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

**ADDRESSES:** Written comments or requests for a public hearing should be mailed or hand-delivered to: Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-3920.

The public hearing will be held at the Federal Building, 601 E. 12th, Kansas City, Missouri.

Copies of the full text of the Missouri program, the proposed modifications to the program, a list of all scheduled public meetings and copies of all written comments are available for review at

the OSM State Office and the central office of the Missouri Land Reclamation Commission listed below, Monday through Friday, 8 a.m. to 4 p.m., excluding holidays:

Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106  
Missouri Land Reclamation Commission, 1026-D N.E. Drive, Jefferson City, Missouri 65102

**FOR FURTHER INFORMATION CONTACT:**

Richard Rieke, Director, Missouri State Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-3920

**SUPPLEMENTARY INFORMATION:** On

February 1, 1980, OSM received a proposed regulatory program for the State of Missouri. On November 14, 1980, the Secretary approved the program subject to the correction of minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980 Federal Register (45 FR 77017-77028).

To correct the minor deficiencies outlined in the Secretary's conditional approval, Missouri submitted amended rules to OSM on December 3, 1980, and March 12, 1981. Receipt of these amendments to remove conditions and a request for public comment were announced in the August 25, 1981 Federal Register (46 FR 42875-42876). With one exception, the amendments to satisfy the conditions of approval were approved on May 11, 1982 (47 FR 20116).

At the same time that Missouri submitted provisions to satisfy the conditions, the State also submitted other proposed regulatory amendments. Comment on these additional proposals was not solicited in the August 25, 1981 Federal Register. Therefore, in accordance with 30 CFR 732.17, a notice of receipt and request for comment on these additional proposed amendments is being published today.

Amendments have been proposed to the following sections of the Missouri regulations:

- (1) 10 CSR 40-6.090(3)  
Permit Reviews—Review of Outstanding Permits  
Proposed: May 1, 1980 (5 Mo.R.#491)  
Final: August 1, 1980 (5 Mo.R.#860)
- (2) 10 CSR 40-6.090(4)(C)  
Permit Revisions—Approval Time  
Proposed: May 1, 1980 (5 Mo.R.#492)  
Final: August 1, 1980 (5 Mo.R.#860)
- (3) 10 CSR 40-7.030(1)(E)  
Bond Release—Review of Decision  
Proposed: May 1, 1980 (5 Mo.R.#493)  
Final: August 1, 1980 (5 Mo.R.#860)
- (4) 10 CSR 40-7.040(2)(C)

Bond Forfeiture  
Proposed: May 1, 1980 (5 Mo.R.#494)  
Final: August 1, 1980 (5 Mo.R.#864)

(5) 10 CSR 40-6.010(6)  
Permit Fees  
Proposed: June 2, 1980 (5 Mo.R.#549)  
Final: September 2, 1980 (5 Mo.R.#1149)

(6) 10 CSR 40-2.080  
Blasting Procedures  
Proposed: August 1, 1980 (5 Mo.R.#808)

Final: November 3, 1980 (5 Mo.R.#1337)

(7) 10 CSR 40-3.050  
Use of Explosives—Surface Blasting Requirements  
Proposed: August 1, 1980 (5 Mo.R.#809)

Final: November 3, 1980 (5 Mo.R.#1338)

(8) 10 CSR 40-6.070  
Permit Review—Definition of Irreparable Damage  
Proposed: August 1, 1980 (5 Mo.R.#809)

Final: November 3, 1980 (5 Mo.R.#1338)

(9) 10 CSR 40-8.030(5)-(13)(A)  
Inspection and Enforcement  
Proposed: May 1, 1980 (5 Mo.R.#495)  
Final: August 1, 1980 (5 Mo.R.#561)  
See Administrative Record MO-223 for the full text of these amendments.

(10) 10 CSR 40-3.100(4)(B)  
Protecting Fish and Wildlife  
Proposed: September 2, 1980 (5 Mo.R.#939)  
Final: December 1, 1980 (5 Mo.R.#1432)

See Administrative Record MO-230 for the full text of this amendment.

The Director now seeks public comment on whether these proposed regulatory amendments are consistent with the Secretary's regulations.

**Additional Determinations**

*Executive Order 12291*

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, this proposed program amendment is exempt from preparing a Regulatory Impact Analysis and regulatory review by OMB.

*Regulatory Flexibility Act*

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this action will not have a significant effect on a substantial number of small entities.

*National Environmental Policy Act*

Pursuant to Section 702(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1292(d), this rule is not a major Federal action significantly affecting the quality of the human environment. Accordingly, no environmental impact statement, environmental assessment or FONSI need be prepared on this rulemaking.

**List of Subjects in 30 CFR Part 925**

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95-87, Secs. 102, 201 and 503; 30 U.S.C. 1202, 1211, and 1253)

Dated: May 26, 1982.

J. Steven Griles,  
Director, Office of Surface Mining.

[FR Doc. 82-14790 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-05-M

**National Park Service**

**36 CFR Part 9**

**Mining and Mining Claims; Petition for Rulemaking and Request for Comments**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of petition for rulemaking and request for comments.

**SUMMARY:** The Department of the Interior has been petitioned by American Borate Co., Cyprus Industrial Minerals, Pfizer, Inc., and U.S. Borax to amend the regulations governing mining activities on patented and valid unpatented mining claims within units of the National Park System. This notice sets forth the proposed amendments, the Department's analysis of some of the proposals, and requests public comments.

**DATES:** Written comments will be accepted until July 1, 1982.

**ADDRESS:** Comments should be addressed to: Associate Director, Management and Operations, National Park Service, 18th and C Streets, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Willis Kriz, Land Resources Division, National Park Service, (202) 523-5252.

**SUPPLEMENTARY INFORMATION:** Part 9, Subpart A of Title 36, Code of Federal Regulations was promulgated pursuant to the Mining in the Parks Act, Pub. L. 94-429, 16 U.S.C. 1901 *et seq.* (henceforth "The Act"). The regulations implement section 2 of the Act, which requires the Secretary of Interior to promulgate those regulations he deems necessary or

desirable to regulate mining activities resulting from the exercise of valid existing rights on patented or unpatented mining claims within any area of the National Park System so as "to preserve for the benefit of present and future generations the pristine beauty of [the] area" and to further the "preservation and management" of those areas. The regulations also were promulgated to implement section 4 of the Act, which imposed a four year moratorium on new surface disturbance from mining activities within Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument.

The petitioners note in their submission that the four-year moratorium on surface disturbance expired on September 28, 1980, and has not been renewed or extended. This expiration has rendered obsolete some of the provisions of 36 CFR Part 9, Subpart A. The Department agrees that some provisions of the regulations must now be deleted and that technical changes are required in others because the moratorium has expired.

Petitioners have also submitted numerous specific amendments to the existing regulations as set forth below. They maintain that the amendments strike a better balance between the need to protect valid existing rights and to maintain efficient production of resources, while protecting park objectives. The major features of these amendments have been reviewed by the Department. The full text of the proposed changes are included as an appendix to this notice.

#### Mineral Resource Areas

One major feature of the proposed amendments would amend § 9.2(o) to allow for special "mineral resource areas" in Death Valley National Monument which contain significant mineral values and within which the extraction of these mineral resources will not significantly injure or adversely affect the unit. The proposed amendments to section 9.4 would allow claimholders operating within these designated mineral resource areas to conduct surface operations outside the boundaries of their claim, providing certain conditions are met.

#### Scope of Regulations

Section 9.1 has also been proposed for amendment by petitioners to redefine the scope of the regulations. Rather than regulating "all activities resulting from the exercise of valid existing mineral rights on claims within any unit of the National Park System," the petitioners propose that the regulations apply to

mining operations as defined in § 9.2(b). The definition proposed for § 9.2(b) is limited to "surface functions, work and activities in connection with mining on claims" and is further limited to activities "on Federal lands." This represents a change from the previous scope of the regulations.

#### Plan of Operations Approval

The proposal also calls for several changes in the standards for approval of mining plans of operation. One proposed change is the elimination of separate standards for operations associated with unpatented claims or claims patented with surface use restrictions, where the surface of the claim has not been previously "significantly disturbed for purposes of mineral extraction prior to January 26, 1977."

#### Reclamation Requirements

There are two proposed changes in reclamation requirements. The first (§ 9.11(a)(2)(ii)) is the elimination of the requirement to prevent surface subsidence as a separate standard. The other change is the elimination of the requirement in § 9.11(b) to "restore" the area to "a condition equivalent to its pristine beauty." The operator remains responsible to "reclaim" the area. Most operations occur on sites which have been mined or are adjacent to mined areas.

#### Assessment Work

The petition proposes a revision to the assessment work requirement in § 9.7. The Department agrees with the purpose of the proposal, and has partially suspended the requirement in § 9.7(b)(2) of the existing regulations.

The Department seeks public comment on any of the other proposed amendments to the regulations. Comments on the adequacy of the existing regulations, as well as additional proposals to amend Part 9, Subpart A, will also be welcome.

#### List of Subjects in 36 CFR Part 9

Environmental protection, mines, National parks, oil and gas exploration, Public lands—mineral resources, Public lands—rights of way.

G. Ray Arnett,

*Assistant Secretary for Fish and Wildlife and Parks.*

The petition proposes that 36 CFR Part 9, Subpart A, be revised to read as follows:

### PART 9—MINERALS MANAGEMENT

#### Subpart A—Mining and Mining Claims

Sec.

9.1 Purpose and scope.

Sec.

9.2 Definitions.

9.3 Access permits.

9.4 Mineral Resource Areas.

9.5 Recordation

9.6 Transfers of interest.

9.7 Assessment work.

9.8 Use of water.

9.9 Plan of operations.

9.10 Plan of operations approval.

9.11 Reclamation requirements.

9.12 Supplementation or revision of plan of operations.

9.13 Performance bond.

9.14 Appeals.

9.15 Use of roads by commercial vehicles.

9.16 Penalties.

9.17 Public inspection of documents.

9.18 Surface use and patent restrictions.

#### Subpart A—Mining and Mining Claims

##### § 9.1 Purpose and scope.

These regulations will govern mining operations as defined in § 9.2(b) of this part in a manner which will preserve and allow the exercise of all valid existing mineral rights as of September 28, 1976, to the maximum extent possible consistent with the purposes for which the National Park System and each unit thereof were created, for the benefit of present and future generations. These procedures apply to all operations conducted on claims in any unit of the National Park System.

##### § 9.2 Definitions.

The terms used in this Part shall have the following meanings:

(a) *Secretary.* The Secretary of the Interior.

(b) *Operations.* All surface functions, work and activities in connection with mining on claims, including: prospecting, exploration, development and extraction; dumping mine wastes and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; on Federal lands.

(c) *Operator.* A person conducting or proposing to conduct operations.

(d) *Person.* Any individual, partnership, corporation, association, or other entity.

(e) *Superintendent.* The Superintendent, or his designee, of the unit of the National Park System containing claims subject to these regulations.

(f) *Surface mining.* Mining in surface excavations, including placer mining, mining in open glory-holes or mining pits, mining and removing ore from open cuts, and the removal of capping or overburden to uncover ore.

(g) *The Act.* The Act of September 28, 1976, 90 Stat. 1342, 16 U.S.C. 1901 et seq.

(h) *Commercial vehicle.* Any motorized equipment used for

transporting the product being mined or excavated, or for transporting heavy equipment used in mining operations.

(i) *Unit.* Any National Park System area containing a claim or claims subject to these regulations.

(j) *Claimant.* The owner, or his legal representative, of any claim lying within the boundaries of a unit.

(k) *Claim.* Any valid, patented or unpatented mining claim, mill site, or tunnel site.

(l) *Regional Director.* Regional Director for the National Park Service region in which the given unit is located.

(m) *Designated roads.* Those existing roads determined by the Superintendent in accordance with 36 CFR 2.6(b) to be open for the use of the public or an operator.

(n) *Production.* Number of tons of a marketable mineral extracted from a given operation.

(o) *Mineral Resource Area.* A defined area within the Death Valley National Monument unit which contains significant mineral resource value and within which it is deemed that the extraction of these minerals values will not significantly injure or adversely affect the unit.

#### § 9.3 Access permits.

(a) Subject to such reasonable terms and conditions as may be necessary to prevent unavoidable and substantial harm to the unit, the Superintendent shall recognize a right of access and issue permits for access to holders of mineral rights adequate to secure to the owner reasonable use and enjoyment of such rights. All operators seeking new or continued access to and from a claim must file for access permits in accordance with these regulations, unless access to a mining claim is by designated road or by pack animal or foot. (See § 9.7 of this part for restrictions on assessment work and § 9.9(d) and § 9.10(g) for extensions of permits.)

(b) Prior to the issuance of a permit for access to any claim or claims within or without the monument, the operator shall file with the Superintendent a notice indicating the nature of any activities to be conducted on the claim and a description of the means of access to be utilized. A permit shall issue unless the Superintendent, within the authority granted under the Act, determines the proposed activity requires an approved plan of operations or the means of access will cause irreparable significant damage to the unit.

(c) Access to claims outside a unit will be allowed without permit across unit lands provided such access is by foot,

pack animal, or designated road. Persons using such roads for access to such claims shall comply with the terms of § 9.15 of this part where applicable.

#### § 9.4 Mineral Resource Areas.

(a) The following areas which are identified by a map on file with the Federal Register and the National Park Service (available upon request), are hereby designated as mineral resource areas.

(b) The holder of a valid mining claim, patented or unpatented, located within a mineral resource area shall be entitled to an approved plan of operations on monument lands within such mineral resource area for use for mining operations in connection with the operator's existing mining claim or claims located within said mineral resource area provided the Regional Director determines

(1) That the proposed use of monument lands will result in no substantially greater impact to the unit than use of land within the operator's mining claim or mill site; and (2) that a benefit (i.e. decreased time of operation, decreased area of disturbance, decreased visual impact, increased productivity, etc.) to either the monument and/or the operator will result.

#### § 9.5 Recordation.

(a) Any unpatented mining claim in a unit in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the Notice of October 20, 1976 (41 FR 46357) or 36 CFR 9.5 as promulgated on January 26, 1977, is, pursuant to section 8 of the Act, conclusively presumed to be abandoned and shall be void.

(b) Any unpatented mining claim in a unit established after September 28, 1976, or in an area added to an existing unit after that date, shall be recorded with the Bureau of Land Management in accordance with the provisions of section 314 of the Federal Land Policy and Management Act (FLPMA), 90 Stat. 2769, 43 U.S.C. 1744, and regulations implementing it (43 CFR 3833.1).

(c) A claimant of an unpatented mining claim in any unit shall file annually with the Bureau of Land Management a notice of intention to hold a claim or evidence of annual assessment work required by section 314 of FLPMA, as implemented by 43 CFR 3833.2. A copy of each such filing will be provided to the Superintendent of the appropriate unit by the Bureau of Land Management.

(d) The effect of failure to file an instrument required by paragraphs (b) and (c) of this section shall be controlled

by 43 CFR 3833.4. Recordation or filing under this section will not render any claim valid which would not otherwise be valid under applicable law and shall not give the claimant any rights to which he is not otherwise entitled by law.

(Act of September 28, 1976 (16 U.S.C. 1901 et seq.), Act of August 25, 1916 (16 U.S.C. 1 and 2-4) and 245 DM (42 FR 12931), as amended)

#### § 9.6 Transfers of interest.

Whenever a claimant who has recorded his unpatented claim(s) with the Superintendent pursuant to the requirements of § 9.5 sells, assigns, bequeaths, or otherwise conveys all or any part of his interest in his claim(s), the Superintendent shall be notified within 60 days after completion of the transfer of; The name of the claim(s) involved; the name and legal address of the person to whom an interest has been sold, assigned, bequeathed, or otherwise transferred; and a description of the interest conveyed or received. Copies of any recorded transfer documents shall be provided by the Superintendent to the Bureau of Land Management upon request. The transferee shall assume all obligations imposed pursuant to existing permits or plans of operation. Failure to so notify the Superintendent shall render any existing access permit or plan of operations voidable. Compliance with this section will effect a transfer of any existing permit or plan of operations.

#### § 9.7 Assessment work.

Commencing September 1, 1976, no plan of operations shall be approved where its sole purpose is compliance with the requirement of annual assessment work required by Revised Statute 2324 (30 U.S.C. 28), and provided a notice of intent to hold is filed in compliance with § 9.5, of this part, the Secretary will not challenge the validity of any claim for failure to perform assessment work.

#### § 9.8 Use of water.

(a) No operator may use for operations any water from a point of diversion which is within the boundaries of any unit prior to notification of the Superintendent. The Superintendent shall not object to the use of water from such source where the right to the water has been perfected under applicable State law, has a priority date prior to the establishment of the unit and such use has not been abandoned.

(b) If an operator whose operations will require the use water from a point of diversion within the boundaries of the unit can show that he has a perfected State water right junior to the reserved

water right of the United States and can demonstrate that the exercise of that State water right will not diminish the Federal right, which is that amount of water necessary for the purposes for which the unit was established, he will be authorized to use water from that source for operations, if he has complied with all other provisions of these regulations.

#### § 9.9 Plan of operations.

(a) No operations shall be conducted within any unit until a plan of operations has been submitted by the operator to the Superintendent and approved by the Regional Director. All operations within any unit shall be conducted in accordance with an approved plan of operations.

(b) The proposed plan of operations shall relate, as appropriate, to the proposed operations (e.g. exploratory, developmental or extraction work) and shall include but is not limited to:

(1) The names and legal addresses of the following persons: The operator, the claimant if he is not the operator, and any lessee, assignee, or designee thereof;

(2) A map or maps showing the proposed area of operations; existing roads or proposed routes to and from the area of operations; areas of proposed mining; location and description of surface facilities, including dumps;

(3) A description of the mode of transport and major equipment to be used in the operations;

(4) A description of the proposed operations and an estimated timetable for each phase of operations and the completion of operations;

(5) The nature and extent of the known deposit to be mined. When the claim is located in a National Monument in Alaska and is unpatented, a completed Supplemental Claim Information Statement shall be submitted describing the quantity, quality, and any previous production of the deposit;

(6) A mining reclamation plan demonstrating compliance with the requirements of § 9.11;

(7) An environmental report analyzing the following:

(i) The environment to be affected by the operations,

(ii) The impacts of the operations on the unit's environment,

(iii) Steps to be taken to insure minimum surface disturbance,

(iv) Methods for disposal of all rubbish and other solid and liquid wastes.

(v) Alternative methods of extraction and the environmental effects of each,

(vi) The impacts of the steps to be taken to comply with the reclamation plan, and

(8) Any additional information that is required to enable the Regional Director to effectively analyze the effects that the operations will have on the preservation, management and public use of the unit, and to make a decision regarding approval or disapproval of the plan of operations and issuance or denial of the access permit.

#### § 9.10 Plan of operations approval.

(a) The Regional Director shall approve a plan of operations unless it is found that:

(1) The claim was patented without surface use restriction and the operations on Federal lands would constitute a nuisance in the vicinity of the operation, or would significantly injure or adversely affect the unit; or

(2) The operations would constitute a nuisance in the vicinity of the operations, or would significantly injure or adversely affect the unit.

(3) The operations would result in the destruction of surface resources, such as trees, vegetation, soil, water resources, or loss of wildlife habitat, not required for development of the claim; or

(4) The plan does not satisfy the requirements of § 9.9.

(b) Within 30 days of the receipt of a proposed plan of operations, the Regional Director shall make an environmental analysis of such plan, and

(1) Notify in writing the operator that he has approved or rejected the plan of operations (if the plan is rejected in whole or in part the reasons for such rejection shall be specifically stated); or

(2) Notify the operator of any changes in, or additions to the plan of operations which are necessary before such plan will be approved; or

(3) Notify the operator that the plan is being reviewed, but that more time, not to exceed an additional 30 days, is necessary to complete such review, and setting forth the reasons why additional time is required. Provided, however, that days during which the area of operations is inaccessible for such reasons as inclement weather, natural catastrophe, etc., for inspection shall not be included when computing either this time period, or that in paragraph (b) of this section; or

(4) Notify the operator that the plan will be considered for approval within thirty (30) days after a final environmental impact statement, if required, has been prepared and filed with the Council on Environmental Quality.

(c) Failure of the Regional Director to act on a proposed plan of operations and related permits within the time period specified shall constitute an approval of the plan and related permits for a period of three (3) years.

(d) The Regional Director's analysis may include:

(1) An examination of the environmental report filed by the operator;

(2) An evaluation of measures and timing required to comply with reclamation requirements;

(3) An evaluation of necessary conditions and amount of the bond or security deposit to cover estimated reclamation costs;

(4) An evaluation of the need for any additional requirements in access permit; and

(5) A determination regarding the impact of this operation and the cumulative impact of all operations on the management of the unit.

(e) Prior to approval of a plan of operations, the Regional Director shall comply with the National Historic Preservation Act, as amended, and implementing regulations.

(1) The operator shall comply with the Antiquities Act (16 U.S.C. 431-433) (see 43 CFR Part 3).

(2) The operator shall immediately bring to the attention of the Superintendent any cultural and/or scientific resource included within the provisions of the Antiquities Act (16 U.S.C. 431-433) (see 43 CFR Part 3) or the Archeological Resources Protection Act (16 U.S.C. 470aa *et seq.*) that might be altered or destroyed by his operation and shall leave such discovery intact until told to proceed by the Superintendent. The Superintendent will evaluate the discoveries brought to his attention, and will determine within ten (10) working days what action will be taken with respect to such discoveries.

(f) The operator shall protect all survey monuments, witness corners, reference monuments and bearing trees against destruction, obliteration, or damage from mining operations, and shall be responsible for the reestablishment, restoration, or referencing of any monuments, corners and bearing trees which are destroyed, obliterated, or damaged by such mining operations.

(g) Pending approval of the plan of operations, the Superintendent shall approve, on a temporary basis, the continuation of existing operations where necessary to enable timely compliance with these regulations and with Federal, State, or local laws, or where a halt to existing operations

would result in an unreasonable economic burden or injury to the operator. Such work shall be conducted in accordance with all applicable laws and in a manner prescribed by the Superintendent and designed to minimize or prevent significant injury to the unit.

(h) Approval of each plan of operations is expressly conditioned upon the Superintendent having such reasonable access to the claim as is necessary to properly monitor and insure compliance with the plan of operations.

#### § 9.11 Reclamation requirements.

(a) As contemporaneously as possible with the operations, but in no case later than six (6) months after completion of operations and within the time specified in an approved mining reclamation plan, unless a longer period is authorized in writing by the Superintendent, each operator shall initiate reclamation as follows:

(1) Where the claim was patented without surface use restriction, the operator shall unless directed to the contrary by the Superintendent:

(i) Unless otherwise requested remove all above ground structures, equipment, and other manmade debris used for operations; and

(ii) Rehabilitate the area of operations to a condition which would not constitute a nuisance;

(2) On any claim which was patented with surface use restrictions or is unpatented, each operator shall take steps to reclaim the property including where feasible:

(i) Unless otherwise requested removing all above ground structures, equipment and other manmade debris;

(ii) Replacing overburden and spoil, wherever economically and technologically practicable;

(iii) Grading to reasonably conform the contour of the area of operations to a contour similar to that which existed prior to the initiation of operations, where such grading will not jeopardize reclamation;

(iv) Replacing the natural topsoil necessary for vegetative restoration; and

(v) Reestablishing native vegetative communities.

(b) Reclamation under paragraph (a)(2) of this section is acceptable where the operator makes reasonable efforts to provide for the safe movement of native wildlife, the reestablishment of native vegetative communities, the normal flow of surface and reasonable flow of subsurface waters, the return of the area to a condition which does not jeopardize visitor safety or public use of the unit.

(c) Reclamation required by this section shall apply to operations authorized under this Part, except that all terms relating to reclamation of previously issued special use permits revoked by this part for operations to be continued under an approved plan of operations shall be incorporated into the operator's reclamation plans.

#### § 9.12 Supplementation or revision of plan of operations.

(a) An approved plan of operations may require reasonable revision or supplementation to adjust the plan to changed conditions or to correct oversights.

(1) The Regional Director may propose an alteration by notifying the operator in writing of the proposed alteration and the justification therefor. The operator shall have thirty (30) days to comment on the proposal.

(2) The operator may initiate an alteration by submitting to the Superintendent a written statement of the proposal, and the justification therefor.

(b) Any proposal for revision or supplementation under paragraph (a) of this section shall be reviewed and decided by the Regional Director in accordance with § 9.10. Where the operator believes he has been aggrieved by a decision under this paragraph, he may appeal the decision pursuant to § 9.14. While the decision is on appeal, the original plan shall remain in effect.

#### § 9.13 Performance bond.

(a) Upon approval of a plan of operations the operator shall be required to file a suitable performance bond with satisfactory surety, payable to the Secretary or his designee. The bond shall be conditioned upon faithful compliance with applicable regulations, the terms and conditions of the permit, lease, or contract, and the plan of operations as approved, revised or supplemented.

(b) In lieu of a performance bond, an operator may elect to deposit with the Secretary, or his designee, cash or negotiable bonds of the U.S. Government. The cash deposit or the market value of such securities shall be at least equal to the required sum of the bond.

(c) The bond or security deposit shall be in an amount equal to the estimated cost of completion of reclamation requirements either in their entirety or in a phased schedule for their completion as set forth in the approved, supplemented or revised plan of operations.

(d) In the event that an approved plan of operations is revised or supplemented

in accordance with § 9.12, the Superintendent may adjust the amount of the bond or security deposit to conform to the plan of operations as modified.

(e) The operator's and his surety's responsibility and liability under the bond or security deposit shall continue until such time as the Superintendent determines that successful reclamation of the area of operations has occurred, which in no case shall exceed five (5) years following completion of reclamation.

(f) When all required reclamation requirements of an approved plan of operations are completed, the Superintendent shall notify the operator that performance under the bond or security deposit has been completed and that it is released.

#### § 9.14 Appeals.

(a) Any operator aggrieved by a decision of the Regional Director in connection with the regulations in this Part may file with the Regional Director a notice of appeal followed by a written statement of reasons setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. The notice of appeal shall be filed with the Regional Director within thirty (30) days after the date of notification to the operator of the action or decision complained of. A statement of reasons shall be filed within fifteen (15) days thereafter. Upon receipt of such written statement from the aggrieved operator, the Regional Director shall promptly review the action or decision and within 30 days shall either reverse his original decision or prepare his own statement, explaining that decision and the reasons therefor, and forward the statement and record on appeal to the Director, National Park Service, for review and decision. Copies of the Regional Director's statement shall be furnished to the aggrieved operator, who shall have 30 days within which to file exceptions to the Regional Director's decision. The Department has the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(b) The official files of the National Park Service on the proposed plan of operations and any testimony and documents submitted by the parties on which the decision of the Regional Director was based shall constitute the record on appeal. The Regional Director shall maintain the record under separate cover and shall certify that it is the record on which his decision was based

at the time it is forwarded to the Director of the National Park Service. The National Park Service shall make the record available to the operator upon request.

(c) If the Director considers the record inadequate to support the decision on appeal, he may provide for the production of such additional evidence or information as may be appropriate, or may remand the case to the Regional Director, with appropriate instructions for further action.

(d) On or before the expiration of forty-five (45) days after his receipt of the exceptions to the Regional Director's decision, the Director shall make his decision in writing; Provided, however, That if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reason(s) for delay. The decision of the Director shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action of the agency on a proposed plan of operations.

(e) A decision of the Regional Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be directed to the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

#### § 9.15 Use of roads by commercial vehicles.

(a) After January 26, 1977, no commercial vehicle shall use roads administered by the National Park Service without first being registered with the Superintendent.

(1) A fee shall be charged for such registration based upon a posted fee schedule, computed on a ton-mile basis. The fee schedule posted shall be subject to change upon 60 days notice.

(2) An adjustment of the fee may be made at the discretion of the Superintendent where a cooperative maintenance agreement is entered into with the operator.

(b) No commercial vehicle which exceeds roadway load limits specified by the Superintendent shall be used on roads administered by the National Park Service unless authorized by written permit from the Superintendent.

(c) Should a commercial vehicle used in operations cause damage to roads or other facilities of the National Park

Service, the operator shall be liable for all damages so caused.

#### § 9.16 Penalties.

Undertaking any operation within the boundaries of any unit in violation of this Part shall be deemed a trespass against the United States, and the penalty provisions of 36 CFR Part 1 are inapplicable to this Part.

#### § 9.17 Public inspection of documents.

(a) Upon receipt of the plan of operations the Superintendent shall publish a notice in the Federal Register advising the availability of the plan for public review.

(b) Any document required to be submitted pursuant to the regulations in this Part shall be made available for public inspection at the Office of Superintendent during normal business hours. The availability of such records for inspection shall be governed by the rules and regulations found at 43 CFR Part 2.

#### § 9.18 Surface use and patent restrictions.

(a) The regulations in 43 CFR 3826.2-5 and 3826.2-6, 3826.4-1(g) and 3826.4-1(h), and 3826.5-3 and 3826.5-4 will apply to any claimant who wishes to take his claim to patent in Olympic National Park, Glacier Bay National Monument or Organ Pipe Cactus National Monument.

(b) The additional provisions of 43 CFR, Subpart 3826 and 36 CFR 7.26 and 7.44(a) and (b) will continue to apply to existing permits until 120 days after January 26, 1977, unless extended by the Regional Director. (See § 9.10(g)).

[FR Doc. 82-14750 Filed 5-28-82; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-5-FRL-2066-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Coke Batteries, Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to announce the receipt of additional State Implementation Plan (SIP) revisions to control particulate matter emissions from coke batteries located in the State of Indiana, to discuss the results of the United States Environmental Protection Agency's (U.S. EPA) review and proposed action on

these revisions and to invite public comments.

DATE: Comments on these revisions and on U.S. EPA's proposed action are due on or before July 1, 1982.

ADDRESSES: Copies of the SIP revisions are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V, Office of Enforcement Counsel, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206

#### WRITTEN COMMENTS SHOULD BE SENT

TO: Docket Clerk, Office of Enforcement Counsel, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

#### FOR FURTHER INFORMATION CONTACT:

Louise Gross, 312-886-6844.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the State of Indiana submitted to U.S. EPA a proposed revision of its SIP pursuant to Part D of the Clean Air Act (Act), as amended in 1977. The revision applied to areas of Indiana that had not attained the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>), ozone (O<sub>3</sub>), carbon monoxide (CO) and total suspended particulates (TSP). As required by the Act, the purpose of this revision was to implement measures for controlling the emissions of these pollutants in nonattainment areas and to demonstrate that these measures would provide for attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1982, for the primary standards or by December 31, 1987, under certain conditions, for ozone and carbon monoxide. In addition, some of these rules contained requirements to control emissions in areas which have either attained the NAAQS or have been designated as "unclassified," under Section 107 of the Act.

The requirements for an approvable SIP are described in a Federal Register notice published on April 4, 1979 (44 FR 20372), and are not reiterated in this notice. Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182) discussing, among other things, additional criteria for SIP approval.

On March 27, 1980, in the context of proposed rulemaking, U.S. EPA announced receipt of the Indiana submittal, the results of U.S. EPA's review of that submittal, and invited public comment (45 FR 20432). Excluded from the announcement, however, was U.S. EPA's review and proposed rulemaking for that portion of the Indiana submittal pertaining to particulate emission from iron and steel sources.

On July 3, 1980, U.S. EPA addressed iron and steel sources, proposing to disapprove revised Indiana Regulation APC-3 (opacity) and new Regulation APC-9 (coke batteries). 45 FR 45314. Since Regulation APC-23 (particulate matter) as submitted by the State of Indiana on June 26, 1979, did not cover all of the nonattainment counties which contain iron and steel process sources, i.e., Lake, Marion and Vigo, U.S. EPA did not propose rulemaking for that regulation. In its *Federal Register* action, U.S. EPA discussed the history of the Indiana submission, the relevant Clean Air Act requirements and its applicable policies.

On October 6, 1980, Indiana submitted another revised opacity rule, recodified at 325 IAC 5-1. This rule contained a number of new provisions, including opacity limits for non-stack sources of visible emissions. The State has also submitted county-specific regulations as amendments to APC-23 (now recodified at 325 IAC 6-1) for Lake (325 IAC 6-1-10, 6-1-11), Marion (325 IAC 6-1-12) and Vigo Counties (325 IAC 6-1-13). Finally, Indiana has made certain revisions to coke battery rule APC-9, now recodified as Rule 325 IAC 11-3 (Rule 11-3). This rule was submitted to U.S. EPA on August 27, 1981.

In light of these changes, U.S. EPA recently repropose rulemaking on March 3, 1982 (47 FR 9019), concerning Indiana's particulate rules for sources other than coke batteries. At that time, the Agency also indicated its intention to take separate action on Rules 6-1-10 and 6-1-11 insofar as they affected iron and steel sources.

In today's rulemaking, U.S. EPA proposes conditionally to approve coke battery Rule 11-3 for the State of Indiana, and conditionally to approve the Indiana Part D particulate control strategies in Marion and Vigo Counties (325 IAC 6-1-12 and 6-1-13, respectively). With regard to Lake County, U.S. EPA is currently reviewing a particulate control strategy which has been prepared by the Lake County Attainment Task Force, and submitted informally to U.S. EPA by the State of Indiana. This strategy is intended to be incorporated into 325 IAC 6-1 (325 IAC

6-1-10, 6-1-11) and will include coke battery mass emissions limitations which reflect the requirements of Rule 11-3. The Agency's proposed rulemaking on Rule 11-3, therefore, encompasses coke batteries in Lake County. U.S. EPA will address 325 IAC 6-1-10 and 6-1-11 in a subsequent notice.

The measures proposed for conditional approval today will be in addition to, and not in lieu of, existing SIP regulations. The current emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or, if it chooses, challenging the new regulations.

In some instances, the present emission control regulations contained in the federally approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally approved regulations. Failure of a source to meet the present federally approved SIP regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reasons, the existing SIP regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the existing SIP regulations. Any such exemptions must be drawn as narrowly as possible. They will be reviewed and acted on by U.S. EPA either as part of these promulgated regulations or as a future SIP revision.

In its new review, U.S. EPA specifies portions of the proposed SIP regulations as being approvable and conditionally approvable. U.S. EPA will conditionally approve a regulation if the State proposal contains minor deficiencies, and if the State provides assurances that it will submit corrections on a specified schedule.

Information about the administrative mechanism for conditional approvals of State implementation plans is contained

in the July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182) *Federal Register* publications. Failure by the State to correct the noted deficiencies within time frames agreed between the U.S. EPA Regional Office and the State will result in disapproval of those portions of the Indiana SIP.

U.S. EPA solicits comments on both the proposed SIP revisions and the proposed U.S. EPA action on these revisions from all interested parties. U.S. EPA also encourages residents and industries in adjoining States to comment on any interstate air quality impacts of the proposed Indiana SIP revisions.

#### *Total Suspended Particulate Control for the Indiana Iron and Steel Industry—General Comments*

Part D of the Clean Air Act requires SIPs to include strategies and regulations adequate to insure attainment of the primary NAAQS as expeditiously as practicable but not later than December 31, 1982, and, in the interim, to provide reasonable further progress toward attainment through the application of reasonably available control technology (RACT) on all stationary sources. EPA has defined RACT as: The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.<sup>1</sup> Therefore, depending on site-specific considerations, such as geographic constraints, RACT can differ for similar sources.

U.S. EPA believes that the burden of demonstrating that a regulation represents RACT rests with the State. In reviewing a proposed SIP revision to determine its adequacy, U.S. EPA can verify independently that the provisions in the State plan represent RACT. Although U.S. EPA has not specified uniform RACT standards for the iron and steel industry, it has collected data which reflects the emission limitations achieved by various iron and steel sources applying control technology. This data is available for review in the rulemaking docket on this notice at the

<sup>1</sup>U.S. EPA articulated its definition of RACT in a memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, Regions I-X, on "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas." Section 1.a (December 9, 1976), reprinted in (1976) 7 Environmental Reporter, Current Developments (BNA) 1210 col. 2; and in EPA's publication Workshop on Requirements for Non-attainment Area Plans—Compilation of Presentations 154 (OAQPS No. 1-2-103, revised edition April 1978).

address cited above. Where a State proposes regulations which are not technically supported by U.S. EPA's data, the State must submit adequate data supporting its proposal as representing RACT. U.S. EPA will consider the information submitted by the State, together with the data in the technical support document and any public comments received in making its final RACT determination.

In cases where the attainment of NAAQS cannot be demonstrated despite the application of reasonably available control technology to traditional sources of particulate matter such as industrial point and industrial fugitive sources, U.S. EPA will approve State SIPs contingent upon a commitment by the State to study further the causes for particulate nonattainment, including the degree to which nontraditional area sources affect air quality.

To remedy its particulate nonattainment problem associated with its iron and steel industry, the State of Indiana has proposed a control strategy which consists of the following rules: 325 IAC 5-1, containing visible emission limitations; Regulation 325 IAC 11-3, regulating coke oven batteries; and Regulation 325 IAC 6-1, containing emission limitations for stationary sources of particulates located in nonattainment areas.

The major iron and steel facilities in Indiana which produce particulate emissions are located in Lake, Marion, Porter, and Vigo Counties. Lake, Marion and Vigo Counties have been designated as nonattainment for both the primary and secondary particulate NAAQS. Regulations for these counties must consequently meet the requirements of both Part D and Section 110 of the Act. Porter County is at the present time designated as unclassified, although U.S. EPA proposed to redesignate the area as nonattainment for particulate matter on November 5, 1981. 46 FR 54974. Regulations for this area must therefore comport with section 110 of the Act.

In today's action, U.S. EPA proposes conditionally to approve coke battery Rule 11-3 for the entire State. U.S. EPA is taking no action in this notice on opacity regulation 325 IAC 5-1, having addressed this rule in an earlier rulemaking document. Furthermore, since coke batteries are the only iron and steel process sources located in Marion and Vigo Counties, and those counties are subject to Rule 11-3, there is no need specifically to address Rules 6-1, 6-1-12 or 6-1-13 other than their relationship to the combustion stack and

compliance schedule provisions of Rule 11-3 as discussed below.

Today's reproposal and reopening of the comment period for Rule 11-3 rules is necessary because of the substantial amendments submitted by the State.

#### *Regulation 325 IAC 11-3 (Coke oven batteries)*

Regulation 325 IAC 11-3, formerly APC-9, establishes emission limitations and inspection procedures for all coke oven batteries for which construction or modification commenced prior to June 10, 1979. For those batteries commencing construction or modification on or after this date, the State intends to establish the appropriate emission limits as conditions of construction and operating permits issued under Article 2 of its rules.

On July 3, 1980, U.S. EPA proposed to disapprove that version of APC-9 which had been promulgated by the State on June 19, 1979, and submitted to U.S. EPA on June 26, 1979. The bases for this proposed disapproval can be summarized as follows:

1. The compliance schedules in the regulation permitted sources to delay unnecessarily compliance for certain coke oven emission sources to July 1, 1982.
2. Indiana's prohibition of visible emissions on any battery from more than 10 percent of the total oven doors, plus four doors, was not Reasonably Available Control Technology (RACT).
3. The inspection procedures for charging operations were unclear in regard to the "one in twenty exemption."
4. The State had required, but failed to define, "efficient baffles" in its quench tower rule.
5. The requirement of a total dissolved solids content of no more than 1500 milligrams per liter in the quench water make-up was not RACT.
6. Because Rule APC-23 did not cover all nonattainment counties with coke batteries, some underfire stacks were limited by Regulation APC-4R, which would generally establish a limit of 0.3 grain of particulate matter per dry standard cubic foot, a level which does not constitute RACT.
7. The regulation incorrectly referenced Appendix B of 40 CFR Part 60 for performing emission tests, instead of Appendix A.
8. The rule enabled the Indiana Air Pollution Control Board to establish testing procedures without U.S. EPA approval.
9. The regulation required a device which is capable of capturing and collecting coke side particulate matter, designed and operated in compliance

with an operating permit to collect 90% of the pushing emissions. Since the rule did not specify a method of measuring the 90% capture level, U.S. EPA determined that this provision was unenforceable.

10. The regulation did not contain an inspection procedure to determine compliance with the gas collector main emission limits.

11. The rule had no limit to the number of charge port lids open during decarbonization which could be exempted from the recording of topside visible emissions.

On May 22, 1981, the Indiana Air Pollution Control Board amended Rule 11-13. The Board formally submitted the new rule on August 27, 1981, with the following changes:

1. The State has amended the inspection procedures for observing charging emissions. Section 4(a) contains new provisions which have been added to clarify the "one in twenty exemption." U.S. EPA has determined that this language sufficiently clarifies the exemption, and that the standard now satisfies the RACT requirement.
2. Section 2(g), relating to the control of pushing emissions, now includes a presumption of 90% collection capability, where the Board has approved the control device's construction and design through the State operating permit procedure. As discussed in greater detail below, U.S. EPA has determined that this provision is still unenforceable, and is therefore being conditionally approved today.
3. The State has amended Section 2(h), which imposes requirements on quenching operations, to include a definition of "efficient baffles."
4. In Section 4(b), the State has amended its inspection procedures to specify safety precautions for observing topside emissions. Indiana also added an exemption from the topside emissions compliance demonstration, for a maximum of three ovens opened during a decarbonization or charging period. U.S. EPA has determined that these are acceptable procedures, and that the State's topside emissions limit satisfies the RACT requirements.
5. In Section 4(d), the State has corrected the typographical error to reference Appendix A of 40 CFR Part 60.
6. Indiana has added an inspection procedure, Section 4(e), to determine compliance with the gas collector main emission limits. U.S. EPA has determined that this procedure is acceptable, and that the State's gas collector main emission limits satisfy the RACT requirement.

In addition to the above, Section 3(i) of 325 IAC 11-3 provides that particulate emissions from battery underfire stacks are limited by the emission limits determined pursuant to Regulations 325 IAC 6-2 (formerly APC-4R) for attainment and unclassified counties, and 325 IAC 6-1 (formerly APC-23) for nonattainment counties. At the time of U.S. EPA's July 3, 1980, proposal, 325 IAC 6-1 did not include Vigo and Lake Counties, so that the non-RACT limits in APC-4R would have been applicable. Subsequent to the July 3, 1980 proposal, Indiana has amended APC-23 (now codified at 325 IAC 6-1) so that it now includes county-specific appendices for Lake and Vigo counties.<sup>2</sup> The Vigo County appendix 325 IAC 6-1-13 contains, an emission limit of 0.03 gr/dscf for the Indiana Gas & Chemical coke battery underfire stacks. The Agency believes that this limit represents RACT and proposes to approve it for Vigo County.

The Marion County appendix, 325 IAC 6-1-12, does not contain any stack limits for the Citizen's Gas & Coke batteries. Under 325 IAC 6-1, where a county has a specific appendix but does not list a particular source, that source must comply with the rule's general emission limitation of 0.03 gr/dscf. Since this limit constitutes RACT, U.S. EPA proposes to approve the rule for Marion County Coke batteries.<sup>3</sup>

Because Porter County is attainment for particulates, U.S. EPA also proposes to approve the non-RACT combustion stack limit of APC-4R for Porter County Coke batteries, in accordance with Section 110 of the Act.

U.S. EPA has reviewed the above changes and believes that they are responsive to the deficiencies cited in the July 3, 1980, proposal as indicated. With regard to the remaining deficiencies, the Agency has determined as follows:

1. *The compliance schedules.* Rule 325 IAC 11-3 establishes the potential for different compliance schedules, dependent on such factors as the specific battery operation and the promulgation of new or more stringent rules. The following coke battery operations need not achieve final compliance with the applicable limitations until July 1, 1982: charging, lids, offtake piping, collector mains and doors. In the July 3, 1980, rulemaking, U.S. EPA expressed concern that these schedules might not satisfy Section 172

of the Clean Air Act, which requires attainment of the national ambient air quality standards as expeditiously as practicable and reasonable further progress toward attainment. The Agency noted that a number of Indiana sources had already installed the type of equipment and implemented the operating and maintenance practices required by Rule 11-3.

As a result, U.S. EPA requested that the State substantiate a clear need for this additional time. The State has not done so. In a letter of October 7, 1980, from Ralph C. Pickard, Technical Secretary of the Indiana Air Pollution Control Board, to Ms. Cynthia Colantoni of the Enforcement Division, Mr. Pickard stated that the State believed the schedules were justified, because sources were required to meet "new" limits. As discussed more fully below, the Agency proposes to approve the State's compliance schedule.

Under Rule 11-3 the compliance schedules for precarbonization towers, pushing, quenching and underfire stacks are to be determined pursuant to Rule 6-1. Section 4(a) of this rule generally requires the meeting of certain increments and a demonstration of compliance by December 31, 1981. Under Section 4(b), the Board may grant further extensions up to December 31, 1982, only where: 1) The source demonstrates that compliance with the interim or final dates is not possible and 2) the source submits a letter of intent, which includes a schedule of dates culminating in the December 31, 1982 compliance date. Any such alternative plan must be incorporated into the source's permit and submitted to U.S. as a SIP revision.

It should be noted that under Section 4(d) of Rule 6-1, the Board can establish alternative compliance in certain situations where the State promulgates new or more stringent rules. Such extensions are to be granted in accordance with Section 4(b), which requires the submission of these extensions as SIP revisions. At the time these alternative plans are submitted to U.S. EPA, the Agency will review them to ensure that they are consistent with the Act, including the requirement that the air quality standards be attained by December 31, 1982.

Although Indiana's new standards do not necessarily impose more stringent requirements than the existing SIP which might require additional time for compliance, U.S. EPA proposes to approve these schedules for three reasons. First, Rule 11-3 establishes meaningful interim compliance dates. For example, by July 1, 1981, visible

emissions during charging are limited to 150 seconds during five (5) consecutive charging periods. Within one year, these emissions are to be reduced further to 125 seconds for the 5 periods. Similar interim schemes are provided for lids, offtake piping, collector mains and doors. The Agency believes that these interim reductions represent reasonable further progress toward attainment of the standards, as required by Section 172(b) of the Act.

In addition, the Agency believes that disapproval of these dates at this time and the subsequent rulemaking which such a disapproval would necessitate might further delay final compliance. This would violate the intent of Section 172 of the Act to attain the national ambient air quality standards as expeditiously as practicable. Finally, as a practical matter, it is unlikely that U.S. EPA will be able to publish its final rulemaking action on this regulation before July 1, 1982. U.S. EPA, therefore, proposes to approve the schedules in Rule 11-3.

2. *The door standard.* Rule 11-3 prohibits visible emissions on any coke oven battery from more than 10 percent of the total oven doors, plus four doors. U.S. EPA proposed to disapprove this standard for two reasons. First, the Agency stated that the exemption of four oven doors above the 10% level was not supported by its data, although a two-door exemption could be. In addition, Indiana's rule is based upon the total number of oven doors, rather than the total number of operating ovens.

The difference between a two and four door cut-off, in Indiana, translates to a 1-2% differential allowable door leak rate depending upon the specific coke oven battery. U.S. EPA does not believe that the emissions rate equivalent to this differential is important enough to warrant a change in the emissions standard.

The requirement to base a RACT standard on the percentage of door leaks on operating ovens derives from the fact that coke oven batteries are sometimes repaired in a manner which leaves half the ovens functioning while the remainder are brought cold for rebricking. Counting the cold ovens in the calculation of percent doors leaking means including those ovens which are cold and therefore not potential leakers. This, in effect, permits the operating oven leak rate to double. Since the fact that a partial rehabilitation is underway does not diminish the ability of an operator to seal the still operating oven doors, the increase in such allowable emissions that would occur by basing

<sup>2</sup> As stated earlier, U.S. EPA will address the Lake County appendix to Rule 6-1 in a separate Federal Register notice.

<sup>3</sup> The acceptability of the combustion stack limits for Lake County will be addressed when the Agency takes action on the Lake County plan.

such a regulation on the total number of ovens in a battery is judged not to reflect reasonably available controls. Therefore, U.S. EPA will conditionally approve the door standard for nonattainment counties if, during the public comment period, Indiana either submits a rule which is based on the total number of operating ovens and requires final compliance no later than December 31, 1982 or submits a schedule to make such a change. For Porter County, where RACT is not required, U.S. EPA proposes to approve the door standard.

3. *Quench tower emission standards.* Indiana's regulations control quench tower emission via Rule 11-3 which requires the use of "efficient" baffles (defined per amended Section 2(h)), and via a requirement that quench water make-up must contain a total dissolved solids (TDS) content of no more than 1500 milligrams per liter. In the July 3, 1980 rulemaking, U.S. EPA referenced technical information which indicated that Indiana's standard did not represent RACT. Subsequently, U.S. EPA has reviewed the comments to the proposal, as well as additional information. As a result, the Agency has concluded that the Indiana limitations on coke quenching satisfy the RACT requirements. The pertinent data supporting this conclusion has been placed in the docket of this proceeding.

Indiana has not, however, submitted a method by which compliance with the standard is to be demonstrated, i.e., the definition of make-up water, the number of samples to be taken over a specified time period and the method of analyzing for dissolved solids. U.S. EPA, proposes to conditionally approve this standard on the condition that, during the public comment period, Indiana either submits such procedures to U.S. EPA, or provides a schedule by which these procedures will be submitted to U.S. EPA.

4. *Alternate test methods.* Section 4(d) of the rule states that testing to determine the amount of particulate matter emitted from any facility subject to a grain loading or process weight limitation shall be conducted "in accordance with the procedures set forth in Methods 1-5, Appendix A of 40 CFR Part 60, revised as of August 18, 1977, or other procedures approved by the Board." In U.S. EPA's July 3, 1980 action, the Agency noted that such a provision could permit the Board to authorize compliance testing methods other than U.S. EPA-approved reference methods. The Agency noted that this contravened the general scheme of the Clean Air Act, and was specifically in

conflict with 40 CFR 51.6(d), which obligates a State to submit to U.S. EPA any State action which purports to modify a SIP requirement. To correct this deficiency, U.S. EPA stated that Indiana must make a commitment to ensure that any alternative Board testing procedures be submitted to U.S. EPA. This deficiency has not yet been corrected.

U.S. EPA proposes to conditionally approve testing method Section 4(d) on the condition that the State makes a commitment during the comment period to ensure that alternative Board testing procedures are submitted to U.S. EPA as SIP revisions.

5. *Pushing standard.* In its 1979 regulation, Indiana required all batteries to be equipped with a device capable of capturing and collecting coke-side particulate matter such that the effluent gas emissions contain no more than 0.04 gram per 2.0 kilogram of coke pushed (0.04 lb/ton). In addition, the rule required that this device be designed and operated in compliance with an operating permit to collect 90 percent of the pushing emissions. In the 1981 amendment to Rule 11-3, Indiana added language stating that the device will be assumed to be collecting 90 percent of the pushing emissions if 1) the construction and design of the device has been approved by the Board by granting the permit and 2) the device is operated properly in compliance with the permit conditions. These permits are to be submitted to U.S. EPA as SIP revisions.

The addition of this new language, however, does not cure the deficiency cited in U.S. EPA's July 3, 1980 rulemaking. That is, the rule still fails to specify a method of measuring whether the device in fact captures 90 percent of the emissions. As noted in the earlier rulemaking, ascertaining the level of captured emissions is a subjective process, complicated by the fact that the emissions from any single oven will vary from push to push. A design efficiency percentage provision does not prevent coke batteries and/or their pushing systems from emitting excessive emissions, since it is not an actual emission limitation; nor is it a determinable quantity, even on a design basis. Having the Indiana Air Pollution Control Board review and approve a pushing system's construction and design prior to installation does not eliminate these problems.

U.S. EPA proposes conditionally to approve the State pushing standard if, during the public comment period, the State provides an enforceable method of observing and evaluating the capture

efficiency of the pushing control device or provides a schedule by which this method will be submitted to U.S. EPA. In the alternative, Indiana may substitute an opacity standard for uncaptured emissions, along with an appropriate observation method.

U.S. EPA has previously proposed conditionally to approve the Marion and Vigo County Part D TSP control strategies and regulations except for those portions of the control strategies and regulations which apply to iron and steel process sources. The proposed conditional approval of 325 IAC 11-3 (which requires RACT for the iron and steel sources in Marion and Vigo Counties) in today's notice completes U.S. EPA's proposed rulemaking action on the Part D TSP control strategy, as a whole, for Marion and Vigo Counties.

Interested persons are invited to comment on the proposed Indiana regulations and on U.S. EPA's proposed action. Comments should be submitted to the address listed in the front of this Notice. Public comments received within 30 days of publication will be considered in U.S. EPA's final rulemaking on the Regulations discussed herein.

It should be noted that in conjunction with U.S. EPA's July 3, 1980 proposal, extensive comments have been submitted. Since these comments are part of the docket for this rulemaking, there is no need to resubmit them. In addition, since the public has already had the opportunity to review the docket and to avoid further delay, U.S. EPA does not intend to extend further the public comment period unless good cause is shown.

All comments received will be available for inspection at Region V's Office of Enforcement Counsel, 230 South Dearborn Street, Chicago, Illinois 60604.

In this notice U.S. EPA is specifying those portions of the proposed revisions to the SIP which it considers approvable or conditionally approvable. For minor deficiencies, U.S. EPA proposes to approve the SIP on the condition that, during the public comment period, the State corrects these deficiencies or provides strong assurances that they will be corrected by specified dates. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182) Federal Register notices discuss conditional approvals in more detail.

Pursuant to the provisions of 5 U.S.C. Section 605 (b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities.

This action only proposes to approve State actions. It will impose new requirements.

Under Executive Order 12291, U.S. EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it only proposes to approve a State action and does not impose any additional requirements in and of itself. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

#### List of Subjects in 40 CFR Part 52

Air pollution control Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice of proposed rulemaking is issued under the authority of Sections 110(a) and 172 of the Clean Air Act, as amended (42 U.S.C. 7410(a), 7502).

Dated: February 17, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-14788 Filed 5-28-82; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 52

[A-S-FRL-2053-7]

#### Approval and Promulgation of Implementation Plans; Wisconsin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rulemaking.

**SUMMARY:** EPA is proposing to approve amendments to the Total Suspended Particulate (TSP) State Implementation Plan (SIP) for Wisconsin on the condition that NR 154.11(7)(b) is amended and submitted to the Agency with an acceptable numerical limitation for the charging operation. EPA's proposed action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act.

**DATE:** Comments on this revision and on the proposed EPA action must be received by July 1, 1982.

**ADDRESSES:** Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Debra Marcantonio at 886-6088 before visiting the Region V office).

Environmental Protection Agency,  
Region V, Air Programs Branch, 230  
South Dearborn Street, Chicago,  
Illinois 60604;

Wisconsin Department of Natural  
Resources, Bureau of Air

Management, 101 South Webster,  
Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to: (Please submit an original and thirteen copies if possible), Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Debra Marcantonio, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, 886-6088.

**SUPPLEMENTARY INFORMATION:** On March 3, 1978 (43 FR 8962) pursuant to the requirements of section 107 of the Clean Air Act, EPA designated portions of the following counties as nonattainment for the primary TSP standard and other portions as nonattainment for the secondary TSP standard: Columbia County, Milwaukee County, Rock County and Waukesha County. Additionally, EPA also designated the following counties or portions thereof as nonattainment for the secondary TSP standard: Brown County, Dane County, Douglas County, Kenosha County, La Crosse County, Manitowoc County, Marathon County, Racine County, Winnebago County and Wood County. (For the specific nonattainment areas of each county see 40 CFR 81.350). LaCrosse County was, however, redesignated as attainment for TSP on August 14, 1981 (46 FR 41056).

Part D of the Act requires each state to revise its SIP to meet specific requirements for the areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary TSP NAAQS as expeditiously as practicable, but no later than December 31, 1982 and attainment of the secondary TSP NAAQS as expeditiously as practicable. If attainment of the NAAQS cannot be demonstrated for an area designated as nonattainment for TSP by the required date, an accepted alternative SIP for that area must include provisions for applying reasonably available control technology (RACT) to traditional sources of particulate emissions and studying the nature and extent of the nontraditional particulate source emissions in the area. This study would then be used in designing a control strategy for such sources. The requirements for an approvable SIP are further described in a Federal Register notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In this notice EPA is specifying those portions of the proposed revisions to the Wisconsin SIP which it considers approvable or conditionally approvable. For minor deficiencies, EPA proposes to approve the SIP on the condition that the State provides strong assurances that the deficiencies will be corrected by specified dates. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 38583) Federal Register Notices discuss conditional approvals in more detail.

On April 4, 1980 (45 FR 22982) and July 3, 1980 (45 FR 45318) EPA proposed action on Wisconsin's TSP SIP as was effective in the State at that time. However, on November 6, 1980, the Director of the Wisconsin DNR withdrew several amendments to the TSP plan. These amendments were originally submitted to the Agency on November 27, 1979 and were acted upon as part of the April 4, 1980 and July 3, 1980 proposed rulemaking actions. The following Wisconsin regulations were withdrawn: NR 154.11(2)(b), NR 154.11(3)(c) and (e), and NR 154.11(4)(c), (e) and (f). On April 9, 1981 (46 FR 21165), EPA notified the public of this withdrawal in the Federal Register.

On June 10, 1981, the Wisconsin in DNR submitted revisions to the Wisconsin TSP plan which included amendments to those portions of the plan which were previously withdrawn as well as additional revisions. This notice repropose action on amendments to NR 154.11, Control of Particulate Emissions as Submitted on November 27, 1979 and amended on June 10, 1981. These regulations were officially published in final form in the Wisconsin Register 308, in August 1981. Additionally, EPA withdraws the July 3, 1980 (45 FR 45318) and April 9, 1981 (46 FR 21165) proposed rulemakings as they relate to NR 154.11.

The amendments to NR 154.11 for the Part D nonattainment areas apply to significant sources as determined by a modeling analysis under NR 154.03 affecting both primary and/or secondary nonattainment areas. In order to define which sources are subject to its RACT regulation Wisconsin has submitted a list of sources which affect the primary nonattainment areas. Wisconsin will submit any revisions to this list to EPA.

The nonattainment areas analyzed by Wisconsin are the same or contain the EPA designated nonattainment areas except that Wisconsin has not submitted a nonattainment plan for Pacific Township, Columbia County. Wisconsin plans to request EPA to redesignate this area to attainment in the near future based on recent monitoring data. However, until the area

is redesignated, the requirements of Part D are applicable and have not been met for the Columbia County nonattainment area.

The amendments submitted by Wisconsin to satisfy the Part D requirements for all other nonattainment areas consist of RACT regulations for traditional/industrial sources of particulate matter. Additionally, Wisconsin has committed to submit by April 30, 1982 studies of nontraditional sources of fugitive dust (e.g., nonindustrial storage piles, parking lots and roads).

These studies will consist of extensive fugitive emission inventories for each of the nonattainment areas.

EPA has determined that Wisconsin's TSP plan satisfies the requirements for an approvable SIP except for a few deficiencies. EPA has discussed each deficiency with the State and it has agreed to submit the materials outlined below to correct these deficiencies. A detailed discussion of the deficiencies is contained in the technical support document which is available at the Region V office listed above.

Additional information State has committed to submit to EPA	Projected submittal date
List of affected sources subject to RACT regulations for secondary nonattainment areas for both point and fugitive sources.	Dec. 1, 1983.
Revised opacity reading procedures which corrects and clarifies the data reduction method.	June 30, 1982.
The criteria Wisconsin will use to determine which roadways and storage piles are subject to the control requirements of RACT [(NR 154.11) (2)(b)(1) and (2)]. These criteria shall address the determination of silt content of storage piles and traffic volume of roads.	Do.
Procedures Wisconsin will use to evaluate and enforce the requirements of watering, chemical suppression, treatment with stabilizers and cleaning as outlined in NR 154.11(2)(b).	Do.
Clarification will be provided regarding those situations in which a fuel burning installation is subject to an emission limit other than that defined by the boiler emission equation as contained in NR 154.11(4)(e).	Apr. 30, 1982.

Additionally, EPA has concerns with the fugitive emission sources exempted by the RACT regulations in NR 154.11(2)(b) 1, 2, and 3. (These regulations contain applicability exemptions for storage piles and material handling operations that have material with less than 5 percent silt content and for roadways and areas subject to traffic of 10 vehicles in any hour or less.) In response to this concern Wisconsin has agreed to review the progress toward attainment that the RACT emission limits will provide. If attainment is not met by these strategies Wisconsin will reevaluate the fugitive

emission sources exempted by the RACT regulation in NR 154.11(2)(b) 1, 2, and 3.

One remaining deficiency, not discussed above, concerns regulation NR 154.11(7)(b). This regulation applies to the only two foundry coke batteries in Wisconsin and defines several of the essential operating elements of a well-charged battery. However, it fails to include a standard by which to measure performance during the charging operation at a particular facility. For example, EPA has approved as RACT a standard which prevents the duration of visible emissions during any 5 consecutive charging operations to aggregate more than 125 seconds. EPA has discussed this deficiency with the State and the State plans to submit an acceptable RACT-level visible emissions limit for the charging operation. Since the correction of this deficiency impacts Wisconsin's air quality and will require the State to adopt an additional regulation, EPA is proposing to conditionally approve NR 154.11(7)(b).

Therefore EPA is today proposing to conditionally approve the revisions to the TSP SIP for Wisconsin 1) with the understanding that Wisconsin submit the information outlined in the register to correct the deficiencies and 2) on the condition that NR 154.11(7)(b) is amended and submitted to the Agency with an acceptable RACT-level emissions limitation for the charging operation.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other

reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA.

A thirty day comment period is being provided to enable publication of final action on this submission as expeditiously as possible. Final action approving this revision will satisfy one of the requirements of a Part D SIP. Until the State has an approved Part D SIP, it is subject to the new source growth prohibitions of section 110(a)(2)(I) of the Act. Furthermore, EPA believes that the thirty days provide the public with ample time to review and comment on today's proposed rulemaking.

Pursuant to the provisions of 5 U.S.C. section 605(b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the regulatory actions approving revisions to SIP's under sections 110 and 172 of the Act will not if promulgated have a significant economic impact on a substantial number of small entities. This action if promulgated, only approves state actions. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation if promulgated is not Major because it approves regulations which are already effective in the State and therefore it imposes no new requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

#### List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: March 16, 1982.

Valdas V. Adamkus,  
Regional Administrator.

[FR Doc. 82-14781 Filed 5-28-82; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF ENERGY

[6450-01]

## 41 CFR Ch. 9

Proposed Amendments to the DOE  
Procurement Regulations; Correction

AGENCY: Energy Department.

ACTION: Proposed Correction rule.

**SUMMARY:** The notice of proposes rulemaking published at 47 FR 18923 on May 3, 1982 contained an effective date of June 2, 1982. This was an error. The notice of proposed rulemaking is open for public review and comment for a thirty day period ending June 2, 1982. The effective date, if any, will be some later date following analysis of comments. An additional week is being added to the comment period to compensate for this error.

Interested persons are invited to participate by submitting data, views or arguments regarding the amendments proposed at 47 FR 18923. All written comments received will be carefully assessed and fully considered prior to publication of the proposed amendment as a final regulation.

**DATE:** Public comments must be received by June 9, 1982.

**ADDRESS:** Comments should be addressed to the Department of Energy, Procurement Policy Branch, MA931.1, Forrestal Building, Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Langston, Procurement Policy Branch, Procurement and Assistance Management Directorate, Department of Energy, (202) 252-8188.

Issued in Washington, D.C., May 25, 1982.

Berton J. Roth,

Deputy Director, Procurement and Assistance  
Management Directorate.

[FR Doc. 82-14712 Filed 5-28-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL EMERGENCY  
MANAGEMENT AGENCY

## 44 CFR Part 67

[Docket No. FEMA-6333]

National Flood Insurance Program  
Proposed Zone Designation and Base  
Flood Elevation Determinations for the  
City of Lancaster, Fairfield County,  
Ohio

AGENCY: Federal Emergency  
Management Agency (FEMA).

ACTION: Proposed Rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at

City Hall, 104 East Main Street,  
Lancaster, Ohio.

Send comments to: Honorable  
Kenneth E. Mace, Mayor, City of  
Lancaster, City Hall, 104 East Main  
Street, Lancaster, Ohio 43130.

**FOR FURTHER INFORMATION CONTACT:**  
Robert G. Chappell, P.E., Chief,  
Engineering Branch, Natural Hazards  
Division, Federal Emergency  
Management Agency, Washington, D.C.  
20472 (202) 287-0230.

**SUPPLEMENTARY INFORMATION:** The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of Lancaster, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding	Location	Elevation, national geodetic vertical datum (feet)	Zone designation
Ewing Run	Immediately downstream of Rainbow Drive	898	A3, C.
	Approximately 500 feet downstream of Rainbow Drive	895	A3, C.
	Approximately 1150 feet upstream of Pleasantville Road	829	A3.
	Immediately upstream of Pleasantville Road	825	A3.
Lateral A	Confluence with Feters Run	823	A3.
	Between points approximately 500 and 1000 feet, respectively, upstream of Memorial Drive		C.
Feters Run	Approximately 750 feet upstream of Fair Avenue	833	A3.
	Immediately upstream of Fair Avenue	832	A3.
	Immediately downstream of Fair Avenue	830	A3.
	Immediately upstream of Sixth Avenue	826	A3.
	Immediately upstream of Cherry Street	824	A3.
	Confluence with Ewing Run	823	A3.
Baldwin Run	Confluence with Feters Run and Ewing Run	823	A3.
	Immediately upstream of Main Street	821	A3.
	Immediately downstream of Main Street	819	A3.
	Immediately upstream of the Conrail Railroad	817	A3, C.
	Immediately downstream of the Conrail Railroad	815	A3, C.
	Upstream of Lawrence Street	814	A3.

Pursuant to the provisions of 5 U.S.C. 805(b), the Associate Director, State and

Local Programs and Support, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies

that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

#### List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support).

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14610 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FEMA-6326]

#### Proposed Special Flood Hazard Areas for the City of Alpine, Utah County, Utah Under National Flood Insurance Program

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard areas are available for review at the City Clerk's Office, Alpine City Hall, 20 North Main Street, Alpine, Utah.

Send comments to: honorable Don A. Christiansen, Mayor, City of Alpine, 20 North Main Street, Alpine, Utah 84003.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

**SUPPLEMENTARY INFORMATION:** The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for the City of Alpine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

The special flood hazard area, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates.

The proposed special flood hazard areas, identified as Zone A, are being added along Dry Creek and Fort Creek.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

#### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128) Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 14, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14611 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FEMA-5947]

#### Proposed Flood Elevation Determinations Under National Flood Insurance Program for City of Palm Springs, Calif.

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule; revision.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Palm Springs, California.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 77082 on November 21, 1980 and in the *Desert Sun*, published on or about November 4, 1980, and November 11, 1980, and hence supersedes those previously published rules for the areas cited below.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Department of Community Development, City Hall, 3200 E. Tahquitz, Palm Springs, California.

Send comments to: Honorable Frank M. Bogert, P.O. Box 1786, Palm Springs, California.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the City of Palm Springs, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Arenas Canyon Creek: 800 feet south-east of intersection of Camino Real and Murray Canyon Drive.....	*523
Chino Canyon Creek: Intersection of San Rafael Drive and Lynette Drive.....	*528
100 feet downstream of intersection of creek and Indian Avenue.....	*619
Palm Canyon Wash: 200 feet upstream of intersection of Wash and Golf Club Drive.....	*333
50 feet upstream of intersection of wash and Bogie Road.....	*352
100 feet upstream of intersection of Wash and Bogort Trail.....	*545
Tahquitz Creek: 50 feet upstream of intersection of creek and Bogie Road.....	*352
50 feet upstream of intersection of creek and Farrell Drive.....	*388
75 feet downstream of intersection of creek and Palm Canyon Drive.....	*444
Intersection of Camino Real and San Lorenzo Road.....	#2

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Tramview Wash: Area enclosed by Club Circle Drive.....	#3
Tramview Wash Tributary: Intersection of Simoline Road and Linden Way.....	#2
Whitewater River: Intersection of Vista Chino and Bogie Road.....	*457
Intersection of Montecito Circle and Montecito Drive.....	#3
West Cathedral Channel: 150 feet upstream of intersection of channel and Dunn Road (upstream crossing).....	*715

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: May 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14612 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FEMA-6246]

#### Proposed Flood Elevation Determinations Under National Flood Insurance Program for Town of Belleair Shore, Fla.

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule; revision.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Belleair Shore, Florida.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 5017 on February 3, 1982 and in the *Clearwater Sun*, published on or about December 17, 1982, and December 24, 1982, and hence supersedes those previously published rules for the areas cited below.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at Town Hall, 880 Gulf Boulevard, Belleair Shore, Florida.

Send comments to: The Honorable Morton H. Raymond, 880 Gulf

Boulevard, Belleair Shore, Florida. 33535.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Belleair Shore, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, imposed no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Gulf of Mexico: West side of Gulf Boulevard (State Highway 699, County Road 208) at its intersection with Causeway Boulevard.....	*10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 10, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14613 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR PART 67

[Docket No. FEMA-6323]

### National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the City of DeKalb, DeKalb County, Illinois

**AGENCY:** Federal Emergency Management Agency. (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

**DATES:** The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 200 South Fourth Street, DeKalb, Illinois.

Send comments to: John Cartwright, City Manager, City of DeKalb, 200 South Fourth Street, DeKalb, Illinois 60115.

**FOR FURTHER INFORMATION CONTACT:** Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency

Management Agency, Washington, D.C. 20472, (202) 287-0230.

#### SUPPLEMENTARY INFORMATION:

The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of DeKalb, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together

with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Zone designation
South Branch Kishwaukee River.....	Portions of the community south of Fairview Drive and bounded on all sides by the corporate limits.	852.....	A5, B, C.
	Portions of the community south of Barb Boulevard, west of Seventh Street, north of Fairview Drive and bounded on the west by the corporate limits.	851.....	A5, B, C.
	Portions of the community east of North First Street between Dresser Road and Stoney Creek Road.	839 to 837.....	A3, B, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

#### List of Subjects in 44 CFR Part 67.

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14614 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FEMA-6322]

### National Flood Insurance Program, Proposed Zone Designation and Base Flood Elevation Determinations for the Village of Long Grove, Lake County, Illinois

**AGENCY:** Federal Emergency Management Agency. (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations and zone designations described below

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone

designations are available for review at the Village Hall, North Old McHenry Road, Long Grove, Illinois.

Send comments to: D. M. Doughy, Village Administrator, Village of Long Grove, Route 6—Box 193, Long Grove, Illinois 60047.

**FOR FURTHER INFORMATION CONTACT:**

Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

**SUPPLEMENTARY INFORMATION:** The Associate Director, State and Local Programs and Support gives notice of

the proposed base flood elevations and zone designations for the Village of Long Grove, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum

that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Zone designation
Buffalo Creek	Sumpter Drive	711	A2
	State Highway 53	722	A2
Localized Ponding	Portions of the area bounded on the north and south by the corporate limits, on the east by Schaeffer Road, and on the west by Checker Road and the corporate limits.		A.
	Portions of the area bounded on the north by Coach Road and Lexington Drive, on the east by Lincoln Avenue, on the south by the corporate limits, and on the west by Hicks Road.		A, C.
	Portions of the area bounded on the north by State Highway 53, on the east by Hicks Road, and on the south and west by the corporate limits.		A.
	Portions of the area bounded on the north and south by the corporate limits, on the east by Arlington Heights Road, and on the west by Long Grove Road and State Highway 83.		A.
	Portions of the area bounded on the north by South Branch Indian Creek and the corporate limits, on the east by Old McHenry Road, on the south by Cuba Road, and on the west by the corporate limits.		A.
	Portions of the area bounded on the north by South Branch Indian Creek, on the east by Willowbrook Road, on the south by the corporate limits, and on the west by Old McHenry Road.		A.
	Portions of the area bounded on the north by an east-west line passing through the junction of Hilltop Road and State Highway 83, and on the east, south, and west by the corporate limits.		A.
	Portions of the area bounded on the north and west by the corporate limits, on the east by Mundelein Road, and on the south by Lake Zurich Road.		A.
	Portions of the area bounded on the north by Forest Lake Drain and Indian Creek, on the east by State Highway 83, and on the south and west by the corporate limits.		A.
	Portions of the area bounded on the north by Oakwood Road and Indian Creek, on the east by the corporate limits, on the south by a locus of points 400 feet south of Port Clinton road, and on the west by State Highway 83.		A.
South Branch Indian Creek	Portions of the area bounded on the north by Lake Zurich Road, on the east and south by South Branch Indian Creek, and on the west by the corporate limits.		B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

**List of Subjects in 44 CFR Part 67**

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; [42 U.S.C. 4001-4128]; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14615 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

**44 CFR Part 67**

[Docket No. FEMA-6254]

**National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 10256 on March 10, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood

Insurance Rate Map for the Township of Franklin, York County, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program (202) 287-0230, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Franklin, York County, Pennsylvania, previously published at 47 FR 10256 on March 10, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Under the Source of Flooding of Dogwood Run, the location description "Approximately 1,600' upstream of Greenhouse Road" should be amended to read "approximately 1,400' upstream of Greenhouse Road." The corresponding elevation is correct as published.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14616 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

[Docket No. FEMA-6000]

#### National Flood Insurance Program; Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule, revision.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Manheim, Lancaster County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Federal Register* at 46 FR 14143 on February 26, 1981, and hence supersedes those previously published rules.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Borough Hall, Manheim, Pennsylvania. Send comments to: Honorable James Brosey, Mayor of Manheim, 20 East High Street, Manheim, Pennsylvania 17545.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the Borough of Manheim, Lancaster County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the

Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

#### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Chickies Creek	Power Road .....	*397
	Downstream of State Route 772 .....	*399
	Downstream of East Steigel Street.	*400
Rife Run .....	Downstream of East High Street .....	*401
	Upstream of West High Street .....	*392
	Upstream of West Colebrook Street.	*400
	Upstream corporate limits (4th crossing).	*406

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14617 Filed 5-28-82; 8:45 am]

BILLING CODE 6718-03-M

# Notices

Federal Register

Vol. 47, No. 106

Tuesday, June 1, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Food Stamp Program; 25 Percent State Share of Collected Claims

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice informs State agencies responsible for administering the Food Stamp Program that they may retain 25 percent of the value of those nonfraud claims recoveries that did not result from administrative error. This retention is authorized by the Omnibus Budget Reconciliation Act of 1981. The ability to retain these funds is intended to provide State agencies an additional incentive to pursue collection of claims.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

**DATE:** Effective January 1, 1982.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified "not major." The notice will not have an annual effect on the economy of \$100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State of local government agencies or geographic regions. Because this notice will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

This notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. The Administrator of the Food and Nutrition Service (FNS) has certified that the notice will not have a significant economic impact on a substantial number of small entities. State agencies will be affected because they will be permitted to retain 25 percent of the value of collected food stamp nonfraud claims that did not result from administrative error.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) the reporting and recordkeeping provisions that are included in this notice will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

In addition to the current retention of 50 percent of the value of food stamp fraud claims collected, a State agency may now also retain 25 percent of the value of collected nonfraud claims that did not result from administrative error. However, State agencies will continue to return to FNS the full value of all overissuance recoveries which result from errors by administering agencies. The additional claims retention is provided for by Section 114 of the Omnibus Budget Reconciliation Act of 1981. It is believed that the ability to retain additional funds should provide State agencies an additional incentive to pursue collection of these nonfraud claims. Because the Department wishes to have this provision codified, it will eventually be incorporated in rules currently being prepared to address fraud and other overissuance recoveries.

To retain 25 percent of the value of collected nonfraud claims that did not result from administrative error, the State agency must follow the procedures outlined at 7 CFR 273.18(f) regarding retention of 50 percent of collected fraud claims. Under these procedures, the State agency will retain the full value of all nonfraud claims recoveries, and the State's letter of credit will be amended on a quarterly basis to reflect the State's retention of 25 percent of the value of those nonfraud claims that did not result from administrative error. The State agency must report the amount recovered from such claims on Form FNS-209, Status of Claims Against

Households, submitted monthly to FNS. Such amounts shall also be reported by the State agency on other letter of credit documents as required. In accounting for these nonfraud claim collections, the State agency shall include cash repayments and the value of the allotments offset against restoration of lost benefits. The FNS-209 is now being redesigned to account for inadvertent household error claims and administrative error claims. Until the redesigned FNS-209 is in use, State agencies wishing to retain 25 percent of the collections made on inadvertent household error claims will have to annotate the FNS-209 to differentiate between these two nonfraud claims categories. In addition, any State agency may choose to retain 25 percent of the collections made on inadvertent household error claims between January 1, 1982, and publication of this notice. State agencies wishing to retain their 25 percent share of such collections which have already been reported to FNS must submit a revised FNS-209 for each month involved. The revised FNS-209 will have to be annotated to differentiate between the two categories of nonfraud claims, and a note must be included in the remarks section which shows the additional amounts being retained as a result of the retention of the State's share.

(Sec. 114, Pub. L. 97-35, 95 Stat. 366; 91 Stat. 958 (7 U.S.C. 2011-2027))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: May 25, 1982.

Samuel J. Cornelius,  
Administrator, Food and Nutrition Service.

[FR Doc. 82-14724 Filed 5-28-82; 8:45 am]

BILLING CODE 3410-30-M

### Soil Conservation Service

#### Nemasket River Corridor RC&D Measure, Mass.

**AGENCY:** Soil Conservation Service  
USDA.

**ACTION:** Notice of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture,

gives notice that an environmental impact statement is not being prepared for the Nemasket River Corridor RC&D Measure, Bristol County, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** Sherman L. Lewis, State Conservationist, Soil Conservation Service, 451 West Street, Amherst, MA 01002, telephone 413-256-0441.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Sherman L. Lewis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns improvements of anadromous fish habitat and recreation capacity. The planned works of improvement include clearing of soil deposits and aquatic plants at selected locations, installation of fishways, a nature trail, improved canoe access, and a rest area for canoeists.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Sherman L. Lewis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register* (July 1, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 18, 1982.

Sherman L. Lewis,  
State Conservationist.

[FR Doc. 82-14727 Filed 5-28-82; 8:45 am]  
BILLING CODE 3410-16-M

### Webber Pond Watershed Project, Maine

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of Finding of No Significant Impact.

### FOR FURTHER INFORMATION CONTACT:

Mr. Billy R. Abercrombie, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207-866-2132.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Webber Pond Watershed, Kennebec County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated technical assistance for land treatment and water quality improvement.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy R. Abercrombie. An environmental impact appraisal has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register* (July 1, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: May 21, 1982.

Billy R. Abercrombie,  
State Conservationist.

[FR Doc. 82-14758 Filed 5-28-82; 8:45 am]  
BILLING CODE 3410-16-M

### CIVIL RIGHTS COMMISSION

#### Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 5:00p and will end at 9:00p, on June 17, 1982, at the Westin Hotel, Renaissance Center, Detroit, Michigan, 48243. The purpose of this meeting will be to discuss the equality in education and economic development of minorities in the State of Michigan.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, Michigan, 49506, (616) 949-4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 24, 1982.

John I. Binkley,  
Advisory Committee Management Officer.  
[FR Doc. 82-14778 Filed 5-28-82; 8:45 am]  
BILLING CODE 6335-01-M

#### New Jersey Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:30p and will end at 8:30p, on June 24, 1982, at the Ramada Inn, 100 Naricon Place, East Brunswick, New Jersey, 08816. The purpose of this meeting will be to discuss program planning activities for Fiscal Year 1983.

Persons desiring additional information should contact the Chairperson, Clyde C. Allen, 620 Sheridan Avenue, Plainfield, New Jersey, 07060, (212) 572-7577 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York, 10278, (212) 264-0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 25, 1982.

John I. Binkley,  
Advisory Committee Management Officer.  
[FR Doc. 82-14777 Filed 5-28-82; 8:45 am]  
BILLING CODE 6335-01-M

### Oklahoma Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oklahoma Advisory Committee to the Commission will convene at 8:00a and will end at 6:00p on June 21, 1982, and at 8:00a and will end at 3:00p, on June 22, 1982, at the Quality Inn Central, 112 North Eastern Avenue, in Room C-2, Oklahoma City, Oklahoma, 73117. The purpose of this meeting will be to conduct a consultation on block grant programs in Oklahoma. After the consultation on June 22, 1982, from 3:00p until 6:00p, an Advisory Committee planning meeting will convene to discuss the Committee's report *Employment in the Oklahoma State Department of Education* and the status of desegregation in higher education in the State of Oklahoma.

Persons desiring additional information should contact the Chairperson, Dr. Earl D. Mitchell, 3 Summit Circle, Stillwater, Oklahoma, 74074, (405) 624-6212 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 25, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-14779 Filed 5-26-82; 8:45 am]

BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Order No. 41-5; D.O.O. 10-3, 40-1]

#### Assistant Secretary for Trade Development; Organization and Function

Effective Date: February 15, 1982.

#### Part I. Effect on Other Orders

This order supersedes ITA Organization and Function Order 41-5 dated January 16, 1981, as amended (46 FR 19965, 46 FR 48736 and 46 FR 51005).

#### Part II. Purpose, Scope, and Principal Organization

##### Section 1. Purpose

This order delegates authorities from the Assistant Secretary for Trade Development ("the Assistant Secretary") to the Deputy Assistant Secretaries for Trade Development, Export Development, Industry Projects, Trade Information and Analysis,

Textiles and Apparel, and Trade Adjustment Assistance, and prescribes the internal organization and assignment of functions for all elements under the direction of the Assistant Secretary. In addition the Assistant Secretary, through the Deputy Assistant Secretary for Export Development, coordinates with the Director General of the Commercial Services in directing the delivery of services in support of the Department's substantive trade development programs through the District Offices of the U.S. Commercial Service.

##### Section 2. Organization and Line of Authority

.01 The internal organization structure and line of authority for functions prescribed in this order is as depicted in the attached organization chart.<sup>1</sup>

.02 The Assistant Secretary reports and is responsible to the Under Secretary for International Trade. The Assistant Secretary assists and advises on policies pertaining to U.S. business sectors and carries out programs of the Department to promote world trade and to strengthen the international trade and investment posture of the U.S. The Assistant Secretary serves as the National Export Expansion Coordinator.

.03 Except as otherwise provided, the Assistant Secretary for Trade Development may redelegate authorities to any appropriate officer or agency of the Government subject to such conditions in the exercise of such authorities as he or she may prescribe. Notwithstanding any provision of this delegation of authority, the Assistant Secretary may at any time exercise any authority delegated to the Deputy Assistant Secretaries to any employee.

##### Section 3. Principal Functions

.01 The Assistant Secretary advises on international trade and investment policies pertaining to U.S. business sectors and carries out programs to promote world trade and to strengthen the international trade and investment position of the U.S. In carrying out these functions, the Assistant Secretary directs the Department's programs for participation in trade fairs, trade missions and other overseas trade promotion events; conducts programs within the U.S. to expand the export-consciousness of American firms, particularly small and medium-sized businesses, and to facilitate their entry into international trade; implements and monitors the sectoral aspects of the Multilateral Trade Negotiations (MTN)

<sup>1</sup> Filed as part of the original document.

and provides advice and assistance to U.S. businesses on rights and opportunities resulting from the MTN; carries out special industry activities to promote exports of major projects and high technology products; examines and develops trade and investment policy recommendations which are industry-sector or product-specific in nature (in consultation with units of International Economic Policy, where significant country or regional issues are involved); represents the Department on such matters, as assigned; obtains private sector views with respect to international economic and commercial policy issues; conducts programs aimed at assistance to industries faced with import competition; and manages ITA's trade-related information and research gathering and dissemination functions. The Assistant Secretary advises Departmental and ITA officials on policies and programs relating to these functions and serves as the National Export Expansion Coordinator.

.02 The Assistant Secretary directs the activities of:

- a. Deputy Assistant Secretary for Trade Development;
- b. Deputy Assistant Secretary for Export Development;
- c. Deputy Assistant Secretary for Industry Projects;
- d. Deputy Assistant Secretary for Trade Information and Analysis;
- e. Deputy Assistant Secretary for Textiles and Apparel; and
- f. Deputy Assistant Secretary for Trade Adjustment Assistance.

.03 The *Office of the Assistant Secretary for Trade Development* includes the *Deputy Assistant Secretary for Trade Development* who serves as the principal deputy to the Assistant Secretary, performs such duties as the Assistant Secretary assigns, and performs the functions of the Assistant Secretary in the latter's absence. The *Office of the Assistant Secretary* also includes the *Office of Policy and Coordination* which provides policy support to the Assistant Secretary and is headed by a *Director* who directs:

- a. The *Coal Export Staff* advises on coal export policy matters. The Director of the staff is Executive Director of the Coal Interagency Working Group and the Commerce Department Coal Export Task Force, both chaired by the Assistant Secretary. The staff proposes programs and coordinates Commerce/ITA programs dealing with coal exports; maintains liaison with the coal industry and other private sector and state and local government organizations concerned with coal exports; monitors trade and domestic economic situations

which affect coal exports; and reports periodically through the Office Director, to the Assistant Secretary on the progress of Commerce's coal export programs and those of other agencies.

b. The *PEC Staff* provides staff support to the President's Export Council and, in this capacity, communicates the PEC's recommendations through the Secretary of Commerce to the President; and coordinates information from ITA, other Departmental units, and other governmental units that the PEC deems necessary.

c. The *Policy and Coordination Staff* provides staff support to the Assistant Secretary regarding special assignments and projects that require coordination of diverse policy-oriented analytical assignments spanning organizations and responsibility in ITA and in Trade Development; conducts research to identify problems and opportunities facing U.S. exporters; examines the capability of international institutions to resolve economic issues and make recommendations for changes in the U.S. relationship with these institutions; evaluates and analyzes U.S. and foreign export incentives and disincentives; coordinates with other ITA and Commerce units in developing the Department's position on export policy related issues which are industry sector or product-specific in nature; undertakes analyses to identify problem areas for U.S. exports and recommend policy options to alleviate these problems; evaluates domestic economic policies in the context of their impact on U.S. exports; and represents the Department, as assigned, in interagency meetings concerned with policy issues under the purview of the Assistant Secretary.

### Part III. Deputy Assistant Secretary for Export Development

#### Section 1. Delegation of Authority

.01 Pursuant to Department Organization Order 10-3 the following authorities delegated to the Assistant Secretary for Trade Development by the Under Secretary are hereby delegated to the Deputy Assistant Secretary for Export Development:

a. Such provisions of the Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of the Deputy Assistant Secretary's functions;

b. Section 601(b)(1) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2351(b)(1)) conferred on the Secretary under Executive Order 12163

of September 29, 1979, relating to drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas;

c. Such portions as are necessary to the performance of the Deputy Assistant Secretary's functions of the delegation of authority, dated June 25, 1962 from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962 as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 1451 *et seq.*);

d. Executive Order 10978 of December 5, 1961 regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients;

e. The Act of October 18, 1962, as amended (46 U.S.C. 1122b), which authorized mobile trade fairs;

f. Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

g. The Act of May 27, 1970 (Pub. L. 91-269, 22 U.S.C. 2801 *et seq.*) relating to U.S. participation in international expositions;

h. The Act of December 29, 1979 (Pub. L. 96-169, 93 Stat. 1281) regarding U.S. participation in the International Energy Exposition to be held in Knoxville, Tennessee in 1982;

i. Title III of Pub. L. 96-481 (15 U.S.C. 649a-649d), relating to making grants (including contracts and cooperative agreements) for small business international marketing programs; and

j. Other authorities of the Assistant Secretary necessary to perform the functions assigned to the DAS.

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

#### Section 2. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Export Development* develops domestic and overseas programs designed to stimulate the expansion of U.S. exports, including activities to foster an export consciousness among U.S. manufacturing and service industries and evaluates the effectiveness of these programs; develops programs to improve the

access of U.S. products and services to foreign markets, including identifying barriers and surveying U.S. laws and practices affecting international trade; provides counseling, information, facilitative assistance and assistance in resolving trade complaints to U.S. business; develops and executes a national export awareness campaign; develops and conducts overseas trade promotion events and missions including direction of event scheduling and exhibitor recruitment; provides Departmental recognition of domestic and foreign trade promotion events; provides for Departmental recognition and participation in international expositions held in the United States; develops export promotional materials; directs the delivery of promotional programs to be carried out by the U.S. Commercial Service (USCS) and Foreign Commercial Service (FCS) and participates with the Director General of the Commercial Services to determine priorities among these programs; establishes and maintains working relationships with U.S. business firms, other Federal agencies, private organizations and foreign government entities in the U.S. having an interest in and/or responsibility for export development, foreign procurement, or export sales.

.02 The Office of the DAS includes the *Deputy* who assists in the direction of export development programs and performs the functions of the DAS in the latter's absence.

.03 The Office of the DAS also includes the *International Expositions Staff* which is headed by a Director who reviews applications for Federal recognition of international expositions to be held in the United States and prepares the report to the President for decision on such recognition; coordinates all Department activities involving the Bureau of International Expositions (BIE) in Paris and furnishes official U.S. representation to BIE; prepares the plan required of the Secretary of Commerce by Section 3 of Pub. L. 91-269 for Federal participation in international expositions to be held in the United States; and carries out such plans and other responsibilities of the Department of Commerce for ensuring appropriate Federal participation in such expositions; and supports, as appropriate, the activities of any Commissioner General appointed by the President or the Secretary for particular expositions. The relationship between the Staff and the Commissioner General shall be established for each exposition by agreement between the Commissioner General and the

Assistant Secretary for Trade Development.

.04 The DAS directs the following offices:

- a. Office of Export Marketing Assistance;
- b. Office of Export Promotion;
- c. Office of International Services; and
- d. Office of East-West Trade Development.

*Section 3. Office of Export Marketing Assistance*

.01 The Office of Export Marketing Assistance includes the Director who provides principal direction to developing programs designed to foster an export consciousness in the United States and stimulate exports by all segments of the domestic economy which have the capability to export. The Office includes:

.02 The Investment Advisory Staff encourages and facilitates foreign direct capital investment and licensing by foreign firms in the United States; develops information on domestic investment, joint ventures and licensing opportunities for foreign business people and obtains specific investment, joint venture and licensing proposals from potential foreign investors for the U.S. business community; provides information and counsel to U.S. business concerning existing and planned overseas investments; and furnishes information to U.S. foreign investors on private and public sources of investment capital, particularly foreign sources, guarantees and related types of capital for overseas investments and loans, particularly in developing countries.

.03 The Export Awareness Division conducts domestic programs which stimulate an interest in exporting and provides information and assistance to firms interested in international trade. The Division includes the Minority Business Assistance Staff which identifies minority-owned businesses having export potential; ensures the widest possible participation of these firms in export development and other Federal export assistance programs; administers the joint working agreements with the Minority Business Development Agency; ensures all ITA and Department elements and other Federal Government agencies are sensitive to the export assistance needs of minority business when they develop programs or regulations; and assists individual minority businesses with particular export-related problems by acting as their liaison with other ITA elements. The Division includes:

a. The Export Marketing Advisory Service Branch provides individual counseling services to U.S. exporters

and prospective exporters on the mechanics of exporting; assists in the resolution of commercial trade disputes; and operates the Tailored Export Marketing Plans Service (TEMPS) through which the export capability of selected small and minority companies is determined, markets are identified, export marketing strategies are developed and advice and counsel provided. The services are provided in cooperation with the District Offices of the USCS.

b. The Export Information Branch serves as the central point for the coordination and development of export education activities. The Branch prepares promotional literature to support export development programs and establishes facilities to develop and manage related publications; prepares "awareness" and general "how-to" brochures and publications; collects and arranges for the dissemination of foreign market reports, operates the New Product Information Service and produces the *Commercial News U.S.A.*; organizes conferences, seminars and other promotional activities to familiarize U.S. industry with the advantages of exporting; directs the national multiplier program; administers the President's "E" and "E Star" Awards; and, in cooperation with the Office of Public Affairs and delivered through the FCS and the USCS, ensures that these publications, programs and services receive wide dissemination.

.04 The Exporter Liaison Division encourages U.S. firms to export to their full potential, particularly small and medium-sized companies; in cooperation with other ITA elements, develops programs aimed at such firms to ease their entrance into the world market; and works with all elements of the export community to support private sector program initiatives and develop joint programs. The Division includes:

a. The Industry Relations Branch maintains information on U.S. technological developments and marketing trends in selected industry segments with respect to foreign markets and exporting; works with trade associations to identify "export capable" firms not exporting to their potential; encourages trade associations to promote exporting activities by their members; assists industry in obtaining export development officials as speakers on exporting for conferences, seminars and workshops; works with USCS District Offices to assist export expansion activities of State, regional and local agencies; and oversees the implementation of the ITA/SBA and ITA/EDA agreements.

b. The Foreign Buyers Branch stimulates and arranges visits to U.S. expositions and industrial facilities by foreign business people and government officials; with the assistance of the FCS, identifies prospective foreign buyers and directs buyers to domestic trade shows; and arranges meetings between visiting foreign business people and U.S. manufacturers in order to facilitate sales.

*Section 4. Office of Export Promotion*

.01 The Office of Export Promotion includes the Director who for those countries and areas of the world not covered by the Office of East-West Trade Development (see Section 7), provides principal direction to overseas event scheduling and to exhibitor recruitment, staffing and overseas staging of the Department's trade promotion programs. The Office includes:

.02 The Resources Management Division provides fiscal management and support for trade promotion events including scheduling, design planning and development for international/U.S. commercial exhibitions; organizes, executes and supervises U.S. commercial exhibits at international trade fairs and at Export Development Offices (EDO), provides for leasing, design and refurbishment of overseas fixed facilities; and provides for the shipment of participants' products for overseas trade promotion events.

.03 The Industry Participation Division develops and manages industry-wide recruitment campaigns to attract U.S. industry to overseas exhibitions; conduct industry procurement and assists the Office of Export Marketing Assistance in structuring an industry liaison program to support recruitment activities. The Division includes branches which for their designated industry and business sectors recruit industry participants in exhibitions, serve as a conduit for industry views on overseas activities and scheduling of events, and serve as primary contact for overseas exhibition initiatives with their industries.

.04 The Special Promotions Division develops and plans trade promotion techniques for export promotion activities; in conjunction with EDO's and the Offices reporting to the regional DAS's in IEP, schedules and develops trade and seminar missions; organizes activities of U.S. Specialized Trade and Seminar Missions; provides advice and planning supervision for Industry-Organized Government-Approved Missions; assigns trade and seminar mission directors and other personnel;

develops itineraries, publicity and contacts with the EDO's and the FCS posts; operates special export promotional events including U.S. Industry Catalog Exhibitions, Video Tape/Catalog Exhibitions and Consumer Product Promotions, through overseas agents, distributors and retail organizations; and develops new export promotion techniques.

#### *Section 5. Office of International Services*

.01 The *Office of International Services* includes the *Director* who provides policy guidance and program recommendations to foster the international operations of the U.S. service industries (such as insurance, accounting, engineering and construction, advertising, computer and telecommunications services, leasing, franchising, and air and marine shipping); examines and develops policy recommendations relating to U.S. and foreign taxation of business operations, international technology transfer, international business practices, international aspects of antitrust, international standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms, especially as they relate to service industries; analyzes and acts on problems affecting the international competitive position of U.S. service industries; provides surveys of U.S. service industries' international operations, disclosing extent of operations and balance of payments impact; develops and implements promotional programs to aid in U.S. international sales of services; and formulates and coordinates policy recommendations and represents ITA, the Department, and the U.S. at interagency meetings and bilateral and multilateral negotiations concerned primarily with service issues. The Offices includes:

.02 The *Industry Programs Division* identifies and evaluates obstacles to a free flow of services internationally and actions that could be taken to reduce or eliminate these obstacles; facilitates the sale abroad of U.S. services; analyzes U.S. policies, rules and regulations affecting the service industries to determine the impact on their international competitive position; develops and analyzes policy recommendations in the transportation area, including responses to requests for reciprocal exemption from U.S. customs duties and taxes on supplies and fuel for foreign aircraft, international conventions and agreements on liability and documentation, and prepares

position papers for and represents the Department at meetings of the International Maritime Consultative Organization, United Nations Conference on Trade and Development (UNCTAD), and other international organizations on these issues; provides analytical and other support to the United States Trade Representative (USTR), Services Industry Policy Committee, and the Service Industry Sector Advisory Committee; maintains liaison with trade and industry groups and individual firms to ascertain the nature of foreign government restrictions affecting the service sector abroad; and prepares periodic reports on services trade flows and the U.S. market share of the service industries throughout the world.

.03 The *Foreign Business Practices Division* formulates policy and program recommendations relating to international business operations of American service industries and other firms, specifically with reference to restrictive business practices, patents, trademarks, copyrights, product standardization, transfer of technology, commercial law, arbitration, state-trading, and U.S. and foreign tax measures and practices; develops policy and program recommendations for the protection of American property rights abroad, and with respect to drafting and negotiation of treaties, conventions, and agreements bearing on the international operations of American business; conducts comparative analyses of foreign competitive practices, including product standards, licensing, patent policies and related transfer of technology issues, taxation, and joint exporting, especially as they relate to service industries; and provides information and advice to U.S. firms on such matters.

#### *Section 6. Office of East-West Trade Development*

The *Office of East-West Trade Development* is headed by a *Director* who, for communist countries, formulates promotional programs to support U.S. firms interested in initiating or expanding commercial relationships with communist countries; plans and procures commercial trade fair exhibitions; identifies qualified U.S. firms and arranges for their participation; undertakes appropriate follow-up activities to facilitate the establishment and/or development of trade relationships by participants; plans and conducts U.S. trade missions, seminars, exhibits and other events to promote international trade and investment and encourages utilization of these trade promotion techniques by

U.S. business; establishes Business Information Offices and Business Development Offices at selected international trade fairs and at other appropriate locations; and tests new trade promotion techniques and recommends appropriate action for consideration by ITA officials.

#### **Part IV. Deputy Assistant Secretary for Industry Projects**

##### *Section 1. Delegation of Authority*

.01 Pursuant to Department Organization Order 10-3, the following authorities delegated to the Assistant Secretary for Trade Development are hereby redelegated to the Deputy Assistant Secretary for Industry Projects:

a. Such provisions of the Act of February 14, 1903, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) as amended, to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of the DAS's functions;

b. Section 104 of the Trade Act of 1974 (19 U.S.C. 2114) and section 135 of the Trade Act of 1974 as amended by Section 1103 of the Trade Agreements Act of 1979 (19 U.S.C. 2155) and section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program;

c. Section 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions (and monitoring of imports under orderly market agreements); and

d. Other authorities of the Assistant Secretary necessary to perform the functions assigned to the DAS.

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

##### *Section 2. Office of the Deputy Assistant Secretary*

.01 The *Deputy Assistant Secretary for Industry Projects* examines and develops policy recommendations relating to international sectoral issues (except as regards the services industry); represents the Department on the Organization for Economic Cooperation and Development (OECD) Steel Committee and, as assigned, in other interagency and international meetings on international industry-specific policy matters; oversees the development of positions and policy approaches for individual industry sectors; oversees the development of international industry-specific policy negotiating goals and objectives; assists

U.S. firms on major international business transactions and foreign capital projects with major export potential; and identifies key issues and develops policies relating to international finance and monetary affairs.

.02 The DAS directs the following offices:

- a. Office of International Sector Policy;
- b. Office of Major Projects; and
- c. Office of International Finance.

### Section 3. Office of International Sector Policy

.01 The Office of International Sector Policy includes the Director who examines and develops policy recommendations relating to international sectoral issues; represents the Department on the OECD Steel Committee and, as assigned, in other interagency and international meetings on international industry-specific policy matters; develops positions and policy approaches relating to trade problems and opportunities for industry sectors; and develops recommendations for international industry-specific policy negotiating goals and objectives. The Director coordinates private sector participation in the international trade and sector policy development process, including operation of the Trade Advisory Center which provides information and advice to the private sector concerning rights and opportunities created by U.S. trade agreements and administers the private sector advisory process, including the Industry Consultations Program. The Office includes:

- a. Basic Industries Division;
- b. Capital Goods Industries Division;
- c. Consumer Goods and Automotive Industries Division;
- d. Trade Monitoring Division; and
- e. International Resources Division

.02 The three industry divisions, for the respective sectors covered, provide policy guidance and program recommendations to foster the international commercial operations of U.S. industries; identify and evaluate policies, programs and practices which inhibit or impede the free flow of goods produced by U.S. industries; recommend actions which could be taken to reduce or eliminate the injurious effects of such policies, programs and practices; analyze U.S. and foreign government policies, rules and regulations affecting the ability to conduct trade; provide staff support and leadership within the Department to coordinate with other agencies and Departmental units efforts to solve problems faced by U.S. industries in foreign markets; provide

representation at interagency and international meetings on matters related to international sectoral issues; develop positions on proposed legislation affecting U.S. tariffs and trade measures; represent ITA and, as directed, the Department at interagency meetings and at Congressional committee hearings dealing with U.S. trade and tariff legislation when the focus of such meetings, is on specific industry sectors; develop proposals on new trade measures for executive or legislative branch action and review such proposals of other agencies; assess the impact of imports, federal import policies, rules, regulations and legislation on U.S. industries and recommend appropriate action including product-specific analysis in support of the Generalized System of Preferences (GSP); develop positions on and represent the Department in the interagency evaluation of International Trade Commission and other relief recommendations intended to safeguard the competitiveness of U.S. industries from unfair and/or injurious import competition, including, as directed, participation in the development of positions on the negotiation of Orderly Marketing Agreements; and coordinate preparations for, and participation in, the negotiation of agreements, arrangements or understandings concluded on product-specific and an industry sector basis, e.g., Agreement on Trade in Civil Aircraft.

.03 The Trade Monitoring Division monitors, collects, and analyzes data pertaining to international trade in specific import sensitive industrial products, as such data relates to Orderly Marketing Agreements; and produces market impact studies, product trade pattern analyses, and penetration studies.

.04 The International Resources Division examines and develops policy recommendations regarding international commodity problems and issues affecting non-fuel resources, including adequacy of long-term supplies of raw materials and other primary products on which the United States is dependent for imports, U.S. access to foreign sources of such commodities, and foreign investment conditions in raw materials; participates in the implementation of U.S. policy in these areas through representation on councils administering international agreements and meetings of other international organizations dealing with resource and commodity issues; develops, coordinates and supervises preparations for, participation in, and implementation of resource and commodity consultations and

negotiations which cover a wide range of resource commodity issues and organizations including the International Tin Agreement, the International Lead and Zinc Study Group, the UNCTAD Tungsten Committee, the International Coffee Agreement, the International Rubber Agreement, the UNCTAD meetings on copper, and the Intergovernmental Groups on Jute, Hard Fibers and Tea; and analyzes and makes recommendations, as necessary, on the commodity policy implications of U.S. actions and programs such as those of critical raw materials affecting imports.

### Section 4. Office of Major Projects

.01 The Office of Major Projects includes the Director who serves as the focal point in the Department for providing government-wide assistance to U.S. firms on major international business transactions and foreign capital projects; identifies such transactions and projects with major U.S. export potential which should be brought to the attention of U.S. industries and which are likely to require special U.S. Government assistance for successful participation by American firms; informs U.S. firms of specific large-scale projects overseas with significant potential for exports of U.S. goods and services; assists them in competing for such projects and transactions, coordinating support from other areas of the Department and other federal agencies as necessary; and establishes and maintains close relationships with principal groups, organizations, and firms in industries involved. The Office includes:

- a. Electrical Power Generation, Transmission and Distribution Equipment Division;
- b. Transportation and Communications Equipment Division; and
- c. Minerals, Metals and Fuels Production and Processing Division.

.02 Each division is responsible for major international business transactions and foreign capital projects in the industries for which it is responsible.

### Section 5. Office of International Finance

The Office of International Finance includes the Director who identifies key issues and examines and develops policy recommendation relating to international finance and monetary affairs; coordinates the development of ITA's position on international financial and monetary issues, including export financing, export and investment guarantees, credit and credit insurance,

foreign lending and assistance activities of U.S. and international agencies, and balance of payments measures; represents the Department at the National Advisory Council on International Monetary and Financial Policies (NAC) and other bodies and agencies dealing with these issues; participates in international conferences on financial matters such as those held under the auspices of the OECD and UNCTAD; provides analytical and staff support for the Secretary's participation as a member of the Export-Import Bank Board of Directors and as Chairman of the Export Expansion Advisory Committee of the Export Expansion Facility administered by the Export-Import Bank; and acts as the Department's principal liaison with banks, other private financial institutions, and U.S. Government and multilateral agencies engaged in international financing activities. The Office supports measures to obtain adequate and competitive financing for U.S. firms competing for exports, including major infrastructure and industrial systems contracts abroad.

#### Part V. Deputy Assistant Secretary for Trade Information and Analysis

##### Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretary for Trade Information and Analysis:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States;

b. Executive Order 11858 of May 7, 1975, relating to foreign investment in the United States;

c. Sections 3 and 4 of Executive Order 11961 of January 19, 1977, as amended by Executive Order 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under sections 4(a), 4(b), and 5(c) of the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3103 (a) and (b), and 3104(c)), and Section 4(e) of International Investment Survey Act, as amended by Pub. L. 97-33 (95 Stat. 170, to be codified at 22 U.S.C. 3101(e)). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis (DOO 35-1A), including to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under

the Act shall be issued by the Under Secretary in consultation with the Director, Bureau of Economic Analysis. All reports to be submitted to the Congress required to be undertaken pursuant to the Act, shall be issued by the Secretary; and

d. Other authorities of the Assistant Secretary necessary to perform the functions assigned to the DAS.

.02 Except as otherwise provided, the DAS may redelegate the above authority subject to such conditions in the exercise of such authority as he or she may prescribe.

##### Section 2. Office of the Deputy Assistant Secretary

.01 The Deputy Assistant Secretary for Trade Information and Analysis initiates and reviews research studies and forecasts on developments affecting U.S. trade and competitiveness and manages a program of trade and international economic analyses and statistics for U.S. government agencies and business; directs a program to analyze and report on foreign investment in the United States; and directs the development and dissemination of international trade information.

.02 The Office of the DAS includes the Deputy who assists in the direction of trade information and analysis programs and performs the functions of the DAS in the latter's absence.

.03 The Deputy Assistant Secretary oversees the following offices:

- a. Office of Trade Data Analysis;
- b. Office of Trade Information Services;
- c. Office of Program Evaluation and Support; and
- d. Office of Trade and Investment Analysis.

##### Section 3. Office of Trade Data Analysis

.01 The Office of Trade Data Analysis includes the Director, who oversees an international Trade Policy Information System (TPIS) providing government-wide information support for the analysis of trade policy issues; heads an interagency council dealing with coordination of computerized trade information; acquires and integrates into the system quantitative and narrative data bases; carries out quantitative research studies using trade and trade-related information; maintains data on U.S. and international trade and publishes a series of reports; and plans, develops, and implements a system of international economic statistics for advance warning of international economic development. The Office includes:

.02 The Trade Performance Division maintains data on U.S. trade; compiles foreign trade data for comparative trade analysis; produces reports on global trade market shares; maintains large-scale matrices of competitor nation trade behavior; develops and implements a statistical system of early indicators of international economic developments; maintains a trade data reference facility; and produces reports on U.S. trade statistics and international economic data, including the quarterly International Economic Indicators.

.03 The Systems and Analysis Division plans, develops, and implements an international Trade Policy Information System (TPIS); in coordination with the Office of Management and Systems, develops and obtains computer software and facility access essential to the retrieval and use of international trade data; coordinates with other parts of the Department to receive input in the form of various data bases; incorporates the data into the system as practicable; ensures that the information system is usable in monitoring MTN implementation; carries out quantitative research on statistical and econometric topics related to the information data base; initiates and reviews analysis of quantitative measurement problems; constructs data series appropriate to identify and resolve key international economic issues; and provides guidance to users regarding the procedures for using the TPIS for data retrieval and quantitative analysis.

##### Section 4. Office of Trade Information Services

.01 The Office of Trade Information Services includes the Director who directs the development and operation of systems designed to facilitate the flow of trade opportunity related information among users in Washington, USCS District Offices and FCS posts abroad, and to the states and businesses, and to provide business users timely access to export information and services, specifically: World Traders Data Reports, general and specific commercial information about foreign markets, promotional events and opportunities for U.S. exporters; and sources of assistance to U.S. companies engaged in or interested in exporting. The Office includes:

.02 The Systems Support Division in coordination with the Office of Management and Systems, develops and executes formal plans for the design and implementation of automated trade opportunity information to U.S. exporters and foreign buyers; based on

requirements for trade information processing and dissemination, manages the system development activities necessary to satisfy trade requirements; selects vendors and ensures that contractor results adhere to specifications; and provides assistance to users of the system on information storage and retrieval, data base management, telecommunications system integration issues and computer program design and development for this system.

.03 The *User Services Division* advises U.S. companies, ITA personnel and other users about the trade opportunity information available from the office and other sources; maintains reference and information files and inventories of printed lists, reports, tender documents, etc.; executed retrievals of export information from data files; retrieves and lays out camera copy and produces export information in printed formats; processes orders and initiates and follows up requests for individual reports and services requested by business and other users; distributes export information to requestors; conducts user billing, collection, and accounting; and through the USCS, promotes the services of the Office to prospective business users, private-sector information vendors, states, other government agencies, and multiplier organizations such as banks and trade associations.

.04 The *Information Acquisition and Management Division* collects trade opportunity data from Foreign Service and Foreign Commercial Service Posts and U.S. Commercial Service District Offices; provides data quality control (i.e., editing entering and maintaining the data in computerized form); specifies input record and reporting requirements; coordinates export information requirements to be included in the FCS/PCAP and USCS/PERFORM systems to ensure they reflect information strategy and targeting guidelines; maintains keyword codes; and obtains export-related data from other governmental and private sector sources.

.05 The *Targeting Division* identifies the mix of industries, products, and foreign markets that represent an optimum focus for trade development activities and programs; analyzes the factors that suggest potential for the promotion and export of specific U.S. product categories; prepares planning profiles for targeted industries; develops recommendations on the allocation of export promotion resources; and maintains information on proposed and actual allocation of promotion resources

relevant to the targeting recommendations.

.06 The *Market Research Division* designs, acquires and produces research on markets for U.S. products in countries and regions abroad for use as a direct information source to the U.S. business community; analyzes, reports and makes recommendations on the implications of completed market research for domestic export campaigns and overseas country and event programming; and maintains market research materials on target and other selected industries and markets.

#### *Section 5. Office of Program Evaluation and Support*

The *Office of Program Evaluation and Support* includes the *Director* who coordinates and monitors Commerce contributions and clearance of policy and resource management papers (PARMs) within the National Security Council/Interdepartmental Group structure; develops and manages a planning system which includes the setting of short- and long-term objectives, goals, and strategies; develops program initiatives and priorities for trade development activities; recommends the allocation of related resources; provides criteria for measuring and evaluating the performance of these programs; consults with other ITA units in development of this system; makes recommendations designed to improve the efficiency, effectiveness and responsiveness of programs which will enable the Assistant Secretary for Trade Development to meet international market developments and exporter needs, and to achieve trade development objectives; maintains a system to forecast quantitative accomplishments for these programs; prepares analyses, of program performance; directs and conducts value analysis, benefit/cost analyses and similar analyses; reviews and coordinates responses to program recommendations monitors compliance with an implementation of the endorse program recommendations; and develops and manages the trade development user fees program.

#### *Section 6. Office of Trade and Investment Analysis*

.01 The *Office of Trade and Investment Analysis* includes the *Director* who directs the development and implementation of policies relating to foreign direct investment in the U.S.; directs the accomplishment of analysis and reporting requirements in accordance with the International Investment Survey Act of 1976 and

Executive Orders 11858 and 11961; and directs statistical and analytical studies of trade between the U.S. and foreign countries and related trade issues and policies.

The *Office of the Director* includes a *Deputy* who assists in the direction of trade and investment analysis programs and performs the functions of the *Director* in the latter's absence. The *Office* includes:

.02 The *Investment Research Division* prepares and publishes studies, reports, and analyses on the determinants, characteristics, effects, and interrelationships of U.S. direct investment abroad and foreign direct investment in the United States, including the incidence, concentration and distribution of both outward and inward investment by industry sector and foreign nation involved; evaluates and assesses the impact of such investment on U.S. economic security, balance of payments and trade, and other economic interests, both sectorally and in the aggregate; prepares reports for Commerce officials, the Committee on Foreign Investment in the United States (CFIUS), and the Congress on foreign investment trends at the sectoral level; as instructed, prepares special analytical and policy reports required by CFIUS and Commerce Department officials; develops and maintains data on outward and inward investment trends; works with Federal agencies gathering investment data to improve data collection and reporting; and prepares recommendations for presentation to CFIUS and the Congress to effect such improvement.

.03 The *Investment Analysis Division* monitors, investigates and develops information on inward investment transactions and the operations of foreign-owned firms in the U.S., including the consolidation and modification of information from existing sources such as Federal and state government agencies, commercial and investment banks, and other public and private organizations, both domestic and international; prepares analyses of significant individual investment transactions in support of CFIUS activities; prepares and publishes periodic and special reports on inward investment transactions and trends; and as requested, develops policy recommendations for Departmental officials on inward investment issues, including proposed and pending legislation, and executive branch initiatives.

.04 The *Trade Analysis Division* conducts research and analysis of U.S. international trade and competitive

performance; conducts quantitative research into the factors affecting U.S. trade and competitiveness; develops and/or utilizes a variety of economic models for analyzing, simulating, and forecasting U.S. trade; analyzes trends and current developments in U.S. trade; monitors and evaluates trends and changes in U.S. competitive performance; produces periodic reports interpreting U.S. trade trends and developments; conducts special studies on specific developments in U.S. trade; as instructed, prepares policy analyses and recommendations on trade questions; and alerts Departmental officials to significant developments in U.S. trade and competitive performance.

.05 *The International Economics Division* performs research and analysis on international economic factors affecting U.S. trade; studies foreign economic behavior and economic interrelationships; evaluates changes in the trade performance of the United States and competitor nations; analyzes the U.S. international economic position in the light of expected global economic trends; utilizes economic models for analyzing, simulating, and forecasting the international economy; conducts special studies on specific international economic developments; produces periodic reports interpreting and analyzing trends and developments in the international economy; as instructed, prepares policy analyses and recommendations on international economic questions; and alerts Departmental officials to significant developments in the international economic area.

#### Part VI. Deputy Assistant Secretary for Textiles and Apparel

##### Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following authorities are hereby delegated to the Deputy Assistant Secretary for Textiles and Apparel:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote and develop the foreign and domestic commerce of the United States;

b. Executive Order 11651 of March 3, 1972, as amended, by Executive Order 11951 of January 6, 1977, regarding Textile Trade Agreements and

c. Sections 5(b) and 5(c) of Executive Order 11846 of March 27, 1975, relating to quantitative import restrictions and monitoring of imports under orderly

market agreements pertaining to the textile and apparel industry.

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

##### Section 2. Office of the Deputy Assistant Secretary

.01 *The Deputy Assistant Secretary for Textiles and Apparel* directs the development of the Department's position on international textile agreements and on relations with the domestic textile and apparel industries; participates in the negotiation of international textile agreements; oversees studies and analyses of domestic and foreign fiber, textile, and apparel industries; coordinates interagency relations, legislative comment, and liaison with industry, trade groups, and foreign government officials; oversees efforts to improve U.S. textile industry productivity and the promotion of export expansion activities; and chairs the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers' and Retailers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee.

.02 The DAS oversees the Office of Textiles and Apparel.

##### Section 3. Office of Textiles and Apparel

.01 *The Office of Textiles and Apparel* includes the *Director* who oversees studies and analyses of domestic and foreign fiber, textile, and apparel industries; coordinates interagency relations, legislative comment, and liaison with industry, trade groups, and foreign government officials; directs efforts to improve U.S. textile and apparel industry productivity and export expansion activities; ensures that the Office provides appropriate administrative support to the Committee for the Implementation of Textile Agreements, the Management-Labor Textile Advisory Committee, the Importers' and Retailers' Textile Advisory Committee, and the Exporters' Textile Advisory Committee; and acts as alternate chairperson for the Committee for the Implementation of Textile Agreements (CITA). The Director participates in the negotiation of international textile agreements. The immediate Office of the Director includes the *Domestic Programs Staff* which analyzes domestic and foreign industry infrastructure, distribution systems, structural assistance programs, and new technologies to develop

initiatives which will improve the domestic textile and apparel industries' productivity, marketing, and management information. The Office includes:

.02 *The International Agreements and Monitoring Division* provides Executive Secretariat services for, chairs the working group of, and coordinates public input to the CITA; identifies and recommends solutions to problems arising under the bilateral agreements; implements CITA decisions; monitors restrained imports and prepares performance reports; identifies uncontrolled sources of potential market disruptions; participates in, prepares back-up materials for, and recommends positions and goals for international negotiations and consultations; and reviews and works to improve U.S. and foreign textile agreement data.

.03 *The Industry Assessment Division* evaluates the current state of the domestic and foreign fiber, textile and apparel industries; determines the impact of raw fiber trade, textile and apparel imports, federal import policies, regulations, and legislation, and domestic raw material and energy supplies on the industries and recommends appropriate action; and prepares data and analyses on the industries for panels and speeches, reports to international organizations, and publications.

.04 *The Market Expansion Division*, with respect to the textile and apparel industries, identifies and analyzes economic trends, political developments as they may affect U.S. exports, and current and proposed foreign trade barriers which affect such industries in coordination with other elements reporting to the Assistant Secretary; develops and coordinates domestic trade and export expansion programs with other elements of ITA; advises other Government agencies of the impact that their overseas development programs have on such industries; administers the Exporters' Textile Advisory Committee; provides staff support and technical assistance in negotiation of international tariff agreements; and publishes studies on opportunities and barriers to the U.S. textile export market.

#### Part VII. Deputy Assistant Secretary for Trade Adjustment Assistance

##### Section 1. Delegation of Authority

.01 Pursuant to the authority delegated to the Assistant Secretary by the Under Secretary and subject to such policies and directives as the Assistant Secretary may prescribe, the following

authorities are hereby delegated to the Deputy Assistant Secretary for Trade Adjustment Assistance:

a. The Act of February 14, 1903, as amended, (15 U.S.C. 1512 *et seq.*; 15 U.S.C. 171 *et seq.*) to foster, promote, and develop the foreign and domestic commerce of the United States; and

b. Chapters 3 and 4 of Title II of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*, 2371 *et seq.*), pertaining to trade adjustment assistance to firms, industries, and communities, except the provisions of 19 U.S.C. 2354 pertaining to studies and reports and information activities in response to investigations and findings of the International Trade Commission (see DOO 35-5A). The Assistant Secretary for Economic Development retains this authority through September 30, 1981, with respect to adjustment assistance projects in process prior to September 20, 1981, and thereafter such authority to perform all functions related to the furnishing of adjustment assistance (excluding additional assistance or increasing the Government's liability) with respect to those adjustment assistance projects approved prior to October 1, 1981 (see DOO 10-4).

.02 Except as otherwise provided, the DAS may redelegate the above authorities, subject to such conditions in the exercise of such authorities as he or she may prescribe.

*Section 2. Office of the Deputy Assistant Secretary*

.01 The Deputy Assistant Secretary for Trade Adjustment Assistance directs the trade adjustment assistance program; develops policies to implement the trade adjustment assistance programs; directs the certification of firms as eligible to apply for assistance; directs the provision of technical and financial assistance to certified firms; directs the provision of trade adjustment assistance to trade impacted industries and communities; develops a monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establishes procedures for dealing with delinquent firms; evaluates the performance of firms which have received trade adjustment assistance; coordinates the trade adjustment assistance program with other federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR); and provides representation for the Commerce Labor Adjustment Action Committee (CLAAC).

.02 The DAS directs the Office of Trade Adjustment Assistance.

*Section 3. Office of Trade Adjustment Assistance*

.01 The Office of Trade Adjustment Assistance includes the following divisions:

.02 The *Certification Division* develops policies, plans and procedures to certify firms eligible to apply for Trade Adjustment Assistance; reviews certification petitions for acceptance or rejection, prepares notices of actions taken, conducts investigations for all accepted petitions, and issues certificates of eligibility to (or denies the petitions of) firms according to the terms of the Trade Act of 1974; maintains control under the appropriate reporting system of TAA activities and is responsible for regular reports to the appropriate offices within ITA and the Department; and provides policy guidance and direction to USCS District Offices regarding trade adjustment and industry assistance projects, including specialized training for staff.

.03 The *Technical Assistance Division* develops policies, guidelines and procedures for providing technical assistance to firms, industries, and communities adversely affected by imports under the Trade Act; established, supervises, coordinates and monitors the operation of Trade Adjustment Assistance Centers (TAACs) to assure uniform operations; evaluates the effectiveness of assistance provided to eligible firms and assists in improving each TAAC's performance; provides assistance to firms that prefer not to work with a TAAC, by providing grants or cooperative agreements to industry experts; reviews recovery plans submitted by certified firms and offers advice to the DAS on the capability of the firm to such a plan; reviews, processes, supervises and monitors all technical assistance projects referred by DOC industry teams; develops, analyzes and processes proposals for interagency transfers of funds to benefit industries adversely affected by imports and monitors results of such transfers; provides advice and guidance about technical assistance to firms, industries, and communities, as requested; develops, reviews, processes, supervises and monitors industry assistance cooperative agreements to industry associations or other appropriate organizations for studies of new markets, technology, products, export development, and industry evaluation or analysis; coordinates technical assistance activities with other Federal agencies and departments; and assesses program results and provides program

status reports or other special studies needed by the DAS/TAA and other Department officials relative to firms, industry, and community technical assistance.

.04 The *Financial Assistance Division* develops policies, procedures and guidelines for evaluating adjustment proposals and applications for loans and loan guarantees to be provided to certified firms; reviews formal adjustment proposals submitted as part of an application to determine if the firm can either recover from the impact of foreign competition in its existing market or successfully penetrate a new market; reviews all proposals and applications to ensure compliance with applicable regulatory and statutory requirements such as environment, civil rights, or flood hazard, as well as special requirements of the Trade Act; negotiates loan terms and conditions to attain reasonable assurance of loan repayment, recovery of firm and the permanent employment opportunities to be created or maintained by the project; evaluates and makes recommendations regarding comprehensive financing after processing of such applications, monitors trade adjustment recipients to ensure adherence to adjustment plans and recommends any modifications; supervises the provision of specialized assistance to recipients of TAA loans or loan guarantees who may have repayment or other problems in meeting program objectives. Supervises and monitors financial assistance granted for construction projects processed by the Division, including certifications for loan disbursements; and deobligates trade assistance loan funds not required because of withdrawals, cancellations, and underruns.

**Part VIII. Administration, Public Affairs and Program Support**

Management analysis, automated data processing, budget, personnel, public affairs, and administrative support services will be provided by offices reporting to the Director of Administration. Field support will be provided by the Director General of the Commercial Services.

Approved:

Lionel H. Olmer,  
*Under Secretary for International Trade.*

William H. Morris, Jr.,  
*Assistant Secretary for Trade Development.*

[FR Doc. 82-14730 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-25-M

**Application For Duty-Free Entry of Scientific Articles; Correction**

In FR Doc. 82-13744 appearing at page 21903 in the Federal Register of May 20, 1982, Docket Number 81-00153 is corrected to read: 82-00153.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-14795 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-25-M

**Initiation of Antidumping Investigation; Bicycle Tires and Tubes From Taiwan**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Initiation of antidumping investigation.

**SUMMARY:** On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether bicycle tires and tubes ("BTT's") from Taiwan are being, or are likely to be, sold in the United States at less than fair values. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 15, 1982, and we will make ours on or before October 7, 1982.

**EFFECTIVE DATE:** June 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Steve Garment, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-1757.

**SUPPLEMENTARY INFORMATION:****The Petition**

On April 30, 1982, we received a petition from counsel for the Carlisle Tire & Rubber Company, Carlisle, Pennsylvania, which constitutes the United States bicycle tire and tube industry. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that bicycle tires and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act"),

and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by comparisons of United States prices (developed by petitioner from market research, competitive bidding, and trade contacts by petitioner's sales personnel) on sales of the merchandise in the United States with home market prices in Taiwan (obtained by petitioner from market research in Taiwan) on sales made in Taiwan.

**Case History**

On January 13, 1978, the same petitioner filed an antidumping complaint with the Treasury Department on this identical product. On December 29, 1978, Treasury published in the Federal Register a notice of "Final Determination of Sales at Not Less Than Fair Value and Discontinuance of Antidumping Investigation" (43 FR 61066-61067). That notice stated that " \* \* \* bicycle tires and tubes from the Republic of China, other than that merchandise produced by Cheng Shin Industrial Co., Ltd. and Kenda Rubber Tire Corp., are not being sold at less than fair value." In the case of both Cheng Shin Industrial Co., Ltd. and Kenda Rubber Tire Corp., the margins were found to be *minimal* and assurances of no future sales at less than fair value have been received. Therefore, with respect to these two firms, Treasury discontinued the antidumping investigation.

The petitioner filed a complaint with the United States Customs Court on April 9, 1979, requesting that the Court hold the Secretary's negative determination unlawful and remand the matter to the Secretary for a redetermination of less than fair value margins. On February 16, 1982, the Department of Commerce requested the United States Court of International Trade to remand this action to enable the Department of Commerce to make all necessary recalculations in accordance with the Court's decision. On May 12, 1982, the Court granted this request and directed the Department to report the Secretary's redetermination to the court within 90 days of the order.

**Initiation of Investigation**

Under section 732(c) of the Act (19 U.S.C. 1673a(c)), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the

petition filed by the industry, and we have found that it meets these requirements. Therefore, in accordance with section 732(c)(2) of the Act, we are initiating an antidumping investigation to determine whether bicycle tires and tubes from Taiwan are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by October 7, 1982.

**Scope of the Investigation**

The merchandise covered by this investigation is pneumatic bicycle tires and tubes of rubber or plastic, currently classifiable under item numbers 772.48 and 772.57, respectively, *Tariff Schedules of the United States* ("TSUS").

**Notification to ITC**

Section 732(d) of the Act (19 U.S.C. 1673a(d)) requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information.

We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

**Preliminary Determination by ITC**

Pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), the ITC will determine within 45 days whether there is a reasonable indication that imports of bicycle tires and tubes from Taiwan are materially injuring, or are threatening to materially injure, a United States industry. If the ITC determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

This notice is published pursuant to section 732(c)(2) of the Act (19 U.S.C. 1673a(c)(2)) and 353.37(b) of the Commerce Department Regulations (19 CFR 353.37(b)).

May 21, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-14793 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-25-M

### Initiation of Countervailing Duty Investigation; Toy Balloons (Including Punchballs) and Playballs From Mexico

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Initiation of countervailing duty investigation.

**SUMMARY:** On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of toy balloons (including punchballs) and playballs receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If the investigation proceeds normally, we will announce a preliminary determination on or before August 11, 1982.

**EFFECTIVE DATE:** June 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mary A. Martin, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377-1279.

#### SUPPLEMENTARY INFORMATION:

##### Petition

On May 18, 1982, we received a petition from National Latex Products Company ("National Latex"), Ashland, Ohio, on behalf of the U.S. industry producing toy balloons (including punchballs) and playballs. Complying with the filing requirements of 19 CFR 355.26(a), the petition alleges that the government of Mexico is subsidizing its producers and exporters of toy balloons (including punchballs) and playballs. Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) ("the Act"), applies to this investigation because Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)).

The merchandise is nondutiable. There will be no injury determination in this proceeding because there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require such a determination for nondutiable merchandise from Mexico.

##### Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on toy

balloons (including punchballs) and playballs, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs, as listed in the "Scope of the Investigation" section of this notice, received bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by August 11, 1982.

##### Scope of Investigation

The merchandise covered by the petition consists of toy balloons (including punchballs) and playballs. Balloons and punchballs are currently classifiable under TSUSA number 737.9536 and playballs under TSUSA number 735.0990. These products enter the United States duty-free under the Generalized System of Preferences.

Balloons and punchballs are inflatable, thin-walled articles made by dipping non-porous forms (called "mandrels" in natural latex. Punchballs have slightly thicker walls than balloons and are sold packaged with bands.

A playball is a hollow sphere produced from polyvinyl chloride (a thermoplastic resin) and other thermoplastics that will bounce when inflated with air and which yields diameters from 4 to 20 inches. Playballs are not nylon-wound or made of rubber, and are not to be confused with sportballs (used in athletic activities).

The alleged manufacturers of these products are Latex Occidental, S.A. (balloons and punchballs), and Industrias Salver (Playballs), both located in Guadalajara, Mexico.

##### Background

A similar petition from National Latex was filed on May 14, 1981. On June 17, 1981, we published a notice of Dismissal of Countervailing Duty Petition (46 FR 31698). That dismissal was based on the conclusion that a notice of initiation in an earlier proceeding involving Mexican duty-free merchandise created an "international obligation" within the meaning of section 303(a)(2) which required that countervailing duties not be imposed on nondutiable merchandise from Mexico unless there was an affirmative determination of injury to a U.S. industry. Since National Latex did not allege injury to a U.S. industry, we dismissed the petition. The notice stated: "Because of the absence of any allegation of injury, the petition, which is satisfactory otherwise, does not allege the elements necessary for the imposition of countervailing duties."

National Latex challenged this dismissal in the Court of International Trade. After a thorough examination, the Department of Justice concluded that further defense of this action was not appropriate. Accordingly, on May 13, 1982, the Government stipulated with the plaintiff, National Latex, that National Latex could file a new petition and ITA would consider it without regard to the issue of injury. The new petition was filed on May 18, 1982.

##### Allegations of Bounties or Grants

The petition alleges that producers and exporters of toy balloons (including punchballs) and playballs in Mexico receive the following benefits that constitute bounties or grants: tax certificates under the Certificado de Devolucion de Impuesto ("CEDI") program on exports; free zone and in-bond assembly benefits; tax certificates under the Certificates of Fiscal Promotion ("CEPROFI") program for "priority" industrial activities; preferential financing under several programs including the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX"), the Guarantee Fund for the Development of Small and Medium Sized Industries ("FOGAIN"), the Industrial Equipment Fund ("FONEL") and the National Fund for Industrial Development ("FOMIN"); export insurance and trade development services; and rail freight rebates.

Gary N. Horlick,

*Deputy Assistant Secretary for Import Administration.*

May 26, 1982.

[FR Doc. 82-14794 Filed 5-28-82; 8:45 am]

BILLING CODE 3510-25-M

##### National Bureau of Standards

### Revision to Federal Information Processing Standard 71; Advanced Data Communication Control Procedures (ADCCP)

On May 14, 1980, a notice was published in the Federal Register (45 FR 31769-31770), announcing the approval of Federal Information Processing Standards Publication (FIPS PUB) 71, Advanced Data Communication Control Procedures.

As a result of substantive comments concerning this standard which were received after its adoption, revisions to FIPS 71 were proposed to make it more clearly consistent with the revised Federal Standard 1003, Synchronous Bit-Oriented Data Link Procedures (Advanced Data Communication Control Procedures), being processed by

the General Services Administration and the National Communications System. Notice of these proposed revisions was published in the **Federal Register**, on February 25, 1981, (46 FR 14029-14031) for public comment and sent to all Federal agencies and State governments for comment. A subsequent **Federal Register** notice on March 20, 1981, (46 FR 17823-17824) corrected that notice.

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce has approved the following revisions to FIPS PUB 71.

#### Revisions to FIPS PUB 71

The specifications section of FIPS PUB 71, Advanced Data Communication Control Procedures, is revised to add the following two new items:

(4) All systems shall implement the 16-bit frame check sequence (FCS) specified in American National Standard X3.66-1979, referenced above.

A 32-bit FCS may also be provided for use when it has been determined that a higher degree of error protection is necessary on a link. For a discussion of the relative merits of the 16-bit and 32-bit FCS, see FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures, section 7.8.

The equations for 32-bit FCS generation are:

$$\frac{X^{32}G(X) + X^kL(X)}{P(X)} = Q(X) + \frac{R(X)}{P(X)}$$

$$FCS = L(X) + R(X) = \overline{R(X)}$$

The arithmetic is modulo 2.

$$L(X) = X^{31} + X^{30} + X^{29} + X^{28} + X^{27} + X^{26} + X^{25} + X^{24} + X^{23} + X^{22} + X^{21} + X^{20} + X^{19} + X^{18} + X^{17} + X^{16} + X^{15} + X^{14} + X^{13} + X^{12} + X^{11} + X^{10} + X^9 + X^8 + X^7 + X^6 + X^5 + X^4 + X^3 + X^2 + X^1 + 1.$$

$R(X)$  = The remainder which is of degree less than 32.

$k$  = The number of bits represented by  $G(X)$ .

$P(X)$  = The generator polynomial  
 $X^{32} + X^{26} + X^{23} + X^{22} + X^{16} + X^{12} + X^{11} + X^{10} + X^8 + X^7 + X^5 + X^4 + X^2 + X^1 + 1.$

$G(X)$  = The message polynomial, which includes the contents of the address, control, and information fields,

excluding the zero bits inserted for transparency (see American National Standard X3.66-1979, section 3.7).

The generation of the remainder  $R(X)$  differs from that used in conventional (non-ADCCP) check sequence generation by the presence of the  $X^kL(X)$  term in the generation equation. When the 32-bit FCS generation is by the usual shift register technique, the  $X^kL(X)$  term is added in either of two ways:

1. Preset the shift register to all ones rather than to all zeros as in conventional (non-ADCCP) generation procedures. Otherwise, shift the data  $G(X)$  through the register as in conventional procedures, or,

2. Invert the first 32 bits of  $G(X)$  before shifting into the register and shift the remaining part of  $G(X)$  through the register uninverted. This requires that  $G(X)$  contain at least 32 bits.

Whether 1 or 2 is used, the shift register contents, after shifting through  $G(X)$ , are  $R(X)$ . These contents are inverted bit-by-bit and transmitted as the FCS sequence.

The transmitted sequence is always (in algebraic notation):  
 $M(X) = X^{32}G(X) + FCS.$

The received sequence will be denoted  $M^*(X)$  and may differ from the transmitted sequence  $M(X)$  if transmission errors are introduced. The checking process always involves dividing the received sequence by  $P(X)$  and testing the remainder. Direct division, however, does not yield a unique remainder and it is expected that in most cases the received sequence will be modified for checking purposes by the addition of terms which will cause the division to yield such a unique remainder when  $M^*(X) = M(X)$ , i.e., when the frame is error free.

Two classes of checking equations are given below:

$$\frac{X^\gamma[M^*(X) + X^kL(X)]}{P(X)} = Q(X) + \frac{R(X)}{P(X)} \quad (\text{Equation 1})$$

In this case, the unique remainder is the remainder of the division  $X^\gamma \frac{L(X)}{P(X)}$

When  $\gamma=0$  the remainder is  $L(X)$  (32 ones).

When  $\gamma=32$  the remainder is  
 $X^{31} + X^{30} + X^{26} + X^{25} + X^{24} + X^{18} + X^{15} + X^{14} + X^{12} + X^{11} + X^{10} + X^8 + X^6 + X^5 + X^4 + X^3 + X^1 + 1.$

$$\frac{X^\gamma[M^*(X) + (X^k+1)L(X)]}{P(X)} = Q(X) + \frac{R(X)}{P(X)} \quad (\text{Equation 2})$$

In this case, the unique remainder is always zero regardless of the value of  $\gamma$ .

Shift register implementation of the above equations normally use  $\gamma=32$  (pre-multiplication). When this is the case, the added term  $X^kL(X)$  in Equations 1 and 2 is added by either inverting the first 32 received bits of  $M^*(X)$  before shifting them through the checking register or by presetting the register to all ones and shifting all of  $M^*(X)$  through normally. Thus, the receiver action on the leading portion of a frame is the same with either Equation 1 or 2.

The +1 of the term  $(X^k+1)L(X)$  of Equation 2 is added by inverting the 32-bit FCS. This implies a 32-bit storage delay by the 32-bit FCS function at the receiver since the location of the 32-bit FCS is not known until the closing flag is received.

(5) To maximize interoperability among major Federal data communication networks, while still allowing flexibility to tailor a network for efficient day-to-day use, the following features are required:

a. The W bit in the frame reject (FRMR) information field shall be set to indicate the cause of the frame rejection condition. (See American National Standard X3.66-1979, section 7.5.3.1.)

b. A FRMR with the W bit set to one notifies a primary/combined station that an invalid or unimplemented frame was received by the remote secondary/combined station. (See American National Standard X3.66-1979, section 7.5.3.1.) During the remainder of the physical connection, and while the primary/combined station remains on-line, the primary/combined station shall not subsequently transmit this invalid or unimplemented frame to the remote station.

The cross-index section of FIPS PUB 71 is revised to add the following new items:

(c) FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures.

(d) International Standard 3309: Data Communications—High-level Data Link Control Procedures—Frame Structure.

(e) International Standard 4335: Data Communications—High-level Data Link

### Control Procedures—Elements of Procedures.

(f) Addendum 1 to International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(g) Addendum 2 to International Standard 4335: Data Communications—High-level Data Link Control Procedures—Elements of Procedures.

(h) International Standard 6159: Data Communications—High-level Data Link Control Procedures—Unbalanced Classes of Procedure.

(i) International Standard 6256: Data Communications—High-level Data Link Control Procedures—Balanced Class of Procedure.

(j) International Telegraph and Telephone Consultative Committee (CCITT) Recommendation X.25: Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Terminals Operating in the Packet Mode on Public Data Networks.

(k) CCITT Recommendation X.75: Terminal and Transit Call Procedures and Data Transfer Systems on International Circuits Between Packet-Switched Data Networks.

Persons desiring further information about these revisions to FIPS PUB 71 may contact Mr. George E. Clark, Jr., System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, telephone: 301/921-3723.

Dated: May 11, 1982.

Ernest Ambler,  
Director.

[FR Doc. 82-14770 Filed 5-28-82; 8:45 am]  
BILLING CODE 3510-CN-M

### National Technical Information Service Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bentley Laboratories, Inc. having a place of business at Irvine, California 92714 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Oximeter for Monitoring Oxygen Saturation in Blood," U.S. Patent No. 3,799,672 (dated March 26, 1974). Copies of the Patent may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of

America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: May 21, 1982.

Douglas J. Campion,  
Office of Government Inventions and Patents,  
National Technical Information Service,  
Department of Commerce.

[FR Doc. 82-14726 Filed 5-28-82; 8:45 am]  
BILLING CODE 3510-04-M

### DEPARTMENT OF DEFENSE

#### Department of the Army

#### Army Advisory Panel on ROTC Affairs; Notice of Open Meeting

May 20, 1982.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following panel meeting:

Name of panel: Army Advisory Panel on ROTC Affairs

Date of Meeting: June 22-23, 1982.

Place: Rodeway Inn, 6802 Sprague Avenue,  
Tacoma, Washington 98409

Time: 8 am-5 pm, June 22 and 23, 1982.

#### Proposed Agenda

The meeting will be conducted in both workshop and general sessions and include a panel visit to the US Army Fourth ROTC Region ROTC Advanced Camp at Fort Lewis, Washington. The Panel will receive an ROTC update and participate in discussions concerning ROTC plans and initiatives to attract and retain students in engineering and scientific disciplines. This meeting is open to the public. Any interested person may appear before, or file statements with the Panel at the time and in the manner permitted by the Panel.

Robert A. Sullivan,  
Major General, GS, Deputy Chief of Staff for ROTC.

[FR Doc. 82-14787 Filed 5-28-82; 8:45 am]  
BILLING CODE 3710-08-M

### Department of the Navy

#### Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on June 16-17, 1982, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of the current and near-term U.S.-Soviet naval balance and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United State Code.

For further information concerning this meeting, contact Lieutenant K.M. Cummings, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756-1205.

Dated: May 24, 1981.

F.N. Ottie,  
Lieutenant Commander, JAGC, U.S. Navy  
Alternate Federal Register Liaison Officer.

[FR Doc. 82-14752 Filed 5-28-82; 8:45 am]  
BILLING CODE 3810-AF-M

### Office of the Secretary

#### Per Diem, Travel and Transportation Allowance Committee

**AGENCY:** Per Diem, Travel and Transportation Allowance Committee, Office of the Secretary, DOD.

**ACTION:** Publication of changes in per diem rates.

**SUMMARY:** The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 111. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 111 is being published in the Federal Register to assure that

travelers are paid per diem at the most current rates.

**EFFECTIVE DATE:** June 1, 1982.

**SUPPLEMENTARY INFORMATION:** This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

#### Civilian Personnel Per Diem Bulletin Number 111 to the Heads of Executive Departments and Establishments

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense, August 17, 1966, "Executive Order 11294, August 4, 1966 Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status," in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 110 except in the case identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be 1 June 1982.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
<b>Alaska:</b>	
Adak <sup>1</sup>	\$12.60
Anaktuvuk Pass	140.00
Ancorage	89.00
Barrow	169.00
Bethel	114.00
College	97.00
Cordova	89.00
Deadhorse	107.00
Dillingham	103.00
Dutch Harbor	82.00
Eielson AFB	97.00
Elmendorf	89.00
Fairbanks	97.00
Ft. Richardson	89.00
Ft. Wainwright	97.00
Juneau	97.00
Ketchikan	96.00
Kodiak	103.00
Kotzebue	109.00
Murphy Dome	97.00
Noatak	109.00
Nome	110.00
Noorvik	109.00
Petersburg	96.00
Point Hope	100.00
Prudhoe Bay	107.00
Shemya AFB <sup>1</sup>	11.00
Shungnak	109.00
Sitka-Mt. Edgecombe	96.00
Skagway	96.00
Spruce Cape	103.00
Tanana	110.00
Valdez	93.00
Wainwright	79.00
Wrangell	96.00
All Other Localities	83.00
American Samoa	65.00
*Guam M.I.	74.00
<b>*Hawaii:</b>	
Oahu	91.00
All Other Localities	67.00
Johnston Atoll <sup>2</sup>	16.75
Midway Island <sup>1</sup>	12.60
<b>Puerto Rico:</b>	
Bayamon:	
12-16-5-15	119.00
5-16-12-15	88.00
Carolina:	
12-16-5-15	119.00
5-16-12-15	88.00
Fajardo (Including Luquillo):	
12-16-5-15	119.00
5-16-12-15	88.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16-5-15	119.00
5-16-12-15	88.00
Ponce (Incl. Ft. Allen NCS)	70.00
Roosevelt Roads:	
12-16-5-15	119.00
5-16-12-15	88.00
Sabana Seca:	
12-16-5-15	119.00
5-16-12-15	88.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16-5-15	119.00
5-16-12-15	88.00
All Other Localities	77.00
Virgin Islands of U.S.:	
12-1-4-30	102.00
5-1-11-30	82.00
Wake Island <sup>2</sup>	15.00
All other Localities	20.00

<sup>1</sup>Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the travelers.

<sup>2</sup>Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

M.S. Healy,

OSD Federal Register Liaison Officer,  
Washington Headquarters Services,  
Department of Defense.

May 26, 1982.

[FR Doc. 82-14754 Filed 5-28-82; 8:45 am]

**BILLING CODE 3810-01-M**

## DEPARTMENT OF ENERGY

### Defense Waste Processing Facility Savannah River Plant Aiken, S.C.; Record of Decision

This Record of Decision has been prepared pursuant to regulations of the Council on Environmental Quality (40 CFR Part 1505) and Implementing Procedures of the Department of Energy (45 FR 20694).

#### Decision

The Department of Energy (DOE) has decided to construct and operate a Defense Waste Processing Facility (DWPF) at the Savannah River Plant (SRP) to immobilize existing and future high-level radioactive wastes (HLW) generated and stored at SRP. The DWPF will be built at Site S in stages; construction of the sludge processing facility will begin first, followed by facilities to treat the salt cake and supernatant liquid. The strategy for disposal of the immobilized HLW is to dispose of it of site in a Federal geologic repository. Decontaminated salt will be disposed of on site. The selection of the waste form for the DWPF, and the siting and design of the repository will be addressed in subsequent environmental analyses.

#### Background

The SRP near Aiken, South Carolina, is a major installation of the DOE for the production of nuclear materials for national defense. It began operations in the early 1950's and is the nation's primary source of reactor-produced defense materials. These operations also generate HLW from the chemical processing of fuel and target materials after their irradiation in the SRP nuclear reactors. The HLW is stored in underground tanks at SRP. It is composed of sludge, crystallized salt cake, and a supernatant aqueous solution.

The long-term management strategies for the SRP HLW were evaluated in the "Environmental Impact Statement—Long Term Management of Defense High-Level Radioactive Waste (Research and Development Program for Immobilization), Savannah River Plant,

Aiken, South Carolina" (DOE/EIS-0023), November 1979. As a result, DOE decided to continue the research and development program directed toward immobilization of the SRP HLW, and not to undertake an R&D program on direct disposal of waste in bedrock under SRP (Record of Decision, February 13, 1980).

The Department of Energy published the "Environmental Impact Statement—Defense Waste Processing Facility, Savannah River Plant, Aiken, South Carolina" (DOE/EIS-0082), in February 1982. The proposed action in the EIS was: (1) To select a disposal strategy for existing and future SRP high-level radioactive waste, and (2) to decide on the construction and operation of a DWPF to immobilize the HLW in a form suitable for shipment to and disposal in a Federal repository. Reasonable alternatives for the proposed action were also analyzed. Notice of the availability of the EIS was published in the *Federal Register* by the Environmental Protection Agency on March 12, 1982 (47 FR 10901).

The analysis of alternative strategies for the disposal of the immobilized HLW relies on analyses and decisions resulting from the "Environmental Impact Statement—Management of Commercially Generated Waste," DOE/EIS-0046F, October 1980. Based on this EIS, DOE decided to: (1) Adopt a strategy to develop mined geologic repositories for disposal of commercially generated HLW and transuranic wastes, while continuing to examine subseabed and very deep hole disposal as potential backup technologies, and (2) conduct a research and development program to develop repositories and the necessary technology to ensure the safe, long-term containment and isolation of the waste.

#### Description of Alternatives

The preferred disposal strategy identified in the EIS is disposition of the immobilized HLW in a Federal geologic repository. The following alternative strategies were considered:

1. Indefinite tank storage at SRP (no action).
2. Other
  - a. Subseabed disposal.
  - b. Very deep hole disposal.
  - c. Rock melting.
  - d. Island disposal.
  - e. Ice sheet disposal.
  - f. Deep well disposal.
  - g. Partitioning and transmutation.
  - h. Space disposal.

Disposal in a Federal geologic repository will require that the SRP HLW be processed into a form meeting applicable repository criteria. The following immobilization alternatives were considered:

1. *Reference Immobilization Alternative:* Construction and operation of a large Defense Waste Processing Facility for the integrated processing of sludge, salt cake, and supernatant to form: (1) Borosilicate glass for disposal in a Federal repository, and (2) decontaminated salt for disposal at SRP. The immobilized HLW would be stored temporarily at SRP until a Federal repository becomes available. Borosilicate glass is presented in the EIS as the reference waste form for immobilizing the SRP HLW. Alternative waste forms are being evaluated. The selection of the waste form for the DWPF will be addressed in a subsequent environmental review.

2. *Delayed Alternative:* This action delays construction and operation of a DWPF under the reference immobilization alternative for ten (10) years. It assumes that by then a Federal repository would be available to receive the immobilized waste so that no more than ninety (90) days of interim storage may be required, and that a decision on a waste form would have been made for the DWPF.

3. *Staged Process Alternative (Preferred Alternative):* This alternative was developed from the reference immobilization alternative and would incorporate a phased or modular construction program along with improvements resulting from ongoing R&D. First, a facility would be constructed to treat the sludge, and then a facility would be constructed to treat the salt cake and supernatant. In this alternative, construction costs would be spread more evenly over the years of construction.

Alternative sites, all located near the middle of the SRP site, were considered for the DWPF. The construction site, Site S, was chosen primarily because of its proximity to the HLW storage tanks and to a suitable salt disposal area, as well as its suitability for construction. Although site S was not clearly the environmentally preferred site, differences in potential environmental impact were not of sufficient magnitude to affect the selection of Site S based on the above considerations.

Disposal alternatives considered for the decontaminated salt include: Land disposal, returning it to the waste tanks, and packaging it for shipment to a geologic repository. Land disposal in a form commensurate with its chemical and radioactive properties is the preferred disposal method. Four sites at SRP were considered for disposal of the decontaminated salt. The primary advantages of Site Z are its proximity to the DWPF and the depth of groundwater. These considerations

make Site Z the environmentally preferable alternative.

#### Basis for Decision

High-level defense waste must be managed so that current and future generations will be protected from potential hazards. The principal objective for disposal is to isolate the waste from the human environment with minimum reliance on maintenance and surveillance. Continued tank storage at SRP would require periodic construction of, and transfer of, the wastes to replacement tanks and is an interim measure.

The strategy of geologic disposal of the immobilized SRP HLW was adopted based on numerous analyses and on the decision for disposal of commercially generated HLW. As discussed in both DOE/EIS-0046F and DOE/EIS-0082, systems that can adequately dispose of commercial radioactive wastes can reasonably be expected to adequately dispose of defense wastes because they produce lower temperature and lower radiation levels than do comparable commercial high-level wastes.

The construction and operation of the DWPF in stages is consistent with DOE policies and earlier documents (ERDA 77-42, ERDA-1537, and DOE/EIS-0023) for SRP waste management and operations. Although the reference immobilization alternative is technically viable, the staged process alternative achieves the same objectives with comparable safety and environmental impact at lower initial capital cost. Ongoing research and development efforts will further refine design, construction, the operational aspects of the DWPF. The process for the actual DWPF, as build, may therefore differ from the present descriptions due to the incorporation of such refinements.

None of the immobilization and disposal alternatives is so clearly environmentally superior that it can be identified as environmentally preferable. As stated in the Record of Decision for DOE/EIS-0046F, the long-term effects of mined geologic disposal and those of the backup disposal strategies (subseabed and very deep hole concepts) would be very similar, and the radiation doses to the public are only a small fraction of the naturally occurring doses. The immobilization alternatives are similar environmentally. In general, the staged process appears to be environmentally, slightly preferable.

#### Considerations in the Implementation of the Decision

The DWPF will be designed and built to comply with DOE standards including

earthquake, tornado, fire, radiation protection, and environmental protection. The construction of the DWPF will not pose any significant or unmitigable impacts. Measures to minimize potential environmental impacts include sound engineering design, proper construction practices (e.g., erosion and storm run/off control to minimize aquatic impacts), and an effective quality assurance program. Impacts on a one hectare wetland, one of about 200 Carolina Bays on the SRP site, however, cannot be avoided. No practicable alternatives of locating the DWPF at Site S exist that would avoid eliminating the wetland. DWPF construction at alternative sites would impact similar wetlands. The final site layout and design of the DWPF will include all practicable methods of mitigating the impact. For example, permanent retention of storm run-off sedimentation basins after DWPF construction will result in manmade wet areas similar in most respects to the natural wetland. The ongoing comprehensive environmental monitoring programs will be expanded to detect any unanticipated impact of DWPF construction and operation.

For the United States Department of Energy.

Dated: May 24, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc. 82-14719 Filed 5-28-82; 8:45 am]

BILLING CODE 6450-01-M

## Bonneville Power Administration

### Final Charges for Operation and Maintenance Charges on Customer-Owned Facilities

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Final notice of charges for operation and maintenance charges on customer-owned facilities.

**SUMMARY:** Bonneville Power Administration (BPA) by Federal Register notice of May 3, 1982, published proposed adjustments to operating and maintenance charges on customer-owned transmission related facilities (47 FR 18947). Written comments and requests for data were solicited, and were to be submitted by May 24, 1982. This notice announces the final charges.

**DATE:** The charges will be effective July 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212; (503) 230-3478. BPA maintains toll-free lines for the use of

persons within the region. Oregon callers may use 1-800-452-8429; callers in Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California may use 1-800-547-6048. Messages and requests for information received outside of normal business hours (4:30 p.m. to 7:30 a.m.) may be recorded on the toll-free lines.

Additional information is available from:

Mr. George E. Gwinnutt, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551;

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311;

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518;

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202;

Mr. Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377;

Mr. Thomas M. Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130;

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701;

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

**SUPPLEMENTAL INFORMATION:** In its Federal Register notice of May 3, 1982, BPA announced the need to increase its operation and maintenance (O&M) charges over its January 1, 1981, charges, effective July 1, 1982. BPA had previously notified its customers through BPA's Area and District offices of the need for the increase. Under the terms of various agreements, BPA's O&M charges may be unilaterally adjusted by BPA "when necessary to conform with BPA's cost of operating and maintaining like facilities." These O&M charges listed below are based upon a system wide 3-year rolling year cost for O&M on the various types of equipment, by voltage class.

By the close of business on May 24, 1982, BPA has received no written data, views, or comments on the proposed adjustments. BPA, therefore, finds that based on the staff analysis of the costs of operating and maintaining customer-owned facilities, BPA's proposed adjustments are reasonable and accurately reflect the costs of providing these services.

In consideration of the foregoing, BPA hereby establishes the following charges

for operation and maintenance on customer-owned facilities performed by BPA.

### ANNUAL O&M CHARGES FOR CUSTOMER-OWNED FACILITIES

<b>Terminal Charges:</b>	
Low voltage industrial terminal.....	\$6,624
Other low-voltage terminal.....	4,152
115-kV terminal.....	8,112
230-kV terminal.....	12,828
500-kV terminal.....	37,104
<b>Power Circuit Breakers:</b>	
Low voltage industrial.....	5,976
69 kV and under.....	3,516
115 kV.....	6,900
230 kV.....	11,816
500 kV.....	28,476
<b>Switches and Capacitors:</b>	
Group operated 345 kV and under.....	396
Group operated 500 kV and above.....	2,880
Hook operated 345 kV and under.....	120
Load break 345 kV and under.....	4,296
Capacitors per KVAR (series).....	0,444
Capacitors per KVAR (shunt).....	0,444
<b>Transformers:</b>	
230/low voltage.....	8,028
230/115 kV.....	35,784
500/230 kV.....	100,380
Industry transformers 230/low voltage.....	22,392

Issued in Portland, Oregon on May 24, 1982.  
Edward W. Sienkiewicz,  
Acting Administrator.

[FR Doc. 82-14905 Filed 5-28-82; 10:19 am]

BILLING CODE 6450-01-M

## Energy Information Administration

### Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

#### Correction

In FR Doc. 82-13817 appearing at page 21914 in the issue for Thursday, May 20, 1982, please make the following correction:

On page 21914, in the third column, in the table, the entries for California and Texas should not have carried any footnote references.

BILLING CODE 1505-01-M

## FEDERAL MARITIME COMMISSION

### Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal

Maritime Commission, Washington, D.C. 20573.

Global Freight International, Inc., 130 Eastern Avenue, Chelsea, MA 02150, Officer: Bernard Alexander Wilcken, President

Faros International Inc., 6623 S.W. 140th Avenue, Miami, FL 33182, Officers: Ana Maria Cuellar, President/Treasurer; Aida Fernandez, Vice President/Secretary

Central Dispatch, Inc., 1800 Fourth Street, Harvey, LA 70085, Officers: John C. Centanni, President; John C. Centanni, Jr., Director; Ms. John C. Centanni, Vice President; Clarence J. Champagne, Jr., Secretary/Treasurer; Chester Piassa, Vice President

Interfreight Shipping Corp., 1950 Troutman Street, Maspeth, NY 11385, Officers: Yonatan Ben-Haim, President/Director/Stockholder; Shlomo Greenberg, Secretary/Director/Stockholder

Tiger InterModal, Inc., d.b.a., SeaTiger, 110 W. Ocean Blvd., Suite C, Long Beach, CA 90802, Officers: Thomas B. Liesy, President; Martin A. Lynch, Vice President/Director; Robert J. Harter, Jr., Vice President/Secretary/Director; Denis P. Kalscheur, Treasurer; James A. Mucci, Assistant Vice President; James A. Colby, Assistant Vice President; Michael Erenberg, Assistant Secretary; Ralph E. Walters, Assistant Treasurer; Wayne M. Hoffman, Director.

Dated: May 26, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,  
Secretary.

[FR Doc. 82-14772 Filed 5-26-82; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comments on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

**A. Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *The Girard Company*, Bala Cynwyd, Pennsylvania; to acquire 100 percent of the voting shares or assets of TGC Holdings, Inc., Bala Cynwyd, Pennsylvania, and through it to acquire 100 percent of the voting shares or assets of Girard Bank Delaware, Wilmington, Delaware. Comments on this application must be received not later than June 23, 1982.

**B. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Chemical Financial Corporation*, Midland, Michigan; to acquire 100 percent of the voting shares or assets of The Pinney State Bank, Cass City, Michigan. Comments on this application must be received not later than June 23, 1982.

**C. Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Southwest Bancshares*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Haltom City State Bank, Haltom City, Texas. Comments on this application must be received not later than June 23, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,  
Assistant Secretary of the Board.

[FR Doc. 82-14704 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

### Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo*, (or continue to engage in a activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 23, 1982.

**A. Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Interstate Financial Corporation*, Dayton, Ohio (insurance underwriting; Ohio): To engage through its subsidiary Financial Interstate Life Insurance Company, Phoenix, Arizona, in acting as an underwriter of credit life and credit accident and health insurance which is directly related to extensions of credit by other subsidiaries of Interstate Financial Corporation. These activities will be conducted from the offices at 34 North Main Street, Dayton, Ohio 45402, serving Montgomery and Greene Counties and counties contiguous thereto.

**B. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Bank System, Inc.*, Minneapolis, Minnesota (trust company activities; Florida): To engage, through a subsidiary known as First Trust Company of Florida (National Association), Sarasota, Florida, in activities performed by a trust company, including activities of a fiduciary, agency, or custodial nature, in the manner authorized by federal and state law. Such activities will be conducted at an office located at Sarasota, Florida, serving the State of Florida.

**C. Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *The Marine Corporation*, Milwaukee, Wisconsin, (trust company activities including acting as a fiduciary;

Wisconsin): To engage, through a subsidiary, Marine Trust Company, N.A., in the activity of acting as a trust company including developing and administering new fiduciary relationships of all types. This activity will be conducted from a trust service office operating at the Marine First National Bank, 110 West Milwaukee Street, Janesville, Wisconsin, serving Rock County, Wisconsin. Comments on this application must be received not later than June 15, 1982.

2. *The Marine Corporation*, Milwaukee, Wisconsin, (trust company activities including acting as a fiduciary; Wisconsin): To engage, through a subsidiary, Marine Trust Company, N.A., in the activity of acting as a trust company including developing and administering new fiduciary relationships of all types. This activity will be conducted from a trust service office operating at the Marine Bank, Watertown, N.A., 500 Main Street, Watertown, Wisconsin, serving Jefferson and Dodge Counties, Wisconsin. Comments on this application must be received not later than June 15, 1982.

3. *Walter E. Heller International Corporation*, Chicago, Illinois (real estate appraisal, Dallas, Texas): To engage, through its wholly-owned subsidiary, Abacus Realty Appraisers, Inc., in the appraisal of real estate. These activities would be conducted from an office in Dallas, Texas, serving the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas. Comments on this application must be received not later than June 17, 1982.

D. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (industrial loan company, financing, servicing, and insurance activities; *de novo* office; Iowa and Illinois): To engage, through its indirect subsidiaries, FinanceAmerica Thrift Corporation, an Iowa Corporation, and FinanceAmerica Credit Corporation, a Delaware corporation, in the following activities: (1) acting as an industrial loan company under the Iowa Industrial Loan Law; (2) making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company or an industrial loan company; (3) servicing loans and other extensions of credit; and (4) offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance. Such activities will include, but not be limited to, making consumer installment

loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by real and personal property, and offering credit-related life, credit-related accident and health, and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Thrift Corporation and FinanceAmerica Credit Corporation in the States of Iowa and Illinois. It is further proposed that FinanceAmerica Thrift Corporation will issue investment certificates or accept savings accounts from Iowa residents. FinanceAmerica Credit Corporation will act as an industrial loan company to the extent of making extensions of credit to Illinois residents. The activities of both corporations will be conducted from a *de novo* office located in Davenport, Iowa, serving the entire States of Iowa and Illinois.

2. *Old National Bancorporation*, Spokane, Washington, (expanded mortgage banking activities; Colorado): To engage, through its subsidiary, Bancshares Mortgage Company, in mortgage banking activities, including making or acquiring, for its own account or for the account of others, loans or other extensions of credit, secured by real estate mortgages or deeds of trust, and the servicing of such loans, and such other activities as are incidental to the operations of a mortgage company, including, acting as agent or broker for the sale of mortgage redemption life and disability insurance and property and casualty insurance the issuance of which is directly related to the making, acquiring, or servicing of such loans. These activities will be conducted at offices in Denver, Colorado, serving Colorado.

3. *Old National Bancorporation*, Spokane, Washington (expanded insurance activities; Colorado): To engage, through its subsidiary, Union Securities Co., in insurance activities, including acting as agent or broker for the sale of mortgage redemption life and disability insurance and property and casualty insurance the issuance of which is directly related to extensions of credit. These activities will be conducted at offices in Denver, Colorado, serving Colorado.

4. *Seafirst Corporation*, Seattle, Washington (mortgage banking and insurance activities; California): To engage through its Seafirst Mortgage of California Division in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust, and acting as agent for the sale of credit life and accident and disability insurance directly related

to its extensions of credit. These activities would be conducted from an office in the San Francisco S.M.S.A., serving the State of California.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

*Assistant Secretary of the Board.*

[FR Doc. 82-14696 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

## Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citizens First Bancorp, Inc.*, Glen Rock, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens First National Bank of New Jersey, Ridgewood, New Jersey. Comments on this application must be received not later than June 23, 1982.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *WB Bancorp, Inc.*, New Berlin, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Warren-Boynton State Bank, New Berlin, Illinois. Comments on this application must be received not later than June 23, 1982.

2. *W.S.B. Inc.*, Washington, Iowa; to become a bank holding company by acquiring at least 80 percent of the voting shares of Washington State Bank, Washington, Iowa. Comments on this

application must be received not later than June 23, 1982.

**C. Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Kerrville Bancshares, Inc.*, Kerrville, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Bank of Kerrville, Kerrville, Texas. Comments on this application must be received not later than June 23, 1982.

2. *Winn Bancshares, Inc.*, Winnfield, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of Winn State Bank and Trust Company, Winnfield, Louisiana. Comments on this application must be received not later than June 23, 1982.

**D. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *El Camino Bancorp*, Anaheim, California; to become a bank holding company by acquiring 100 percent of the voting shares of El Camino Bank, Anaheim, California. Comments on this application must be received not later than June 23, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

*Assistant Secretary of the Board.*

[FR Doc. 82-14702 Filed 5-30-82; 8:45 am]

BILLING CODE 6210-01-M

### Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests

a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 21, 1982.

**A. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.*, Montgomery, Alabama (insurance activities; Alabama): To engage, through its subsidiary, FAB Agency, Inc., as agent or broker of credit life and accident and health insurance that is directly related to the extension of credit by the bank; and property and casualty insurance, including dual and single interest insurance, which is directly related to extensions of credit by the bank, insurance protecting collateral in which the lender has acquired a security interest, and insurance customarily sold to individual borrowers in connection with or as part of an insurance package with insurance protecting collateral. These activities would be conducted at the following offices; First Alabama Bank of Anniston, N.A. (now Anniston National Bank), Anniston, Alabama; First Alabama Bank of Troy, N.A. (now First Farmers & Merchants National Bank of Troy), Troy, Alabama; First Alabama Bank of Walker County (now Cordova Citizens Banks), Cordova, Alabama, serving the Alabama cities of Anniston, Troy, and Cordova.

**B. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Seafirst Corporation*, Seattle, Washington (mortgage banking and insurance activities; California): To engage through its subsidiary, Seafirst Mortgage of California division, in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust, and acting as agent for the sale of credit life and accident and disability insurance directly related to its extensions of credit. These activities would be conducted from an office in the San

Francisco S.M.S.A., serving the state of California.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

*Assistant Secretary of the Board.*

[FR Doc. 82-14703 Filed 5-28-82; 8:45]

BILLING CODE 6210-01-M

### Knob Noster Bancshares, Inc.; Formation of Bank Holding Company

Knob Noster Bancshares, Inc., Knob Noster, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87 percent or more of the voting shares of The Bank of Knob Noster, Knob Noster, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Knob Noster Bancshares, Inc., Knob Noster, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to act through its subsidiary Knob Noster, Insurance Agency, Knob Noster, Missouri, as an insurance agent or broker in a community having a population not exceeding 5,000.

Applicant states that the subsidiary would perform general insurance services, including acting as broker or agent for the sale of credit life, accident and health, property and casualty lines, in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Knob Noster, Missouri, and the geographic areas to be served are eastern Johnson County and northwestern Pettis County, Missouri. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question

must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than June 23, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14705 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

#### Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

**A. Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens First Bancorp, Inc.*, Owensboro, Kentucky; to become a bank holding company by acquiring 100 percent of the successor by merger to citizens State Bank, Owensboro, Kentucky. Comments on this application must be received not later than June 24, 1982.

**B. Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

#### Correction

1. This notice corrects a previous Federal Register document (FR Doc. 82-14153) published at page 22598 of the issue for May 25, 1982. *Americana Bancorporation of Danube, Inc.*, Edina, Minnesota; to become a bank holding company by acquiring additional 76 percent of the voting shares of Americana State Bank of Danube, Danube, Minnesota. Applicant currently owns 24 percent of Bank's Shares. Comments on this application must be received not later than June 18, 1982.

2. *McLeod Bancshares, Inc.*, Glencoe, Minnesota; to become a bank holding company by acquiring 86.27 percent of the voting shares of First National Bank of Glencoe, Glencoe, Minnesota. Comments on this application must be received not later than June 24, 1982.

3. *Teton Bancshares, Inc.*, Fairfield, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Fairfield, Fairfield, Montana. Comments on this application must be received not later than June 24, 1982.

**C. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Elk City State Bancshares, Inc.*, Elk City, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of Elk City State Bank, Elk City, Oklahoma. Comments on this application must be received not later than June 24, 1982.

2. *Westminster Bankshares, Ltd.*, Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Westminster Mountain Bank, Westminster, Colorado. Comments on this application must be received not later than June 24, 1982.

Board of Governors of the Federal Reserve System, May 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14697 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

#### Bank Holding Company; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been

determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 24, 1982.

**A. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First Interstate Bancorp*, Los Angeles, California (mortgage banking and insurance activities; United States): To engage, through its subsidiary, First Interstate Mortgage Company, in making acquiring, selling, and servicing loans and other extensions of credit secured by real estate mortgages; and the sale as agent or broker of life and disability mortgage redemption insurance. These activities would be conducted from the Company's offices in Pasadena, San Diego, Tustin, San Francisco, Campbell, Fresno, Hayward, and Modesto, all in California; Houston, Texas; and in Seattle, Washington. The geographic area to be served within the first year will include the States of Arizona, California, Colorado, Florida, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, and Wyoming.

Board of Governors of the Federal Reserve System, May 25, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14698 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

### Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

**A. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C.:**

1. *Mercantile Texas Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares of Grand Prairie State Bank, Grand Prairie, Texas. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than June 24, 1982.

Board of Governors of the Federal Reserve System, May 25, 1982.

**Dolores S. Smith,**

*Assistant Secretary of the Board.*

[FR Doc. 82-14699 Filed 5-28-82; 8:45 am]

BILLING CODE 6210-01-M

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Office of the Assistant Secretary for Health

#### Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1982:

**Name:** Health Care Technology Study Section  
**Date and Time:** June 14-15, 1982, 8:30 a.m.  
**Place:** Gramercy Inn, South Scott Room, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036

**Open June 14, 1:30 p.m.-3:30 p.m.**  
**Closed for remainder of meeting.**  
**Purpose:** The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the

National Center for Health Services Research (NCHSR).

**Agenda:** The open session of the meeting on June 14 will include a presentation by the Acting Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

\* \* \* \* \*

**Name:** Health Services Developmental Grants Review Subcommittee  
**Date and Time:** June 17-18, 1982, 9:00 a.m.  
**Place:** Gramercy Inn, South Scott Room 1616 Rhode Island Avenue NW., Washington, D.C. 20036  
**Open June 17, 1:30 p.m.-3:00 p.m.**  
**Closed for remainder of meeting.**

**Purpose:** The Subcommittee is charged with the initial review of grant applications for Federal Assistance in the program areas administered by the National Center for Health Services Research.

**Agenda:** The open session of the meeting on June 17, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

\* \* \* \* \*

**Name:** Health Services Research Review Subcommittee  
**Date and Time:** June 24-25, 1982, 9:00 a.m.  
**Place:** Gramercy Inn, South Scott Room 1616 Rhode Island Avenue NW., Washington, D.C. 20036  
**Open June 24, 1:30 p.m.-3:00 p.m.**  
**Closed for remainder of meeting.**

**Purpose:** The objective of the Subcommittee is to advise the Secretary and make recommendations to the director, National Center for Health Services Research, concerning the scientific and technical merit review of health services research grant applications involving primarily the analysis and use of economic, statistical, and other theoretical approaches which

examine problems associated with the delivery of health services.

**Agenda:** The open session of the meeting on June 24, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph.D., National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

Agenda items are subject to change as priorities dictate.

Dated: May 25, 1982.

**Harold Margulies,**

*Acting Deputy Assistant Secretary for Health Research, Statistics, and Technology.*

[FR Doc. 82-14760 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-17-M

### Food and Drug Administration

#### Drug Abuse Advisory Committee; Notice of Renewal

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration is announcing the renewal of the Drug Abuse Advisory Committee by the Secretary, Department of Health and Human Services.

**DATE:** Authority for this committee will expire on May 31, 1984, unless the Secretary formally determines that renewal is in the public interest.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 25, 1982.

**William F. Randolph,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 82-14715 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

### Pulmonary-Allergy Drugs Advisory Committee; Renewal

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration is announcing the renewal of the Pulmonary-Allergy Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

**DATE:** Authority for this committee will expire on May 30, 1984, unless the Secretary formally determines that renewal is in the public interest.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 25, 1982.  
William F. Randolph,  
*Acting Associate Commissioner for  
Regulatory Affairs.*

[FR Doc 82-14714 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0078; DESI Nos. 5213, 6290, 6303, 8658, and 11935]

**Drugs For Human Use; Drug Efficacy Study Implementation; Revocation of Exemption for Certain Effective Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy ("Paragraph XIV/Category 15"); Followup Notice and Opportunity for Hearing**

**AGENCY:** Food and Drug Administration (FDA).

**ACTION:** Notice.

**SUMMARY:** FDA revokes the temporary exemption for certain oral prescription drug products offered for relief of symptoms of cough, cold, or allergy. The exemption has permitted the products to remain on the market beyond the time limit scheduled for implementation of the Drug Efficacy Study. FDA announces the conditions for marketing these products for the indications for which they are now regarded as effective and offers an opportunity for a hearing concerning indications reclassified to lacking substantial evidence of effectiveness.

**DATE:** Revocation of exemption effective June 1, 1982. Hearing requests due on or before July 1, 1982. Supplements to approved new drug applications and data in support of hearing requests due on or before August 2, 1982.

**ADDRESSES:** Communications in response to this notice should be identified with Docket No. 82N-0078,

directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 12A-12.

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA-305), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

**FOR FURTHER INFORMATION CONTACT:** David T. Read, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

**SUPPLEMENTARY INFORMATION:** In notices published in the Federal Register (DESI 5213 on April 20, 1972 (37 FR 7827); DESI 6290 on June 18, 1971 (36 FR 11758, formerly Docket No. FDC-D-324); DESI 6303 on May 22, 1971 (36 FR 9339), amended on March 19, 1973 (38 FR 7265, formerly Docket No. FDC-D-601); DESI 8658 on February 9, 1973 (38 FR 4005, formerly Docket No. FDC-D-542); DESI 11935 on July 27, 1972 (37 FR 15022)), FDA classified the drug products described below as less than effective for their labeled indications (probably effective, possibly effective, and lacking substantial evidence of effectiveness).

Subsequently, in a notice published in the Federal Register of December 14, 1973 (38 FR 34481), FDA granted a temporary exemption from the time limits established for completing certain phases of the drug efficacy study (DESI) program, for certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. That exemption covered the drugs that are the subject of this notice and superseded the notices published earlier. The exemption was granted because of the close relationship between drugs sold over the counter (OTC)—and thus subject to the ongoing OTC drug review

(21 CFR Part 330)—and prescription drugs offered for relief of cough, cold, allergies, and related symptoms. Postponement of final evaluations on the DESI prescription products enabled the agency to consider the recommendations of the OTC drug review panel in addition to any evidence submitted by NDA holders in response to various DESI notices covering relevant products. Those recommendations and a proposed monograph for over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic (CCABA) drugs were published in the Federal Register of September 9, 1976 (41 FR 38312).

On the basis of additional data and information submitted on the drugs listed below, and the recommendations of the OTC drug review panel, the Director of the Bureau of Drugs has reclassified the following drug products:

1. NDA 5-213: Hycodan Syrup, tablets, and Powder containing hydrocodone bitartrate and homatropine methylbromide; Endo Laboratories, Inc., Subsidiary of the DuPont Co., 1 Rodney Sq., Wilmington, DE 19892 (DESI 5213).

2. NDA 5-845: as it pertains to Benadryl with Ephedrine Sulfate Kapseal containing diphenhydramine hydrochloride and ephedrine sulfate; Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950 (DESI 11935).

3. NDA 7-638: Chlor-Trimeton Repetabs Tablets containing 12 mg chlorpheniramine maleate; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033 (DESI 6290).

4. NDA 10-533: PBZ Lontabs and PBZ-SR (formerly "Pyribenzamine Lontabs" 50 mg and 100 mg, respectively) containing tripeleennamine hydrochloride; Ciba Pharmaceuticals, Co. (DESI 6290).

5. NDA 10-799: as it pertains to Dimetane Extentabs containing brompheniramine maleate; A. H. Robins Co., Pharmaceutical Division, 1407 Cummings Dr., Richmond, VA 23220 (DESI 6303).

6. NDA 11-945: Hispril Spansule Capsules containing diphenylpyraline hydrochloride; Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden St., P.O. Box 7929, Philadelphia, PA 19101 (DESI 6303).

7. NDA 12-394: Disophrol Tablets containing dexbrompheniramine maleate and pseudoephedrine sulfate; Schering Corp. (DESI 11935). This product is identical to another Schering product, Drixoral.

8. NDA 13-097: Novrad with A.S.A. Pulvules containing levopropoxyphene

napsylate and aspirin; Eli Lilly & Co., 740 S. Alabama St., Box 618, Indianapolis, IN 46206 (DESI 8658). Approval of this new drug application was withdrawn on June 7, 1977 (42 FR 29104) for failure to file reports required by section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). That withdrawal of approval is not affected by today's action, which constitutes FDA's conclusions on the effectiveness of this product, and those that are identical, related, or similar to it.

The temporary exemption announced in the December 14, 1973 notice, as it pertains to the drug products listed above, is hereby revoked. These drugs are regarded as new drugs (21 U.S.C. 321(p)) and an approved new drug application is required for marketing them. Supplemental new drug applications are now required to revise the labeling in and to update previously approved applications providing for these drugs. This notice does not prevent the FDA, in any future OTC drug monograph, from including any of the ingredients listed above, and requiring labeling different from that approved for prescription use.

In addition to the holders of the new drug applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to a drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. (This notice does not apply to OTC drugs. 21 CFR 310.6(f).) It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

**A. Effectiveness classification.** The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs lack substantial evidence of effectiveness for their other labeled indications.

**B. Conditions for approval and marketing.** The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The preparation is in the same form suitable for oral administration as the relevant product listed above.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For Hycodan Syrup, Tablets, and Powder:

For the symptomatic relief of cough.  
For Benadryl with Ephedrine Sulfate Kapseal, and Disophrol Tablets:

For the treatment of the symptoms of seasonal and perennial allergic rhinitis, and vasomotor rhinitis, including nasal obstruction (congestion).

For Chlor-Trimeton Repetabs, PBZ Lontabs and PBZ-SR, Dimetane Extentabs, and Hispril Spansule Capsules:

Perennial and seasonal allergic rhinitis.

Vasomotor rhinitis.

Allergic conjunctivitis due to inhalant allergens and foods.

Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.

Amelioration of allergic reactions to bloods or plasmas.

Dermographism.

As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

For Novrad with A.S.A. Pulvules:

For the cough and fever, aches and pains of a cold.

3. *Marketing Status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before August 2, 1982, the holder of the application has submitted (i) supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated new drug applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f))

containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Bioavailability data will not be waived for controlled release dosage forms. Marketing drug products before approval of a new drug application will subject those products, and those persons who caused the products to be marketed, to regulatory action.

**C. Notice of opportunity for hearing.** On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, that meets the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), and demonstrates the effectiveness of the drug products in indications for prescription use not referred to in paragraph B.2.b., above.

Notice is given to the holders of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21

CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products not the subject of a new drug application.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before July 1, 1982, a written notice of appearance and request for hearing, and (2) on or before August 2, 1982, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a granting or denial of a hearing, are contained in 21 CFR 314.200.

The failure of the applicants or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR .200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product labeled for the indications referred to in this notice as lacking substantial evidence of effectiveness may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such a drug product from the market. Any new drug product marketed without an approved

new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70 and 5.82).

Dated: April 23, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-14713 Filed 5-28-82; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-82-667]

#### Order of Succession, Acting Assistant Secretary for Community Planning and Development

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Order of Succession.

**SUMMARY:** The Assistant Secretary for Community Planning and Development is revising the designation of officials authorized to serve as Acting Assistant Secretary for Community Planning and Development when, by reason of absence, disability, or vacancy in office, neither the Assistant Secretary nor the General Deputy Assistant Secretary is available to exercise the power or perform the duties of the Office.

**EFFECTIVE DATE:** June 1, 1982.

#### FOR FURTHER INFORMATION CONTACT:

Robert Heller, Organization and Management Services Division, Office of Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6087. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** This revision of the Order of Succession for Acting Assistant Secretary for Community Planning and Development is necessary to reflect a recent reorganization of the Office of Community Planning and Development. This Order of Succession supersedes the Order of Succession of designees to act as Acting Assistant Secretary for Community Planning and Development published on February 25, 1974, at 39 FR 7193. The authorization to act under this Order is subject to the 30-day limitation of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 30 days.

Accordingly, the Assistant Secretary designates as follows:

(a) During any period when, by reason of absence, disability, or vacancy in office, neither the Acting Assistant Secretary for Community Planning and Development nor the General Deputy Assistant Secretary for Community Planning and Development is available to exercise the powers or perform the duties of the Office of the Assistant Secretary for Community Planning and Development, the following (and those designated to act in their absence, disability, or vacancy) are hereby designated to serve as Acting Assistant Secretary for Community Planning and Development with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Community Planning and Development, provided that (1) no official is authorized to serve as Acting Assistant Secretary for Community Planning and Development unless all other officials (or those designated to act for them) whose position titles preceding his/hers in this designation are unable to act by reason of absence, disability, or vacancy in office, and (2) such authorization to serve as Acting Assistant Secretary for Community Planning and Development does not exceed 30 days pursuant to the Vacancies Act, 5 U.S.C. 3348:

1. Deputy Assistant Secretary for Program Management

2. Deputy Assistant Secretary for Program Policy Development and Evaluation

3. Deputy Assistant Secretary for Field Operations and Environment/Energy Programs

4. Director of Office of Management

(b) Each head of an organization unit of the Office of Community Planning and Development is authorized to designate an employee under his/her supervision to act for him/her by reason of absence, disability, or vacancy in the position of head of the unit.

(c) Supersession. This Order of Succession supersedes the Order published on February 25, 1974, at 39 FR 7193.

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Delegation of Authority published on March 16, 1971, at 36 FR 5004)

Dated: May 24, 1982.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 82-14786 Filed 5-28-82; 8:45 am]

BILLING CODE 4210-29-M

## Government National Mortgage Association

[Docket No. N-82-1129]

### Fee Changes for Mortgage-Backed Securities Program

**AGENCY:** Government National Mortgage Association (GNMA), HUD.

**ACTION:** Notice of proposed fee changes.

**SUMMARY:** The Government National Mortgage Association (GNMA) is proposing to require an Issuer Application Fee and to increase its Commitment Application Fee for the Mortgage-Backed Securities Program.

**COMMENTS DUE:** August 2, 1982.

**ADDRESS:** Interested persons are invited to submit comments regarding this Notice to Warren Lasko, Executive Vice President, Government National Mortgage Association, Room 6100, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Warren Lasko, Executive Vice President, Government National Mortgage Association, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-5926. (This is not a toll free number.)

**SUPPLEMENTARY INFORMATION:** Sections 390.15, and 390.33 and 390.47 of 24 CFR

Part 390 provide that the Government National Mortgage Association (GNMA) may impose application and guaranty fees in connection with the guaranty by GNMA of pass-through, bond-type and graduated payment mortgage-backed securities. GNMA approves a financial institution for issuer status as part of the procedure for awarding each of its commitments for the guaranty of mortgage-backed securities. The proposed issuer application fee is intended to defray the additional costs associated with the processing of an initial application for issuer approval. No additional issuer application fee will be charged in connection with subsequent applications for commitments to guarantee; provided, the financial institution furnishes GNMA annually with an audited financial statement and obtains from GNMA at least one commitment to guarantee securities every two calendar years.

GNMA is proposing to change its schedule of fees effective October 1, 1982 as follows:

(1) *Issuer Application Fee*—An Issuer Application Fee of \$250 will be required from any mortgage lending institution not an issuer which applies on or after October 1, 1982, for GNMA approval to become an issuer of mortgage-backed securities.

(2) *Commitment Application Fee*—At present, issuers are required to pay a flat fee of \$500 with each application for a commitment by GNMA to guaranty mortgage-backed securities. GNMA is proposing to increase this fee on a sliding-scale basis, for commitments issued on or after October 1, 1982 as follows:

(a) For the first \$1.5 million of commitment amounts, \$500;

(b) For each \$1 million (or part thereof) above \$1.5 million, \$200. For example, the Commitment Application Fee for a commitment in the amount of \$4.65 million would be \$1,300.

(3) *Single Fee for Construction and Project Loan Securities*—In the case of an application for commitments by GNMA to guaranty both construction and project loan securities, in connection with a single project, a single commitment application fee will be charged.

(Sec. 306(g), 309(a), National Housing Act, as amended; 12 U.S.C. 1712(g), 1723(a).

Dated: May 24, 1982.

Robert W. Karpe,

President, Government National Mortgage Assn.

[FR Doc. 82-14786 Filed 5-28-82; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Pipeline Rights-of-Way Applications; Louisiana, Meridian

Notice is hereby given under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) as amended by Public Law 93-153, that Natural Gas Pipeline Company of America has applied for a 36-inch natural gas pipeline right-of-way that will cross the following lands.

#### Louisiana Meridian

T. 14 S., R. 11 W.,

Section 11, 12, 14, 15, 17 and 18

T. 14 S., R. 12 W.,

Section 13 and 14

This pipeline will convey natural gas across 4.95 miles of Sabine National Wildlife Refuge, Cameron Parish, Louisiana.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within thirty (30) days and send their name and address to the Regional Director, United States Fish and Wildlife Service, 75 Spring Street, S.W., Atlanta, Georgia 30303-3376.

James W. Pullians, Jr.,

Regional Director.

May 12, 1982.

[FR Doc. 82-14756 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-55-M

### Bureau of Indian Affairs

#### Nisqually Indian Reservation, Washington; Addition of Various Lands to the Nisqually Reservation

May 14, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On May 14, 1982, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described land, located in Thurston County, Washington, was added to and made a part of the Nisqually Indian Reservation.

#### Willamette Meridian

Tract No. 130-T1138:

The west 220 feet (as measured at right angles to the west line of Government Lot 5) of that portion of Lot 5 of section 34, Township 18 North, Range 1 East, Thurston County, Washington, lying northerly of the north right-of-way line of Secondary State

Highway 5-1, containing 6.12 acres, more or less.

**Kenneth Smith,**  
Assistant Secretary—Indian Affairs.

[FR Doc. 82-14739 Filed 5-28-82; 8:45 am]  
BILLING CODE 4310-02-M

### Grand Portage Indian Reservation, Minnesota; Proclaiming Certain Lands as Part of the Grand Portage Indian Reservation

May 14, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM. 8.1.

On May 14, 1982, pursuant to authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described lands were added to and made a part of the Grand Portage Indian Reservation.

#### 4th Principal Meridian

T. 62 N., R. 5 E.,

Sec. 6, Lots 9, 10 and Part of 12 lying south of the old state highway and particularly described by metes and bounds as follows:

Beginning at a point on shore of Lake Superior opposite the bearing tree of Section 7 of the meander corner of Sections 6 & 7; thence due west 544.5 feet (NV $4^{\circ}$  E) to shore of Lake Superior; thence along shore N. 83 $^{\circ}$ 30' W., for a distance of 905 feet to approximate meander corner of Sections 6 and 1 of Ranges 4 & 1 East; thence North 100 feet to old state highway; thence N. 89 $^{\circ}$  E. 619 feet; thence S. 87 $^{\circ}$ 30' E. 748 feet; thence N. 79 $^{\circ}$  241.5 feet; thence N. 52 $^{\circ}$ 30' E. 564 feet to Reservation River; thence along river S. 62 $^{\circ}$  E., 300 feet; thence S. 24 $^{\circ}$ 30' E. 137 feet to shore of Lake Superior; thence S. 82 $^{\circ}$  W., along shore 328 feet; thence S. 67 $^{\circ}$ 30' W., to point of beginning. Containing 11 acres more or less according to the survey thereof;

Sec. 7 Lot 1;

T. 63 N., R. 5 E.,

Sec. 18, Lots 5, 8 and W $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 19, Lots 1, 2, 3, 4, 5, 6, 7, and 8 E $\frac{1}{2}$ NW $\frac{1}{4}$  and E $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 30, Lots 1, 2, 3, 4, 5, 6, 7, and 8;

Sec. 31, Lots 1, 2, 3, 4, and 5;

T. 63 N., R. 6 E.,

Sec. 2, Lots 1 and 2;

Sec. 3, Lot 1;

Sec. 10, Lot 2;

R. 63 N., R. 6 E.,

Sec. 21, Lots 1 and 2;

Sec. 22, Lots 2, 3, 4, and the West 1320 feet of Lot 1;

Sec. 23, Lots 1 and 2;

Sec. 24, Lots 1, 5, 6, and SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 25, N $\frac{1}{2}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 26, inclusive;

Sec. 27, all except Lot 6;

Sec. 28, Lots 1, 2, 3, and NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;

Sec. 34, Lots 1, 4, 5, NE $\frac{1}{4}$  and E $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 35, inclusive;

Sec. 36, Lots 1, 2, and 3;

T. 63 N., R. 7 E.,

Sec. 4, Islands 2, 3, and 4;

Sec. 5, Islands 2, 7, and 8 (a portion of which is in Sec. 6);

Sec. 6, Island 7;

Sec. 8, Island 2;

T. 64 N., R. 7 E.,

Sec. 25, Lots 1 and 2 less the eastern 10 acres of Lot 1;

Sec. 26, Lots 1, 2, 3, and 4;

Sec. 27, Lots 1, 2, 3, 4, and N $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 28, Lots 1, 2, 3, 4, and 5;

Sec. 29, Lots 1, 2, 3, 4, and SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 30, SE $\frac{1}{4}$ SW $\frac{1}{4}$  and SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;

Sec. 31, Island 2 and Lots 1, 2, 3, 4, 5, and

NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$  and NE $\frac{1}{4}$ ;

Sec. 32, Island 2 and Lots 1, 2, 4, and 5 and

NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ ;

Sec. 33, Islands 3 and 4 and Lot 1.

Subject to all valid existing easements, rights-of-way, reservations of oil, gas and minerals, and other rights of record.

**Kenneth Smith,**

Assistant Secretary—Indian Affairs.

[FR Doc. 82-14732 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-02-M

### Bureau of Land Management

[INT DEIS 82-25]

#### Bruneau-Kuna Grazing Draft Environmental Impact Statement; Notice of Public Hearings and DEIS Availability

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public hearings on Bruneau-Kuna Grazing DEIS.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement for a proposed grazing management program for the Bruneau Resource Area and the southern portion of the Owyhee Resource Area of the Boise District, southwestern Idaho. The proposal involves changes in initial stocking rates, implementing improved grazing management and installation of range improvements. Approximately 2.4 million acres of public lands are involved. Copies of the draft environmental impact statement are available for inspection at the following locations:

Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, Telephone: (208) 334-1582;  
Idaho State Office, Bureau of Land Management, Federal Building, 550 West Fort Street, Boise, Idaho 83724, Telephone: (208) 334-1770.

A limited number of single copies may be obtained from the Idaho State Director or the Boise District Manager, Bureau of Land Management, at the above addresses.

Notice is also given that public hearings will be held at:

Rimrock Junior-Senior High School,  
Highway 78, Grandview, Idaho, June 29, 1982, at 7:30 p.m.  
Boise Public Library Auditorium, 715 South Capital Blvd., Boise, Idaho, July 1, 1982, at 7:00 p.m.

**DATES:** June 29, 1982—Public hearing at Rimrock High School, Grandview, Idaho; July 1, 1982—Public hearing in Boise, Idaho; July 19, 1982—Deadline for receiving written testimony.

**ADDRESS:** Written comments on the Draft EIS should be sent to: Bureau of Land Management, Bruneau-Kuna Grazing EIS, 3948 Development Avenue, Boise, Idaho 83705.

**FOR FURTHER INFORMATION CONTACT:** Ted Milesnick, EIS Team Leader, BLM, Boise District Office, Telephone: (208) 334-1582.

#### SUPPLEMENTARY INFORMATION:

Individuals wishing to testify may do so by appearing at a hearing place as previously specified. Persons wishing to give testimony will be limited to 10 minutes, with written submissions invited. Prior to giving testimony at public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained by contacting Ted Milesnick at the above address.

**Clair M. Whitlock**

Idaho State Director.

[FR Doc. 82-14706 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

### Burley District Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting and agenda for Burley District Grazing Advisory Board.

**SUMMARY:** Notice is hereby given in accordance with Pub. L. 92-463, the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, that the Burley District Grazing Advisory Board will meet on June 30 and July 1, 1982.

The meeting will consist of two parts, a field tour and an office session. The field tour will convene at the parking lot of Twin Falls City Hall, 321 Second Avenue East, Twin Falls, Idaho, on June 30, 1982, and will depart at 9:00 a.m.

MDT. The office session will convene at 8:30 a.m., in the Twin Falls City Council Chambers at the above address on July 1, 1982.

Agenda items for the meeting will include: (1) Tour of Twin Falls Planning Unit and review of the Twin Falls EIS; (2) Orientation to the Board and discussion of the functions of the Board; (3) Organization of the Board (election of officers); (4) Use of FY 83 Range Betterment Funds; (5) Discussion of the Final Range Management and Rangeland Improvement Policies; (6) Review of new allotment management plan proposals; (7) Set date for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2:30 and 3:30 p.m. on July 1, 1982, or they may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, by June 25, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Persons desiring to make the field trip should furnish their own transportation and lunch.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproductions (during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Dated: May 19, 1982.

K. Lynn Bennett,  
Acting District Manager.

[FR Doc. 82-14736 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[M 20575]

### Montana; Partial Termination of Proposed Withdrawal and Reservation of Land

May 18, 1982.

The Forest Service, United States Department of Agriculture, filed an application for withdrawal of the following described land from operation of the public land laws, including location and entry under the mining laws. The Notice of Proposed Withdrawal was published as Federal Register Document No. 72-2168 on page 3195 of the issue of February 12, 1972; partially terminated in Federal Register Document No. 77-16316 on page 29566 of issue of June 9, 1977; republished in Federal Register Document No. 77-16315 on page 29565 of issue of June 9, 1977;

and partially terminated in Federal Register Document No. 82-13149 on page 20898 of issue of May 14, 1982. The applicant agency has cancelled its application in part as to the following:

#### Principal Meridian—Lewis and Clark National Forest

##### Calf Creek Administrative Site

T. 13 N., R. 6 E.,  
Sec. 33, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Contains approximately 40 acres.

##### Newlan Creek Administrative Site

T. 11 N., R. 7 E.,  
Sec. 9, W $\frac{1}{2}$ NE $\frac{1}{4}$ .  
Contains approximately 80 acres.

##### Moose Creek Campground

T. 12 N., R. 7 E.,  
Sec. 5, S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
Contains approximately 30 acres.

##### Jumping Creek Campground

T. 12 N., R. 7 E.,  
Sec. 36, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
E $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and N $\frac{1}{2}$ N $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
Contains approximately 55 acres.

##### Grasshopper Campground

T. 9 N., R. 8 E.,  
Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and  
N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
Contains approximately 50 acres.

##### Lamb Creek Campground

T. 12 N., R. 8 E.,  
Sec. 33, S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
W $\frac{1}{2}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Contains approximately 115 acres.

The total area described aggregates approximately 370 acres in Meagher County.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), at 8 a.m. on July 2, 1982, such lands will be relieved of the segregative effect of the above mentioned applications.

Roland F. Lee,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14734 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[M 55062]

### Montana; Invitation, Coal Exploration License Application

May 18, 1982.

Members of the public are hereby invited to participate with Consolidation Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Big Horn County, Montana:

T. 9 S., R. 39 E., P.M.M.  
Sec. 25: Lots 1, 2, 3, 4, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$   
Sec. 26: E $\frac{1}{2}$   
Sec. 35: NE $\frac{1}{4}$   
T. 9 S., R. 40 E., P.M.M.  
Sec. 30: Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$   
1359.17 acres.

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Consolidation Coal Company, Western Exploration Group, Denver Office, #14 Inverness Drive East, Building 6Q, Englewood, Colorado 80112. Such written notice must refer to serial number M 55062 and be received no later than 30 calendar days after publication of this Notice in the Federal Register or 10 calendar days after the last publication of this Notice in the Hardin Herald, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-14735 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[N-16653]

### Nevada; Airport Lease Application Withdrawn

May 18, 1982.

Notice is hereby given that Desert Paradise, Inc. has withdrawn its airport lease application involving the following described lands:

#### Mount Diablo Meridian, Nevada

T. 10 S., R. 62 E.  
Sec. 36, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ .  
T. 11 S., R. 62 E.  
Sec. 1, Lot 1.

Withdrawal of the application was accepted on March 15, 1982 and at that time the lands were relieved of the segregative effect of the application.

Wm. J. Malencik,  
Chief, Division of Operations.

[FR Doc. 82-14737 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 78469]

**Wyoming; Application**

May 17, 1982.

Notice is hereby given that pursuant to the Act of May 24, 1928, 49 U.S.C. 211-214, the City of Evanston, Wyoming, has applied for an airport lease for the following public land:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 121 W.,  
Sec. 14, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ ;  
Sec. 23, E $\frac{1}{2}$ .

The land described contains 490 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their comments, together with their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

*Chief, Branch of Lands and Minerals  
Operations.*

[FR Doc. 82-14736 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

**Utah; Uinta-Southwestern Utah Coal Region; Coal Leasing Notice of Change in Regional Coal Team Meeting and Request for Comments**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Change in the date and location of the previously announced Regional Coal Team meeting, extension of time for public comment, clarification of tract data.

**SUMMARY:** A Federal Register notice on May 12, 1982 (pages 20383-20385) announced a Regional Coal Team (RCT) meeting and invited public comment on the proposed ranking subfactors. It has become necessary to postpone the scheduled RCT meeting and reschedule it at a later date. This will allow more time to gather information necessary to rank the tracts. The comment period on ranking subfactors can also be extended. Information is provided clarifying some of the tract data.

**DATES:** Written comments on the tracts and ranking subfactors will now be received by the Regional Coal Team Chairman until June 30, 1982. The Regional Coal Team will now meet on July 20-21, 1982, starting at 9:00 a.m.

**ADDRESSES:** Comments on the potential lease tracts and the ranking factors should be addressed to Edward F.

Spang, Chairman, Regional Coal Team, Nevada State Director, Bureau of Land Management, Federal Building, 300 Booth Street, Reno, Nevada 89509.

The Regional Coal Team meeting will be in the Hotel Utah (Grand Ball Room I) on July 20 and (Bonneville III) on July 21, Main at South Temple, Salt Lake City, Utah.

**FOR FURTHER INFORMATION CONTACT:**

Max Nielson, Coal Project Manager, Uinta-Southwest Utah Region, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, telephone (801) 524-5326.

**SUPPLEMENTARY INFORMATION:** The Regional Coal Team will meet on July 20-21, 1982, at 9:00 a.m. in the Hotel Utah, Salt Lake City, Utah. The Regional Coal Team will discuss, rank, and select the coal lease tracts that will be considered for Round II of potential leasing in the Uinta-Southwestern Utah Coal Production Region. The tracts to be ranked were listed in the previous announcement. It is pointed out that the term used "Estimated In-Place Reserves" may more properly be indicated as "Estimated In-Place Resources or Reserves." Good data are available on some of the tracts; however, many lack detail information on the coal resources. The "multiple tracts" in the Muddy Area to be considered for ranking include: Quitchupah—9720 acres and an estimated 265.5 million tons of in-place coal. The Pines—8655 acres and an estimated 172.2 million tons of in-place coal. It should also be mentioned the possible Federal lease sale will now be in February of 1984. All other data in the May 12, 1982 announcement pertains to the new schedule.

Dated: May 24, 1982.

Dean Stepanek,

*Associate State Director.*

[FR Doc. 82-14753 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

**Application Procedures; Place of Filing of Simultaneous Oil and Gas Leasing Applications**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Existing regulations under § 3112.2-1(a) of Title 43 of the Code of Federal Regulations require the filing of simultaneous oil and gas lease applications on a form approved by the Director, Bureau of Land Management.

Beginning on July 1, 1982, the only form approved by the Director for use in the Simultaneous Oil and Gas program administered by the New Mexico State

Office and the Eastern States Office is the Automated Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112-6 and 3112-6(a), OMB No. 1004-0065). Applications for a simultaneous oil and gas for lands lease under the jurisdiction of these offices must, on or after July 1, 1982, be submitted to the Bureau of Land Management's Wyoming State Office, 2512 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Any applications filed in the Bureau of Land Management's New Mexico State Office and Eastern States Office or applications filed in the Wyoming State Office on the manual form or on the automated form received in a condition that the authorized officer determines would prevent automated processing, will not be accepted. The authorized officer will be guided in the decision of whether an application form is acceptable or unacceptable by criteria furnished in the Bureau's manuals and in instruction memoranda. Applications determined to be unacceptable will be returned to the applicant along with the filing fee. All applications shall be filed in accordance with Group 3100, subchapter C, Chapter II of Title 43 of the Code of Federal regulations.

Forms 3112-6 and 3112-6(a), which are machine readable, will allow an applicant to file for up to 600 tracts on a single application. Copies of the form are available from any of the Bureau of Land Management State offices. Additional copies of the application form can be purchased from the Superintendent of Documents.

Bureau of Land Management applicants who have filed Form 3112-6 (Part A) with the Wyoming State Office need not file that form again. Applicants are reminded that one copy of Form 3112-6(a) (Part B) must be filed for each State drawing. For example, applicants wishing to file for leases in both Wyoming and New Mexico must file two copies of Part B; one for parcels in each State.

The Bureau of Land Management will continue to use the Simultaneous Oil and Gas Lease Application (Bureau of Land Management Form 3112-1) in State offices located in Arizona, California, Idaho, Montana, Oregon, and Utah. The automated form is designed to accommodate the automated processing of simultaneous oil and gas lease applications. The development of the automated process is a result of the Bureau's efforts to expedite the issuance of leases and lessen the paperwork burden on the public.

The Wyoming State Office is also the proper office for filing simultaneous oil

and gas applications for leases in Wyoming, Colorado and Nevada. It is anticipated that in the near future, the Wyoming State Office will be designated the proper office for filing all simultaneous oil and gas lease applications. Future Federal Register notices will announce effective dates both for forms and filing for any affected State office.

Dated: May 26, 1982.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 82-14805 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-84-M

## National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 21, 1982. Pursuant to § 6013 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 16, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

## CALIFORNIA

### Humboldt County

Arcata, *Jacoby Building*, 791 8th St.

Los Angeles County,

Pasadena, *Bowen Court*, 539 E. Villa St.

### Nevada County

Truckee, *Kruger House*, 10292 Donner Pass Rd.

## GEORGIA

### Bulloch County

Statesboro, *Jaekel Hotel*, 50 E. Main St.

Statesboro, *McDougald, John A., House*, 121 S. Main St.

### Chatham County

Burroughs, *St. Bartholomew's Church*, Cheves Rd.

### Coffee County

Douglas, *Pope, Lonnie A., House*, Jackson St. and Central of Georgia RR tracks

### Colquitt County

Moultrie, *Moultrie High School*, 7th Ave.

### DeKalb County

Decatur, *Scottish Rite Hospital for Crippled Children*, 321 W. Hill St.

Decatur, *Steele-Cobb House*, 2632 Fox Hills Dr.

### Dougherty County

Albany, *Albany Housefurnishing Company*, 228 W. Broad Ave.

Albany, *New Albany Hotel*, 245 Pine St.

### Early County

Jakin, *Harrell, Jane Donaldson House*, SR 1975 off U.S. 84

### Elbert County

Elberton, *Chandler, Asa House*, 1003 Old Petersburg Rd.

### Floyd County

Rome, *Battey, Dr. Robert, House*, 725 E. 2nd Ave.

### Fulton County

Atlanta, *Glenridge Hall*, Glenridge Dr.

### Gwinnett County

Lawrenceville, *Ware, Clarence R., House*, 293 N. Perry St.

### Habersham County

Cornelia, *Cornelia Community House*, U.S. 123 at LaVista Lane

Hollywood vicinity, *Acoa, Mathis Rd.*

### Liberty County

Flemington, *Flemington Presbyterian Church*, Off Old Sunbury Rd.

### Meriwether County

Greenville, *Hill, Burwell O., House*, La Grange St.

### Murray County

Chatsworth, *Wright Hotel*, 201 E. Market St.

### Randolph County

Cuthbert, *Henderson, Fletcher, House*, 1017 Andrew St.

### Richmond County

Augusta, *Springfield Baptist Church*, 112 12th St.

### Seminole County

Donalsonville, *Southeastern Holiness Institute (Chason's Hospital)*, 102 Hospital Circle

### Stephens County

Toccoa, *Walters-Davis House*, 429 E. Tugalo St.

### Tattnall County

Reidsville, *Alexander Hotel*, 204 W. Brazell St.

### Taylor County

Reynolds, *Ricks, Ferdinand A., House*, S. Collins and E. Calhoun Sts.

### Terrell County

Bronwood, *Bronwood Calaboose*, GA 118. Dawson, *Dawson Woman's Clubhouse*, 311 6th Ave.

### Toombs County

Vidalia, *Brazell, Crawford W., House*, 607 Jackson St.

### Twiggs County

Jeffersonville vicinity, *Wimberly Plantation*, Jeffersonville Rd., GA 96

Jeffersonville, *Richland Baptist Church*, Richland Rd.

### Walton County

Campton vicinity, *Harris, William, Family Farmstead*, GA 11

Walnut Grove, *Brodnax, Samuel H., House*, GA 81

### Wilkinson County

Gordon, *Elam-Camp House*, 216 Jackson St.

## ILLINOIS

### Mercer County

Aledo, *Mercer County Courthouse*, SE 3rd St. (IL 17)

## INDIANA

### Grant County

Marion, *Grant County Jail and Sheriff's Residence*, 215 E. 3rd St.

### Monroe County

Ellettsville vicinity, *St. John's Lutheran Church*, Old Dutch Church Rd.

### Tippecanoe County

Lafayette vicinity, *Hawkins-Bower House*, 615 Elston Rd.

West Lafayette, *Pierce, James, Jr., House*, 4623 N., 140 W.

### Vanderburgh County

Evansville, *Geupel, John M., Building (Super D) (Downtown Evansville MRA)*, 413 Main St.

Evansville, *Albion Flats (Downtown Evansville MRA)*, 701 Court St.

Evansville, *American Trust and Savings Bank (Indiana Bank) (Downtown Evansville MRA)*, 524-530 Main St.

Evansville, *Archer, Samuel, House (Downtown Evansville MRA)*, 110 Walnut St.

Evansville, *Auto Hotel Building (Downtown Evansville MRA)*, 111-115 SE 3rd St.

Evansville, *Bacon, Hillary, Store (Woolworth's) (Downtown Evansville MRA)*, 527 Main St.

Evansville, *Barrett's Britz Building (Downtown Evansville MRA)*, 415 Main St.

Evansville, *Buckingham Apartments (Downtown Evansville MRA)*, 314-316 SE 3rd St.

Evansville, *Building at 1031 Main Street (Downtown Evansville MRA)*, 1031 Main St.

Evansville, *Building at 223 Main Street (Downtown Evansville MRA)*, 223 Main St.

Evansville, *Busse House (Downtown Evansville MRA)*, 120 SE 1st St.

Evansville, *Cadick Apartments (Plaza Building) (Downtown Evansville MRA)*, 118 SE 1st St.

Evansville, *Cadick Poultry (Downtown Evansville MRA)*, 420 NW 4th St.

Evansville, *Central High School Gymnasium (Downtown Evansville MRA)*, Court and NW 6th Sts.

Evansville, *Central Library (Downtown Evansville MRA)*, 22 SE 5th St.

Evansville, *Citizens National Bank (Downtown Evansville MRA)*, 329 Main St.

Evansville, *Claremont Apartment Hotel and Tea Room (Downtown Evansville MRA)*, 119-135 Locust St.

- Evansville, *Conner's Bookstore (Dallas Music) (Downtown Evansville MRA)*, 611-613 Main St.
- Evansville, *Court Building (Furniture Building) (Downtown Evansville MRA)*, 123-125 NW 4th St.
- Evansville, *Daescher Building (Downtown Evansville MRA)*, 12-12½ SE 2nd St.
- Evansville, *Dawson-Winslow Shop (Downtown Evansville MRA)*, 411 Main St.
- Evansville, *Denton, James F., Works Building (Downtown Evansville MRA)*, 420 NW 4th St.
- Evansville, *Dottie's Tavern (Downtown Evansville MRA)*, 501-503 Market St.
- Evansville, *Eagles Home (Downtown Evansville MRA)*, 221 NW 5th St.
- Evansville, *Elmendorf's (Downtown Evansville MRA)*, 314-316 NW 3rd St.
- Evansville, *Evansville Brewing Company (Downtown Evansville MRA)*, 401 NW 4th St.
- Evansville, *Evansville Journal News (Downtown Evansville MRA)*, 7-11 NW 5th St.
- Evansville, *Firestone Tire and Rubber Store (Downtown Evansville MRA)*, 900 Main St.
- Evansville, *First Baptist Church (Downtown Evansville MRA)*, 320 Cherry St.
- Evansville, *Fourth Street Park (Downtown Evansville MRA)*, SE 4th between Oak and Cherry
- Evansville, *Gazebo Plants (Elm Apartments) (Downtown Evansville MRA)*, 310-312 NW 3rd St.
- Evansville, *Geiger, Fred and Sons National Biscuit Company (Downtown Evansville MRA)*, 401 NW 2nd St.
- Evansville, *Gemcraft-Wittmer Building (Downtown Evansville MRA)*, 609 Main St.
- Evansville, *General Cigar Company Building (Downtown Evansville MRA)*, 223 NW 2nd St.
- Evansville, *German Bank (Downtown Evansville MRA)*, 301-303 Main St.
- Evansville, *Glass Specialty Company (Downtown Evansville MRA)*, 315 Court St.
- Evansville, *Goldman's Pawn Shop-Evansville (Downtown Evansville MRA)*, 107-109 SE 4th St.
- Evansville, *Gottman Building (Downtown Evansville MRA)*, 615 Main St.
- Evansville, *Harding and Miller Music Company (Downtown Evansville MRA)*, 518-520 Main St.
- Evansville, *Hose House #12, 1409 First Ave.*
- Evansville, *Huber Motor Sales Building (Downtown Evansville MRA)*, 215-219 SE 4th St.
- Evansville, *Hughes, William, Department Store (Downtown Evansville MRA)*, 508-514 Main St.
- Evansville, *Huston Building (Downtown Evansville MRA)*, 12-16 NW 6th St.
- Evansville, *Hutchinson, Andrew, House (Downtown Evansville MRA)*, 410 Fulton Ave.
- Evansville, *Indiana Bell Building (Downtown Evansville MRA)*, 129-133 NW 5th St.
- Evansville, *Ingle Terrace (Downtown Evansville MRA)*, 609-619 Ingle St.
- Evansville, *Kaiser's (Downtown Evansville MRA)*, 412 Main St.
- Evansville, *Kay's Place (Downtown Evansville MRA)*, 318-320 3rd St.
- Evansville, *Kramer House (Downtown Evansville MRA)*, 203 NW 7th St.
- Evansville, *Krieger-Ragsdale Building (Downtown Evansville MRA)*, 109 SE 2nd St.
- Evansville, *Kronenberger (Downtown Evansville MRA)*, 102-104 SE 5th St.
- Evansville, *Kuebler-Artes Building (Downtown Evansville MRA)*, 327 Main St.
- Evansville, *Kuehn, August, House (Downtown Evansville MRA)*, 608-610 Ingle St.
- Evansville, *Leich, Charles, and Company (Downtown Evansville MRA)*, 420 NW 5th St.
- Evansville, *Lincoln Motor Company (Downtown Evansville MRA)*, 405-411 Market St.
- Evansville, *Lockyear College (Downtown Evansville MRA)*, 209 NW 5th St.
- Evansville, *Long, Lewis E., Building and Paints (Downtown Evansville MRA)*, 18-20 NW 6th St.
- Evansville, *Masonic Temple (Downtown Evansville MRA)*, 301 Chestnut St.
- Evansville, *McCurdy Hotel (Downtown Evansville MRA)*, 101-111 SE 1st St.
- Evansville, *Mesker, George L., and Company Building (Downtown Evansville MRA)*, 30 Ingle St.
- Evansville, *Midwest Remodeling (Downtown Evansville MRA)*, 326 NW 3rd St.
- Evansville, *Montgomery Ward Building (Downtown Evansville MRA)*, 517 Main St.
- Evansville, *Morris Plan (Central Union Bank) (Downtown Evansville MRA)*, 20 NW 4th St.
- Evansville, *National City Bank (Downtown Evansville MRA)*, 227 Main St.
- Evansville, *Newman, M. G., Building (Downtown Evansville MRA)*, 211-213 SE 4th St.
- Evansville, *Nienaber, Damron, Commercial Block (Downtown Evansville MRA)*, 325 SE 8th St.
- Evansville, *O'Donnell Building (Downtown Evansville MRA)*, 22 NW 6th St.
- Evansville, *Old Fellwock Auto Company (Downtown Evansville MRA)*, 214 NW 4th St.
- Evansville, *Old Hose House No. 4 (Downtown Evansville MRA)*, 623 Ingle St.
- Evansville, *Orr Iron Company (Downtown Evansville MRA)*, 1100 Pennsylvania St.
- Evansville, *Parson and Scoville Building (Downtown Evansville MRA)*, 915 Main St.
- Evansville, *Pearl Steam Laundry (Downtown Evansville MRA)*, 428 Market St.
- Evansville, *Puster, L., and Company Furniture Manufacturing (Downtown Evansville MRA)*, 326 NW 6th St.
- Evansville, *Raben Armstrong (Heimann and Heimann) (Downtown Evansville MRA)*, 416 NW 4th St.
- Evansville, *Richardt, Patrick Henry, House (Downtown Evansville MRA)*, 213 NW 5th St.
- Evansville, *Roelker, John H., House (Downtown Evansville MRA)*, 555 Sycamore St.
- Evansville, *Rose Terrace (Downtown Evansville MRA)*, 301-313 NW 7th St.
- Evansville, *Salem's Baptist Church (Downtown Evansville MRA)*, 728 Court St.
- Evansville, *Sam's Cleaners (Downtown Evansville MRA)*, 308 NW 3rd St.
- Evansville, *Schultz, J. H., Company Shoes (Downtown Evansville MRA)*, 325 Main St.
- Evansville, *Scotsman Ice (Downtown Evansville MRA)*, 415 NW 4th St.
- Evansville, *Seventh Street Park (Downtown Evansville MRA)*, SE 7th St. between Walnut and Chestnut
- Evansville, *Shekell's Christian Wunderlich Building (Downtown Evansville MRA)*, 431 Market St.
- Evansville, *Siegel's Watch Shop (Downtown Evansville MRA)*, 317 Locust St.
- Evansville, *Skora Building (Downtown Evansville MRA)*, 101-103 NW 2nd St.
- Evansville, *St. John's Evangelical Protestant Church (Downtown Evansville MRA)*, 314 Market St.
- Evansville, *St. Mary's Catholic Church Complex (Downtown Evansville MRA)*, 601-613 Cherry St.
- Evansville, *Trinity Methodist Church (Downtown Evansville MRA)*, 218 3rd St.
- Evansville, *Turley-Harmon Building (Downtown Evansville MRA)*, 12-14 NW 3rd St.
- Evansville, *Van Cleave Flats (Downtown Evansville MRA)*, 704-708 Court St.
- Evansville, *Victory Theater and Hotel Sonntag (Downtown Evansville MRA)*, 600-614 Main St.
- Evansville, *Wabash Valley Motor Company (Downtown Evansville MRA)*, 206-208 SE 8th St.
- Evansville, *Walnut Street School (Downtown Evansville MRA)*, Walnut and 9th Sts.
- Evansville, *Woolworth's (Downtown Evansville MRA)*, 521-523 Main St.
- Evansville, *YMCA (Downtown Evansville MRA)*, 203 NW 5th St.
- Evansville, *YMCA (Downtown Evansville MRA)*, 118 Vine St.
- Evansville, *Zion Evangelical Church (Downtown Evansville MRA)*, 415 NW 5th St.
- White County**
- Monticello, *Reynolds, James Culbertson, House*, 417 N. Main St.
- KENTUCKY**
- Fayette County**
- Lexington vicinity, *Grimes House and Mill Complex*, Grimes Mill Rd.
- Lexington, *Cloud House*, 3740 Versailles Rd.
- Oldham County**
- Goshen vicinity, *Yager House (Pine Grove Stock Farm)*, SE of Goshen on Covered Bridge Rd.
- LOUISIANA**
- Orleans Parish**
- New Orleans, *Hernsheim, Simon, House (Columns Hotel)*, 3811 St. Charles Ave.
- St. Mary Parish**
- Baldwin vicinity *Birg House*, off LA 182
- St. Tammany Parish**
- Abita Springs, *Longbranch Hotel Complex*, Rangeline Rd.
- MICHIGAN**
- Clare County**
- Farwell, *Hitchcock, George and Martha, House*, 205 E. Michigan St.

**MISSISSIPPI***Marshall County*

- Holly Springs, *Chalmers Institute (Holly Springs MRA)*, W. Chulahoma Ave.
- Holly Springs, *Depot-Compress Historic District (Holly Springs MRA)*, Bounded by RR tracks, Chesterman St., College and Van Dorn Aves.
- Holly Springs, *East Holly Springs Historic District (Holly Springs MRA)*, Bounded by Compress, Chesterman, Randolph and Spring Sts. and Salem, Van Dorn Aves.
- Holly Springs, *Hillcrest Cemetery (Holly Springs MRA)*, Center St.
- Holly Springs, *Malone House (Holly Springs MRA)*, 197 W. College Ave.
- Holly Springs, *North Memphis Street Historic District (Holly Springs MRA)*, Bounded by N. Memphis St., Falconer, Salem, and Park Aves. and the Anderson Chapel
- Holly Springs, *Oakview (Rust College Infirmary) (Holly Springs MRA)*, Rust College Campus, Rust Ave.
- Holly Springs, *Old Water and Electric Light Plant (Holly Springs MRA)*, 140 E. Falconer Ave.
- Holly Springs, *Southwest Holly Springs Historic District (Holly Springs MRA)*, Bounded by S. Center, S. Memphis, and Craft Sts. Marbury Ct. and Ghulahoma, Gholson, Elder and Mason Aves.

**MISSOURI**

St. Louis (ind. city), *Union Trust Company Building*, 705 Oliver St.

*St. Louis County*

Webster Groves, *Marshall Place Historic District*, Marshall Pl.

**NEW JERSEY***Essex County*

Newark, *Home Office Building (Firemen's Insurance Company of Newark)*, 8-12 Park Pl.

*Hudson County*

Jersey City, *Paulus Hook Historic District*, Greene, Washington, Grand, Sussex, Morris, Essex, Warren and York Sts.

**NEW YORK***Jefferson County*

Clayton, *Johnston, Capt. Simon, House*, 507 Riverside Dr.

*Saratoga County*

Ballston Spa, *Union Mill Complex*, NY Route 50, Milton Ave.

**NORTH CAROLINA***Guilford County*

Greensboro, *Downtown Greensboro Historic District*, Elm, S. Davie, S. Green, and E. and W. Washington Sts.

**OHIO***Athens County*

Athens, *Sheltering Arms Hospital*, Clark St.

*Brown County*

Ripley, *Red Oak Presbyterian Church*, Cemetery Rd.

St. Martin, *Murphy, Daniel, Log House*, Anderson State Rd.

*Franklin County*

Columbus, *Jaeger Machine Company Office Building*, 550 W. Spring St.

Columbus, *Long and Third Commercial Building*, 104-114 E. Long St.

*Henry County*

Napoleon, *St. Augustine's Catholic Church*, 221 E. Clinton St.

*Highland County*

Hillsboro, *Lilley, Robert D., House*, 7915 OH 124

*Licking County*

Newark, *McNamar-McLure-Miller, Residence*, 124 W. Main St.

*Muskingum County*

Zanesville, *Alameda Apartments*, 7th St.

**OREGON***Jackson County*

Medford, *Fredenburg, Andrew J., House*, 243 S. Holly St.

**PUERTO RICO***Loiza County*

Loiza, *Cueva de Los Indios*, PR 187

**SOUTH CAROLINA***Charleston County*

Johns Island, *Moving Star Hall*, River Rd.

*Kershaw County*

Camden, *Murchison House*, Kershaw County Rd. 12

*McCormick County*

Mount Carmel, *Mount Carmel Historic District*, SC 823 and SC 81

*Saluda County*

Saluda, *March-Johnson House*, Intersection of S-41-21 and S-41-37

**SOUTH DAKOTA***Bon Homme County*

Scotland, *Campbell, Gen. Charles T., House*, 611 4th St.

Scotland, *St. Andrew's Episcopal Church*, 4th and Poplar St.

*Brookings County*

Brookings, *Brookings City Hall*, 4th St.

*Brown County*

Aberdeen, *Ward, Alonzo, Hotel*, 104 S. Main St.

*Butte County*

Belle Fourche, *Bolles, Charles, House*, 919 State St.

Belle Fourche, *Gay, Thomas Haskins, House*, 704 Harding

*Charles Mix County*

Academy, *Church of Christ in LaRoche Township*, SD 50

Platte, *Serven, Win, Hotel*, 311 Main St.

*Clay County*

Vermillion, *Willey, E. H., House*, 104 Court St.

*Davison County*

Mitchell, *Anderson, John F., House*, 323 N. Duff

Mitchell, *Beckwith, Louis, House*, 1311 S. Duff Dr.

*Hamlin county*

Estellin, *Lohr, Charles and Mary, House*, 1705 State Ave.

*Hand County*

Zell vicinity, *St. Mary's Church, School and Convent*, U.S. 212

*Hutchinson County*

Menno, *Ulmer, J. W., House*, 611 S. 5th St.

*Minnehaha County*

Sioux Falls, *Blackstone Court Apartments*, 303 W. 12th St.

Sioux Falls, *Shriver-Johnson Building*, 230 S. Phillips Ave.

*Pennington County*

Keystone, *Byron, Lewis, House, Cemetery Rd. Keystone, Keystone Trading Company Store*, SD 40

Rapid City vicinity, *Johnson Siding, House and Sawmill*, Rimrock Hwy.

Rapid City, *Holmes, Zack, House*, 818 St. James St.

*Spink County*

Ashton, *Ashton Methodist Church*, Corner of 2nd Ave. and 2nd St.

*Turner County*

Hurley, *I.O.O.F. Hall, Hurley Lodge No. 75*, Center Ave.

**TEXAS***Bastrop County*

Smithville, *Smithville Commercial Historic District*, 2nd, 3rd, and Main Sts.

*Bowie County*

Texarkana, *Rialto Building*, 317 State Line Ave.

*Grimes County*

Carlos vicinity, *Kellum Springs Archeological Site*, Sulphur Creek

*Jefferson County*

Beaumont, *Jefferson County Courthouse*, 1149 Pearl St.

*Midland County*

Midland, *Brown-Dorsey House*, 213 N. Weatherford

*Travis County*

Austin, *Evans Industrial Building*, Huston-Tillotson College Campus, 1820 E. 8th

**VERMONT***Chittenden County*

Charlotte, *McNeil Homestead*, Lake Camplain Off VT F5

**Rutland County**Rutland, *Proctor-Clement House*, Field Ave.**Windsor County**Windsor, *Fowler-Steele House*, N. Main St.**WISCONSIN****Dane County**Madison, *Suhr, John J., House*, 121 Langdon St.**Manitowoc County**Maribel, *Rock Mill*, Off U.S. 141**Marathon County**Hamburg, *Fromm, Walter and Mabel, House*, Off WI 107**Ozaukee County**Mequon, *Clark, Jonathan, House*, 13615 N. Cedarburg Rd.Mequon, *Reicherl, John, Farmhouse*, 14053 N. Wauwatosa Rd.**Dodge County**Watertown, *Hartwig, Ferdinand C., House*, 908 Country Lane

[FR Doc. 82-14639 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-70-M

**Bureau Forms Submitted for Review**

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: 35 CFR Parts 1-3—General Regulations for areas administered by NPS.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents:

Individuals, groups, business, local and State Govts.

Annual Responses: 501,975.

Annual Burden Hours: 151,033.

Bureau clearance officer: Russell K. Olsen, 523-5092.

Russell K. Olsen,

Information Collection Clearance Officer.

May 18, 1982.

[FR Doc. 82-14731 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-70-M

**INTERSTATE COMMERCE COMMISSION**

[Finance Docket 29916]

**CSX Corp.; Control Exemption—Carolina, Clinchfield and Ohio Railway**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission exempts from prior approval under 49 U.S.C. 11343, the proposed acquisition by CSX Corporation of control of the Carolina, Clinchfield and Ohio Railway.

**DATES:** The exemption will be effective on July 1, 1982. Petitions to reopen this action must be filed on or before June 21, 1982.

**ADDRESSES:** Send pleadings to:

- (1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423
- (2) Petitioner's representative: Garth E. Griffith, General Counsel, CSX Corporation, P.O. Box C-32222, Richmond, VA 23261.

**FOR FURTHER INFORMATION CONTACT:**

Louis E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** For further information, see the decision served concurrently in Finance Docket No. 29916. The decision may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, (202) 289-4357—D.C. Metropolitan Area, (800) 424-5403—toll free for outside D.C. area.

Dated: May 24, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 82-14746 Filed 5-28-82; 8:45 am]

BILLING CODE 7035-01-M

**[Ex Parte MC-43]****Lease and Interchange of Vehicles by Motor Carriers**

Decided: May 24, 1982.

Indianhead Truck Line, Inc. (MC-108449) and I.N.F. Ltd. (MC-153601) petition for waiver of Subpart B (Sections 1057.11 and 1057.12) of the *Lease and Interchange of Vehicles Regulations* (49 CFR Part 1057), with respect to equipment augmented between them.

**Findings**

1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if the requirements of Subpart B were waived in part.

*It is ordered:*

1. The petition of Indianhead Truck Line, Inc., and I.N.F. Ltd., for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for Paragraphs (b) and (c) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and responsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until the equipment is returned to the lessor and the receipt required under Paragraph (b) of § 1057.11 is received by the lessee or the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

2. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien, Board Member Gaillard not participating.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82-14748 Filed 5-28-82; 8:45 am]

BILLING CODE 7035-01-M

**Motor Carriers; Permanent Authority Decisions; Decision-Notice**

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the *Federal Register* of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the *Federal Register* issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings

With the exception of those applications involving duly noted problems (e.g. unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicants other authority, the duplication shall be construed as conferring only a single operating right.

**Note.**—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

#### Volume No. OP1-90

Decided: May 21, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Parker not participating in part.

MC 99581 (Sub-5), filed May 10, 1982. Applicant: VACA VALLEY BUS LINES, Inc., Box 818, Fairfield, CA 94533. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702; (702) 882-0202. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations between points in Sacramento and Yolo Counties, CA and those in Placer and El Dorado Counties, CA, located west of the Tahoe and El Dorado National Forests on the one hand, and, on the other, points in the U.S. (including AK but excluding HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6358.

MC 108490 (Sub-2), filed May 14, 1982. Applicant: LYTLE TRANSFER LINE, INC., 181 Stanford Parkway, Findlay, OH 45840. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *household goods*, between points in the U.S. (except HI).

MC 109571 (Sub-2), filed March 9, 1982 previously noticed in the *Federal Register* issue of March 25, 1982. Applicant: REILE'S TRANSFER AND DELIVERY, INC., 54 South 27½ Street, Fargo, ND 58103. Representative: Mike Miller, P.O. Box 1897, Fargo, ND 58107-1897, (701) 237-3166. Transporting (1) *paper and paper products*, and (2) *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Champion International Corporation of Stamford, CT, in (1) above, and Pierce Roofing and Sheet Metal, Inc., and Thompson Roofing Company, both of Fargo, ND, in (2) above.

**Note.**—The purpose of this republication is to correctly reflect Champion International Corporation of Stamford, CT, as the contracting shipper in part (1) of the caption summary.

MC 111310 (Sub-70), filed May 13, 1982. Applicant: MILLIS TRANSFER, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256-74444. Transporting *such commodities* as are dealt in or used by grocery stores, food

business houses, and variety stores, between points in the U.S. (except AK and HI).

MC 113751 (Sub-57), filed May 10, 1982. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Sts. Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting *such merchandise as is dealt in by wholesale or retail food business houses*, between points in IL, on the one hand, and, on the other, points in MN and WI.

MC 119700 (Sub-83), filed May 17, 1982. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Loyd Schottel, (same address as applicant), (816) 241-3954. Transporting *metal products*, between points in IL and MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, OH, OK, SD, TN, TX, and WI.

MC 129790 (Sub-19), filed May 14, 1982. Applicant: JOSEPH A. BECKER, d.b.a. BECKER HI-WAY FRATE, Route 5, Box 10B, Albert Lea, MN 56007. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Seneca Food Corporation, of Janesville, WI.

MC 134940 (Sub-12), filed April 26, 1982. Applicant: VERNON KUFUHL, d.b.a. KUFUHL TRUCKING, 4704 North 32nd Ave., Wausau, WI 54401. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138730 (Sub-11), filed May 17, 1982. Applicant: CARAVAN COACH LINES, INC., R.D. 3, Box 451, Wharton, NJ 07885. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special operations, between Atlantic City, NJ, on the one hand, and, on the other, points in Wayne, Lackawanna and Luzerne Counties, PA.

MC 141961 (Sub-8), filed May 13, 1982. Applicant: CARMAN CARRIER, INC., P.O. Box 2139, Clarksville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *metal products*

and machinery, between points in the U.S. (except AK and HI).

MC 143501 (Sub-12), filed May 11, 1982. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., S. Holland, IL 60473. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *such commodities* as are dealt in or used by manufacturers of chemicals, between points in the U.S. (except AK and HI), under continuing contract(s) with N L Chemicals, Division of N L Industries, Inc., of Hightstown, NJ.

MC 144821 (Sub-16), filed May 13, 1982. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Avenue, St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335-3576. Transporting *rubber and plastic products*, between St. Louis, MO, Columbus, OH, Los Angeles, CA, Houston, TX and Jacksonville, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146571 (Sub-3), filed May 17, 1982. Applicant: DONALD A. BENSEN, d.b.a. BENSEN TRUCKING, R.D. #1, Box 44, Mansfield, PA 16933. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011, (717) 232-8324. Transporting *beer and malt beverages*, between those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 146630 (Sub-3), filed May 10, 1982. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Verona, WI 53593. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting *metal products, machinery, and transportation equipment*, between points in Dane County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148671 (Sub-2), filed April 29, 1982. Applicant: HARLAND QUACKENBUSH, d.b.a. H & D TRUCKING, 500 Dew Drop Cove, Casselberry, FL. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701, (305) 869-5936. Transporting *corrugated boxes*, between Tampa, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Tampa, FL.

MC 148631 (Sub-12), filed May 10, 1982. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.R. #1, Box 57, Tiro, OH 44887. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215,

(614) 228-1541. Transporting *meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, between points in the U.S. (except AK and HI).

MC 151920, filed May 13, 1982. Applicant: TIDY TRANSPORT LTD., 20151 Logan Avenue, Langley, B.C. CN V3A 4L5. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102, (206) 325-8875. Transporting *metal products*, between points in WA, ID, and OR, under continuing contract(s) with Tidy Welders, Ltd., of Langley, B.C. CN.

MC 152650 (Sub-4), filed May 17, 1982. Applicant: SHAVER TRUCKING, INC., 3600 Highway #68 West, P.O. Box 104, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753, (501) 846-2185. Transporting *insulation, lead pigments and fertilizer compounds*, between points in Jasper County, MO, Wood County, TX, Jefferson County, NE, Polk County, GA, and Cherokee County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153601 (Sub-9), filed May 12, 1982. Applicant: I.N.F. LTD., 121 West Doty Street, Madison, WI 53703. Representative: Melvin M. Freese, 80 East Little Canada Road, St. Paul, MN 55117, (612) 483-6781. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Ashland Oil, Inc., Ashland Petroleum Company Division, of Ashland, KY; Ralston Purina Company, of St. Louis, MO; Minnesota Diversified Products, Inc., of New Brighton, MN; and National Texture Corporation, of Minneapolis, MN.

MC 156500, filed May 3, 1982. Applicant: VANDCO, INCORPORATED, 1400 Division St., Marquette, MI 49855. Representative: Jere P. Stafford, (same address as applicant), (906) 228-6090. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, (a) between Minneapolis, MN, Kansas City, KS, Elk Grove Village, IL, Belleville, MI, Cincinnati, OH, Indianapolis, IN, and points in St. Louis County, MO, on the one hand, and, on the other, points in WI and the Upper Peninsular of MI, and (b) between Kansas City, KS, and Indianapolis, IN, on the one hand, and, on the other, Minneapolis, MN, and Elk Grove Village, IL, under continuing contract(s) with John Sexton & Company, of Chicago, IL.

MC 156821 (Sub-4), filed May 17, 1982. Applicant: PHOENIX TRUCKING CO., 6751 Tallmadge Road, Rootstown, OH

44272. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. Transporting *metal articles*, between points in NY, MI, IL, WV, IN, OH, PA, and Baltimore County, MD, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 157601 (Sub-2), filed May 17, 1982. Applicant: RICHARD HILL, d.b.a. HILL GRAIN CO., Route 1, Klondike, TX 75448. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768-2207. Transporting *ores and minerals*, between points in Hunt, Fannin, Red River, Titus, Hopkins, Rains, Wood Van Zandt, Kaufman, Rockwall, Collin, Delta and Lamar Counties, TX, on the one hand, and, on the other, those points in OK on and south of a line beginning at the AR-OK State line and extending along Interstate Hwy 40 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the OK-TX State line.

MC 159431, filed March 8, 1982, and previously noticed in the *Federal Register* issue of April 8, 1982. Applicant: MELVIN L. LYNCH, d.b.a. LYNCH MOVERS, 220 S. Main St., Wauconda, IL 60084. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting *furniture and fixtures, electrical machinery, and (STCC Code 39) miscellaneous products of manufacturing*, between points in the U.S. (except AK and HI), under continuing contract(s) with Gulbransen Co., Division of CBS Musical Instruments, of Deerfield, IL.

Note.—This republication clarifies the commodity description.

MC 160301, filed May 5, 1982. Applicant: TOPDRAW FREIGHT SYSTEM, INC., 3407 West Pershing Road, Chicago, IL 60632. Representative: Owen B. Katzman, 1828 L Street, NW, Suite 1111, Washington, DC 20036, (202) 822-8200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except KS, ND, OK, and SD). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6354.

MC 160950, filed May 14, 1982.  
Applicant: JAMES L. ANDRUS TRUCKING, P.O. Box 344, Mesquite, NV 89024. Representative: Douglas W. Dredge, 86 E. 1420 So., Farmington, UT 84025, (801) 825-9706. Transporting *soil amendments, shavings, and bark*, between points in the U.S., under continuing contract(s) with Kaibab Industries, of Phoenix, AZ.

MC 161971, filed May 11, 1982.  
Applicant: LAM-PIT TRUCK LINE, INC., 3 Milburn Avenue, Baldwin, NY 11510. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with Lambro Industries, Inc., of Baldwin, NY.

MC 162001 filed May 14, 1982.  
Applicant: ACME PARCEL DELIVERY SERVICE, INC., 3016 South Ridgeland, Berwyn, IL 60402. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting *metal products and building materials*, between Chicago, IL, on the one hand, and, on the other, points in IN and WI.

MC 162011, filed May 14, 1982.  
Applicant: BOBBIE L. MCCOLLUM d.b.a. MCCOLLUM TRUCKING, Route 4, Box 245, Ellensburg, WA 98926. Representative: Bobbie L. McCollum, (same address as applicant), (509) 925-2445. Transporting *synthetic fire logs*, (1) between the port of entry on the International Boundary line between the U.S. and Canada, at Blaine, WA, and points in WA, OR, CA, ID, and MT; and (2) between points in King County, WA, and points in OR, CA, ID, and MT.

MC 162020, filed May 14, 1982.  
Applicant: 7 SEAS TRAVEL INC., 3801 N. University Drive, Sunrise, FL 33321. Representative: Lee A. Rosenkranz, 9470 Live Oak Place, Ft. Lauderdale, FL 33324, (305) 472-1987. As a broker at Ft. Lauderdale, FL, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, beginning and ending at points in Dade, Broward and Palm Beach Counties, FL, and extending to points in the U.S. (except AK and HI).

MC 162030, filed May 17, 1982.  
Applicant: FRITZ AND NORM'S, INC., M-94, P.O. Box 198, Chatham, MI 49816. Representative: Alex J. Miller, 555 South Woodward Ave., Suite 512, Birmingham, MI 48011, (313) 647-3350. Transporting *petroleum and petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s)

with Norman Oil Company, Inc., of Chatham, MI, and Fritzier Oil Company, Inc., of Marquette, MI.

MC 162031, filed May 17, 1982.  
Applicant: GREAT LAKES EXPRESS, INC., Box 147, Farmington, MN 55024. Representative: James M. Christenson, 4444 IDS Center, 80 South Eight St., Minneapolis, MN 55402 (612)-339-4546. Transporting *concrete, concrete products and building materials*, between points in the U.S., under continuing contract(s) with North Star Concrete Company, of Mankato, MN.

#### Volume No. OP4-187

Decided: May 24, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

FF-486 (Sub-2), filed May 19, 1982.  
Applicant: GULF FORWARDING, INC., P.O. Box 468, Biloxi, MS 39533. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036 (202) 887-5868. As a *freight forwarder*, in connection with the transportation of *household goods, furniture, fixtures, unaccompanied baggage, and used automobiles*, between points in the U.S. (except AK).

MC 116676 (Sub-1), filed May 18, 1982.  
Applicant: WILLIAM SANTIAGO, 751 82nd St., Niagara Falls, NY 14304. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 954-5870. Transporting *passengers and their baggage*, in the same vehicle with passengers, limited to the transportation of not more than 14 passengers in any one vehicle, not including the driver, and not including children under 10 years of age who do not occupy a seat, between points in Erie, Niagara Counties, NY.

MC 120646 (Sub-34), filed May 17, 1982. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, NC 28803. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004 (202) 347-8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Henderson, Haywood, Buncumbe and Jackson Counties, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its presently authorized rights in MC-120646 (Sub 30X.)

MC 134806 (Sub-80), filed May 19, 1982. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Vernon Dr., Brattleboro, VT 05301. Representative: Edward T. Love, 4401 EW Hwy., Suite 404, Bethesda, MD 20814, (301) 986-9030.

Transporting (1) *plumbing fittings and supplies*, between points in the U.S. (except AK and HI), under continuing contract(s) with Keeney Manufacturing Company, of Newington, CT, and (2) *maple syrup and syrup products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Coombs Maple Products, Inc., of Jacksonville, VT.

MC 143276 (Sub-40), filed May 17, 1982. Applicant: WEAVER TRANSPORTATION COMPANY, 184 N. Church Lane, Smyrna, GA 30080. Representative: Jack Weaver, (same address as applicant), (404) 794-7646. Transporting (1) *forest products*, (2) *lumber and wood products*, (3) *metal products*, (4) *clay, concrete, glass or stone products*, (5) *ores and minerals*, and (6) *building materials*, between points in AL, FL, GA, LA, MS, NC, SC, TN, and VA.

MC 153206 (Sub-3), filed May 18, 1982. Applicant: WORTH TRANSPORT COMPANY, 3100 North Summit St., Toledo, OH 43611. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224-3161. Transporting *machinery, chemicals and related products, and petroleum, natural gas and their products*, between points in Walker County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159836, filed December 23, 1981, previously noticed in the Federal Register issue of January 13, 1982, and republished this issue. Applicant: R. E. GREEN INC., Box 806, Three Forks, MT 59752. Representative: Ralph E. Green, (same address as applicant), (406) 285-6949. Transporting *irrigation equipment and building materials*, between points in Multnomah, Clackamas and Lane Counties, OR, and those in Spokane County, WA, on the one hand, and, on the other, points in Gallatin, Madison and Park Counties, MT.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 162056, filed May 17, 1982.  
Applicant: BOSTEDER TRUCKING, INC., 4436 Clayton Rd., Hillside, IL 60162. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742-3579. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Yanmar Tractor (USA), Inc., of Bensenville, IL.

#### Volume No. OP5-118

Decided: May 24, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

FF-598, filed May 13, 1982. Applicant: DATA TRANSPORTATION CO., INC., 2311 Kruse Dr., San Jose, CA 95150. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833-8884. To operate as a *freight forwarder* arranging for the transportation of *general commodities* (except used household goods, unaccompanied baggage, used automobiles, classes A and B explosives, and commodities in bulk), between points in the U.S.

MC 18738 (Sub-69), filed February 16, 1982. Initially published in the *Federal Register* on March 3, 1982. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *clay, concrete, glass or stone products*, between points in Lawrence and Monroe Counties, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, FL, GA, LA, MA, ME, MN, MS, NE, NC, ND, NH, NM, OK, RI, SC, SD, TX, and VT. Condition: Subject to the coincidental cancellation of the Certificate issued in this proceeding on April 29, 1982.

Note.—This application is republished to show Monroe County in lieu of Parke County, IN.

MC 80498 (Sub-14), filed May 14, 1982. Applicant: EARL C. SMITH, INC., 1720 Dove St., Port Huron, MI 48060. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, 313-963-3750. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. under continuing contract(s) with Chrysler Corporation of Highland Park, MI.

MC 100449 (Sub-130), filed May 17, 1982. Applicant: MALLINGER TRUCK LINE, INC., 2100 North General Bruce Drive, Temple, TX 76501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245-4300. Transporting *such commodities* as are dealt in by grocery, hardware or hospital supply businesses, between those points in the U.S. in and west of MI, OH, KY, TN, GA, and FL (except AK and HI).

MC 101619 (Sub-12), filed May 17, 1982. Applicant: HOVER TRUCKING CO., P.O. Box 758, 1431 So. 11th St., Niles, MI 49120. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516, 219-293-3597. Transporting *general commodities* (except classes A and B

explosives, household goods and commodities in bulk), between points in MI, IN, and Lake, Will, DuPage, Cook, McHenry, Kane, and Kendall Counties, IL, on the one hand, and, on the other, points in MI, IN, IL, OH, KY, TN, and WI.

MC 105159 (Sub-49), filed May 14, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55068. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *such commodities* as are dealt in or used by manufacturers of life jackets and outerwear, between points in MN, on the one hand, and, on the other, points in CT, IL, IN, MA, NJ, NY, and RI, under continuing contract(s) with Stearns Mfg. Co., of St. Cloud, MN.

MC 108449 (Sub-418), filed May 17, 1982. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Rd. C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, (Same address as applicant), (612) 633-2661. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Dundee Cement Company of Clarksville, MO.

MC 114028 (Sub-42), filed May 20, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *bananas* between points in Broward County, FL, on the one hand, and, on the other, points in IL, IN, KY, MI, PA, VA, WV, and WI.

MC 126719 (Sub-8), filed May 14, 1982. Applicant: CARON TRANSPORT LTD., P.O. Box 3464, Station D, Edmonton, Alberta, Canada T5L 4J3. Representative: Charles A. Murray, Jr., 2822 Third Ave., N, Billings, MT 59101, (406) 252-4165. Transporting *chemicals and related products* between points in the U.S., under continuing contract(s) with Prairie Industrial Chemicals, Inc., and Saskatoon Chemicals, both of Saskatoon, Saskatchewan, Canada, Dow Chemical Canada Inc., of Ft. Saskatchewan, Alberta, Canada, Canada Colors & Chemicals Ltd., of Richmond, British Columbia, Canada, and Canadian Occidental Petroleum, Ltd., of North Vancouver, British Columbia, Canada.

MC 141318 (Sub-21), filed May 17, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., P.O. Box LTD, Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612-333-1341. Transporting (1)

*salt and salt products*, between points in the U.S. under continuing contract(s) with Cargill, Inc. of Minneapolis, MN, and (2) *salt and salt products, chemicals, seed, and such commodities* as are dealt in or used by manufacturers and distributors of turf maintenance and irrigation equipment, between points in the U.S. under continuing contract(s) with Reinders Brothers, Inc. of Elm Grove, IL.

MC 144449 (Sub-11), filed May 17, 1982. Applicant: A & A CONTRACT CARRIERS d.b.a. A & A MOVING & STORAGE CO., 2412 Blue Smoke Court South, Fort Worth, TX 76105. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 337-4718. Transporting (1) *plastic and rubber products*, (2) *pulp, paper and related products*, (3) *packing materials*, and (4) *such commodities* as are used in the installation of the commodities in (1), (2), and (3) above, between points in the U.S., under continuing contract(s) with Sealed Air Corporation of Danbury, CT.

MC 146399 (Sub-3), filed May 17, 1982. Applicant: SERVICECRAFT DISTRIBUTION SYSTEMS, INC., 5650 Dolly Ave., Buena Park, CA 90620. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (213) 655-3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Los Angeles and Orange Counties, CA, on the one hand, and, on the other, points in AZ, NV, NM, and TX.

MC 146898 (Sub-8), filed May 17, 1982. Applicant: MICKS SERVICE INC., 2146 Camanche Ave., P.O. Box 838, Clinton, IA 52732. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, 319-557-1320. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Clinton County, IA, on the one hand, and, on the other, Chicago, IL, and points in Rock Island County, IL.

MC 149199 (Sub-15), filed May 17, 1982. Applicant: FRONTIER EXPRESS, INCORPORATED, d.b.a. D & M TRANSPORTATION, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Oklahoma City, OK, on the one hand, and, on the other, points in Comanche and Caddo Counties, OK.

Note.—Applicant intends to tack the requested authority with its existing regular route authority.

MC 149548 (Sub-2), filed May 14, 1982. Applicant: LAWRY AIR FREIGHT, INC., 16 Union Ave., Westfield, MA 01086. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413-781-8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Hampden and Hampshire Counties, MA and Hartford County, CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155138 (Sub-1), filed May 10, 1982. Applicant: KEN PULASKI d.b.a. KEN'S TRUCKING, 1524 East 12th St., Newton, KS 67114. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265-2634. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Harvey, McPherson, Reno, and Sedgwick Counties, KS.

MC 155529 (Sub-2), filed May 6, 1982. Applicant: G & D TRANSPORT, INC., P.O. Box 3754, 14763 Oyster Rd, Alliance, OH 44601. Representative: Philip B. Cochran, 50 West Broad St., Columbus, OH 43216, 614-464-4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of *chemicals and related products, clay, concrete, glass or stone products, metal and metal products, plastic and plastic products and building materials*, between points in the U.S. (except AK and HI).

MC 157189 (Sub-1) filed May 17, 1982. Applicant: WALLACE RINGER d.b.a. RINGER OIL COMPANY, P.O. Box 188, Rush City, MN 55069. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, Chicago, IL 60603, (312) 263-2306. Transporting *metal and plastic products* between points in Chisago County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159239, filed April 23, 1982, published initially in the *Federal Register* on May 12, 1982. Applicant: ROYAL CHARTERS, LTD., 1810 Tray Lane, Kalamazoo, MI 49007. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517-482-2400. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending in Kalamazoo County, MI and extending to points in the U.S. (except AK and HI).

Note.—This application is republished to show Kalamazoo County, MI in lieu of Kalamazoo, MI.

MC 159579 (Sub-1) filed May 14, 1982. Applicant: SIMPSON'S CARRIER, INC., box 72, Rural Route, Plainview, NE 68769. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting *building materials, metal products, and such commodities* as are dealt in or used by manufacturers and distributors of metal buildings, between St. Joseph, MO, Norfolk, NE, and points in Rock County, WI, and Labette County, KS, on the one hand, and, on the other, points in CO, IL, IA, KS, MN, MO, MT, NE, ND, SD, and WY.

MC 160628, filed May 14, 1982. Applicant: TITAN TRANSFER, INC., Amoco Truck Terminal—Rt. 7 River Rd., New Castle, DE 19720. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810, (302) 575-3741. Transporting *building materials and clay, concrete, glass, or stone products*, between points in the U.S. (except AK and HI), under continuing contract(s) with IKO Products, of Edgemoor, DE.

MC 160709, filed May 7, 1982. Applicant: JAPAN TRAVELERS SERVICE, INC., 1100 Seventeenth St., NW., Suite 311, Washington, DC 20036. Representative: Barry R. Diamond, 805 King St., 4th Floor, Alexandria, VA 22314, 703-549-8010. Transporting *passengers and their baggage* in the same vehicle with passengers in special and charter operations, between points in VA, MD, PA, NJ, NY, WV, and DC.

MC 161889, filed May 7, 1982. Applicant: JOHNSON LEASING, INC., P.O. Box 107, Lynd, MN 56157. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in Lyon County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *metal products* between points in Dodge County, NE, on the one hand, and, on the other, points in MN, ND, and SD.

MC 161928, filed May 10, 1982. Applicant: BUDGET TOURS, INC., P.O. Box 8181, Atlanta, GA 30306. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers, 3390 Peachtree Rd., NE., Atlanta, GA 30328, 404-231-3583. (1) Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Clayton, Cobb, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett and Henry Counties, GA, and extending to points in the U.S., and (2)

As a *broker* at Atlanta, GA, in arranging for the transportation by motor vehicle of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in GA, on the one hand, and, on the other, points in the U.S.

MC 161958, filed May 11, 1982. Applicant: TALBOT TOURS, INC., 1600 Willow St., Suite 102, San Jose, CA 95125. Representative: Serge V. Talbot (same address as applicant), 408-264-2040. As a *broker* at San Jose, CA, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in the U.S. (except AK and HI).

MC 161989, filed May 13, 1982. Applicant: GASPERINA NARDONE, RD #2 Box 321, Old Boston Road, Jenkins Township, PA 18641. Representative: Joseph A. Nardone, RD #2 Box 339, Old Boston Road, Jenkins Township, PA 18641, (717) 655-6148. To engage in operations, as a *broker*, at Jenkins Township, PA, in arranging for the transportation of *passengers and their baggage* in special and charter operations, beginning and ending at points in PA and extending to points in the U.S.

MC 161998, filed May 14, 1982. Applicant: CARPET EXPRESS, INC., 5314 South East Ave., Countryside, IL 60525. Representative: William D. Brejcha, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, 312-263-1600. Transporting *such commodities* as are dealt in or used by or distributed by wholesalers and retailers of carpets and textile mill products, between points in IL and those points in IN which are in the Chicago, IL commercial Zone, on the one hand, and, on the other, points in AL, GA, IL, IN, KY, and TN.

MC 162028, filed May 17, 1982. Applicant: STRUBE ENTERPRISES, INC., P.O. Box 932, Route 2, S/H 556 South Pittsburg, TX 75686. Representative: William R. Garrett, P.O. Box 638, S/H 77 East, Naples, TX 75568-0638, (214) 897-5611. Transporting *sand, rock and gravel*, between points in Howard, Miller, River, and Sevier Counties, AR, and Choctaw and McCurtain Counties, OK, on the one hand, and, on the other, points in Camp and Upshur Counties, TX, under continuing contract(s) with Norton Concrete Co., of Tyler, TX, and Pittsburg Sand & Gravel Co., of Pittsburg, TX.

MC 162079, filed May 18, 1982. Applicant: GRANITE CITY TRANSPORT, INC., P.O. Box 259, Sauk Rapids, MN 56379. Representative: Samuel Rubenstein, P.O. Box 5,

Minneapolis, MN 55440. (612) 542-1121. Transporting *fly ash and cement* between points in the U.S. (except AK and HI), under continuing contract(s) with Amcon Block, and Granite City Ready Mix, Inc., Both of St. Cloud, MN, and Watkins Redi-Mix Concrete, Inc., of Watkins, MN.

MC 162108, filed May 20, 1982. Applicant: A B LINES, INC., P.O. Box 6946, Rochester, MN 55901. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, (612) 339-4546. Transporting *such commodities* as are used or dealt in by food business houses between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH. Agatha L. Mergenovich, Secretary.

[FR Doc. 82-14749 Filed 5-28-82; 8:45 am]  
BILLING CODE 7035-01-M

### International Communication Agency

#### Agency Forms Under Review by Office of Management and Budget

**AGENCY:** International Communication Media Staff, Television and Film Service, ICA.

#### **ACTION:** Notice.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the International Communication Agency has submitted to OMB for clearance a proposed revision to consolidate five currently approved forms into one, IAP-17, Application for Certificate of International Educational Character.

The application forms being consolidated are IAP-1, Application for Certificate of International Educational Character—Motion Picture (OMB number 3116-0002); IAP-2 \* \* \* Recording (OMB number 3116-0003); IAP-3 \* \* \* Filmstrips, Slides, Transparencies (OMB number 3116-0004); IAP-8 \* \* \* Wall Chart, Map, and Poster (OMB number 3116-0005); and IAP-15 \* \* \* Model (OMB number 3116-0007).

The application form is supplied on request to United States producers and distributors of educational, scientific, and cultural visual and auditory materials who have interest in exporting their materials abroad. The Agency certifies such qualified materials as of international educational character under the provisions of Pub. L. 89-634 and related administrative regulations published in the Code of Federal Regulations, Title 22—Part 502—World-

Wide Free Flow (Export-Import of Audiovisual Materials.)

3,000 responses annually requiring 750 hours; not applicable under 3504(h) of Pub. L. 96-511.

Copies may be obtained from the Agency Clearance Officer, Mary Jane Winnett, Office of Management Plans/Analysis/Directives, Washington, D.C. 20547 (202) 724-0403. Comments should be sent to the Agency Clearance Officer and to Mr. David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (202) 395-4814. Comments should be received within 30 days.

Mary Jane Winnett,  
Management Assistant.

[FR Doc. 82-14741 Filed 5-28-82; 8:45 am]  
BILLING CODE 8230-01-M

### INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

#### Agency for International Development

#### Bureau for Private Enterprise; Notice Offering Financing Private Sector Enterprise and Intermediate Credit Lending Institutions in Developing Countries

I. The United States Agency for International Development (AID) Bureau for Private Enterprise (PRE) announces the establishment of a special program conducted pursuant to authority contained in the Foreign Assistance Act of 1961, as amended, to provide limited financing and other supporting measures for private investment for development projects in developing countries. Its objective is to promote the establishment and growth of the private sector and profit-making enterprises engaged in production, manufacturing, distribution, and services related to development activities in those countries. AID will make loans directly or in the form of credits for on-lending by indigenous development and financial, leasing and/or venture capital enterprises and provide other facilitations under the criteria outlined in this announcement for the establishment and expansion of such enterprises. The program will be implemented by AID's Bureau for Private Enterprise (PRE).

AID/PRE will receive applications directly from financial institutions and other intermediaries and from project sponsors who are direct investors in development projects for which loan financing is sought. If sponsors wish a third party to assist in the detailed financial, managerial, and technical

matters in feasibility presentation required for financing approval, AID/PRE will consider requests for such assistance on a case-by-case basis, in an amount up to 1% of the total project financial requirements or \$50,000, whichever is less, but never more than 50% of total feasibility cost.

### II. Criteria and Requirements

#### A. Eligibility Criteria

AID/PRE is seeking projects to consider for financing which meet the following conditions:

1. *Target Countries:* Projects to be located in one of the ten following countries will be given priority:

Egypt  
Kenya  
Ivory Coast  
Zimbabwe  
Jamaica  
Costa Rica  
Pakistan  
Thailand  
Indonesia  
Sri Lanka

Proposals for projects in other countries may be considered where there is a viable private sector enjoying support by the government and where there is a bilateral AID program.

2. *Eligibility of Projects:* AID/PRE will only consider ventures with substantial local ownership. Sponsors (and their agents) must be either host country or U.S. firms or citizens. Minority participation by host government parastatal entities is not precluded. AID/PRE is particularly interested in utilizing the mechanism of a line of credit to an indigenous development and/or leasing, venture capital or other financial enterprise to permit access by the small/medium sized entrepreneurial venture. Priority consideration will be given to businesses within the agricultural sector.

3. *Development Impact:* As well as meeting feasibility and prospective venture—profitability requirements, projects must have a substantial development impact for example by:

Generating net employment opportunities;  
Earning net foreign exchange;  
Developing managerial, technical or other skills; or  
Transferring technologies.

The proposal should document, in as much detail as possible, the likely development impacts of the projects.

#### B. Application Requirements

If the sponsor can demonstrate that it meets these criteria, a business plan should be submitted to AID's Bureau for

Private Enterprise for its initial consideration. At a minimum, the plan should include:

#### Project Description

1. Brief background, description, and present status of the project.
2. If established firm: company name, ownership, management, joint venture agreement/articles of incorporation/other legal arrangements; and brief history and background of firm and owners.
3. If proposed venture: proposed legal arrangement, name, ownership, management, source of funds, and experience with indigenous or foreign enterprises.

#### Financing Requirements (From all Sources)

1. Total costs (broken out by project utilization).
2. Proposed financial structure including source of funds and anticipated terms, and critical factors affecting investment opportunity.

#### Technical Plan

1. Describe technology(ies) to be used; its appropriateness and feasibility and source(s).
2. Ease of incorporating the technology(ies) given existing levels of management/technical skills.
3. Advisory assistance/training requirements and how to be provided.
4. Source of raw materials, equipment and label.
5. Location in relation to markets and suppliers.
6. Relationship between activity and production.

#### Marketing Plan

1. Market and customer profile.
2. Transportation and distribution.
3. Pricing.
4. Competition.

#### Financial Plan

1. Source/application of funds statement (five years).
2. Projected pro forma income statement and balance sheet (five years).
3. Projected cash flow analysis and/or rate of return.

#### Legal Requirements

1. Legal impediments/requirements which will impact project success.
2. Import/export duties.
3. Tax legislation (e.g., dividends and profit, interest payments).
4. Foreign exchange restrictions/regulations on repatriation of dividends, profits, interest and principal repayments and others.

5. Ownership/management requirements.

6. Other barriers to free market private enterprise activities.

#### Management Plan

1. Structure.
2. Skills (existing and needed).
3. Training requirements.

#### Implementation Plan

As much detail as possible should be given under each of the major topic areas described above. Any other factors or commitments critical to project success also should be described.

#### III. Terms and Conditions for Financing and Other Facilitation

AID has flexibility in negotiating terms and conditions depending upon the nature, risk level, and developmental impact of any project. Some general guidelines follow:

*Amount of Financing:* Up to \$2.5 million with emphasis in range \$250,000 to \$1.0 million but not more than 25% of total project cost.

AID/PRE is particularly interested in solving intermediate and long-term fixed rate local capital market deficiencies.

*Term*—15 years maximum; grace period for principal negotiable.

*Interest*—Fixed rates will be established to emphasize that project can achieve free market competitive profitability.

*Collateral*—No fixed or minimum requirements.

*Principal Repayment*—Schedule negotiable, generally on quarterly or semi-annual basis.

*Use of Loan Proceeds*—Loans may be used to capitalize a new enterprise and/or expansion of an existing enterprise.

*Procurement*—The intended country sources of goods and services used in proposed projects will be a consideration in determining eligibility for AID loans.

Inquiries and project proposals should be submitted to: Agency for International Development, Bureau for Private Enterprise, Office of Investment, Department of State, Room 5893, Washington, DC 20523.

Dated: May 20, 1982.

Elise R. W. du Pont,

Assistant Administrator Bureau for Private Enterprise.

[FR Doc. 82-14759 Filed 5-28-82; 8:45 am]

BILLING CODE 6116-01-M

#### Bureau for Private Enterprise; Notice Offering Financing Private Sector Agribusiness Enterprises in Developing Countries

I. The United States Agency for International Development (AID) Bureau for Private Enterprise (PRE) announces the establishment of a priority program conducted pursuant to authority contained in the Foreign Assistance Act of 1961, as amended, to support private sector investment and transfer of expertise in agribusiness and related business activities in selected developing countries. The phrase agribusiness will be defined in the broadest context including such related business activities as agricultural equipment leasing.

AID will make loans and provide other facilitation under the criteria in this announcement for the establishment and expansion of such enterprises. The program will be implemented by AID's Bureau for Private Enterprise (PRE).

AID/PRE will receive applications directly from project sponsors who are direct investors as well as from financial intermediaries involved in the project for which financing is sought. If sponsors wish a third party to assist in the detailed financial, managerial, and technical feasibility presentation required for financing approval, AID/PRE will consider such assistance on a case-by-case basis, in an amount up to 1% of the total project financial requirements or \$50,000 whichever is less, but never more than 50% of total feasibility cost.

#### II. Criteria and Requirements

*A. Eligibility Criteria:* AID/PRE is seeking projects to consider for financing which meet the following conditions:

1. *Target Countries:* Projects located in one of the ten following countries will be given priority:

Egypt  
Kenya  
Ivory Coast  
Zimbabwe  
Jamaica  
Costa Rica  
Pakistan  
Thailand  
Indonesia  
Sri Lanka

Proposals for projects in other developing countries may be considered where there is a viable private sector enjoying support by the government and where there is a bilateral AID program.

2. *Eligibility of Projects:* AID/PRE will only consider ventures with substantial local ownership. Minority participation

by host government parastatal entities is not precluded.

3. *Development Impact:* As well as meeting feasibility and prospective venture—profitability requirements, projects must have a substantial development impact for example by: Generating net employment opportunities;

Earning net foreign exchange; Developing managerial, technical or other skills; or Transferring technologies.

The proposal should document, in as much detail as possible, the likely development impacts of the projects.

#### B. Application Requirements (Investment Opportunity Proposal)

The following outlines preliminary project information required by AID/PRE to form an initial judgment concerning interest in providing financing.

#### Project Description

1. Brief background, description, and present status of the project.

2. If established firm: company name, ownership, management, joint venture agreement/articles of incorporation/other legal arrangements; and brief history and background of firm and owners.

3. If proposed venture: proposed legal arrangement, name, ownership, management, source of funds, and experience with indigenous or foreign enterprises.

#### Financing Requirements (From All Sources)

1. Total costs (broken out by project utilization).

2. Proposed financial structure including source of funds and anticipated terms, and critical factors affecting investment opportunity.

#### Technical Plan

1. Describe technology(ies) to be used; its appropriateness and feasibility and source(s).

2. Ease of incorporating the technology(ies) given existing levels of management/technical skills.

3. Advisory assistance/training requirements and how to be provided.

4. Source of raw materials, equipment and labor.

5. Location in relation to markets and suppliers.

6. Relationship between activity and production.

#### Marketing Plan

1. Market and customer profile.
2. Transportation and distribution.
3. Pricing.

#### 4. Competition.

#### Financial Plan

1. Source/application of funds statement (five years).

2. Projected pro forma income statement and balance sheet (five years).

3. Projected cash flow analysis and/or rate of return.

#### Legal Requirements

1. Legal impediments/requirements which will impact project success.

2. Import/export duties.

3. Tax legislation (e.g., dividends and profit, interest payments).

4. Foreign exchange restrictions/regulations on repatriation of dividends, profits, interest and principal repayments and others.

5. Ownership/management requirements.

6. Other barriers to free market private enterprise activities.

#### Management Plan

1. Structure.

2. Skills (existing and needed).

3. Training requirements.

#### Implementation Plan

As much detail as possible should be given under each of the major topic areas described above. Any other factors or commitments critical to project success also should be described.

#### III. Terms and Conditions for Financing and Other Facilitation

AID has flexibility in negotiating terms and conditions depending upon the nature, risk level, and developmental impact of any project. Some general guidelines follow:

*Amount of Financing:* Up to \$2.5 million with emphasis in range \$250,000 to \$1.0 million but not more than 25% of total project cost.

AID/PRE is particularly interested in solving intermediate and long-term fixed rate local capital market deficiencies.

*Term*—15 years maximum; grace period for principal negotiable.

*Interest*—Fixed rates will be established to emphasize that project can achieve free market competitive profitability

*Collateral*—No fixed or minimum requirements.

*Principal Repayment*—Schedule negotiable, generally on quarterly or semi-annual basis.

*Use of Loan Proceeds*—Loans may be used to capitalize a new enterprise and/or expanded an existing enterprise.

*Procurement*—The intended country sources of goods and services used in proposed projects will be a

consideration in determining eligibility for AID loans.

Submissions should be made to: Office of Investment, Bureau of Private Enterprise, Agency for International Development, Department of State, Room 5893, Washington, DC 20523.

Dated: May 20, 1982

Elise R. W. du Pont,  
Assistant Administrator, Bureau of Private Enterprise.

[FR Doc 82-14760 Filed 5-28-82; 8:45 am]

BILLING CODE 6116-01-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Importation of Controlled Substances; Buprenorphine

May 24, 1982.

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Authorization to import buprenorphine, a basic class of controlled substances listed in schedule II.

By notice dated December 28, 1981, and published in the *Federal Register* on January 5, 1982 (47 FR 362), Sterling Drug, Inc., 1778 North Centennial Drive, McPherson, Kansas 67460, made application to the Drug Enforcement Administration to be registered as an importer of buprenorphine (9064), a basic class of controlled substances listed in Schedule II.

No comments or objections to the above application for registration were received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm was granted registration as an importer of the basic class of controlled substances listed above by notice dated February 24, 1982, and published in the *Federal Register* on March 2, 1982 (47 FR 8894).

The above-registered importer has now made application for an import permit to import buprenorphine. The Drug Enforcement Administration has reviewed the requirements for importation of Schedule II controlled substances under section 1002(a) of the Controlled Substances Import and Export Act. It has been determined that there is no domestic supply of buprenorphine available in the United States and that there are no applicants for registration as a bulk manufacturer of buprenorphine. Therefore, pursuant to his authority under section 1002(a) of the Controlled Substances Import and

Export Act (21 U.S.C. 952) and § 1312.13 of the Code of Federal Regulations (21 CFR 1312.13), the Acting Administrator has determined to allow the importation of buprenorphine effective upon the date of publication of this notice (June 1, 1982).

Dated: May 25, 1982.

Francis M. Mullen, Jr.,  
Acting Administrator.

[FR Doc. 82-14740 Filed 5-28-82; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period May 17, 1982-May 21, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

#### Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,832; North Hoquiam Cedar Products, Inc., Hoquiam, WA  
TA-W-13,056; ICL, Inc., Utica, NY  
TA-W-12,625; Linden Manufacturing Co., Womelsdorf, PA  
TA-W-12,585; G.C. Fashions, Inc., Glen Cove, NY  
TA-W-12,481; Ella Coat Co., Jersey City, NJ

TA-W-12,419; Tiara Coat Fashions, West New York, NJ  
TA-W-12,688; Sellner Manufacturing Co., Faribault, MN  
TA-W-12,480; C.A.M. Hoboken, NJ  
TA-W-12,605; G.T.E. Products Corp., Halogen Dept., Hillsboro, NH  
TA-W-12,362; Leather Sports, Inc., New York, NY  
TA-W-12,026; RCR Sportswear, Inc. Passaic, NJ  
TA-W-12,075; M.C.S. Fashions, Inc., Hialeah, FL  
TA-W-12,488; Westclox U.S., Yadkinville, NC  
TA-W-12,429; Italcraft, Inc., Hoboken, NJ  
TA-W-12,707; G.T.E. Products (Formerly G.T.E. Sylvania), Circuit Products Div., Muncy, PA  
TA-W-12,416; Pearl, Hoboken, NJ  
TA-W-12,217; Midland Steel Products Co., Cleveland, OH  
TA-W-12,581; Burlington Industrial Fabrics Co., Kernersville, NC  
TA-W-12,430; Jersey Made Fashions, Inc., Hoboken, NJ  
TA-W-12,777; Knudsen Pole Co., Shelton, WA  
TA-W-12,756; J. F. McElwain Co., M. Factory, Athol, MA  
TA-W-12,195; Bozak, Inc., South Norwalk, CT  
TA-W-12,623; Elton Fashions, Passaic, NJ  
TA-W-12,478; Rosalba Coat Co., Inc., Hoboken, NJ  
TA-W-12,266; Scott & Fetzer Co., France Div., Westlake, OH  
TA-W-12,500; Mold Masters Co., Imlay City, MO  
TA-W-12,661; Huron Forge & Machine Co., Detroit, MI  
TA-W-11,851; The Firestone Tire & Rubber Co., Firestone Tire Co. (U.S.), Memphis, TN  
TA-W-11,918; Chicago Pneumatic Tool Co., Utica, NY  
TA-W-11,957; Advance Glove Manufacturing Co., Detroit, MI  
TA-W-12,294; Grafton Apparel Manufacturing Co., Inc., Grafton, W.VA.  
TA-W-12,649; Beauti-Full Women, Inc., New York, NY  
TA-W-12,651; R & S Apparel Contractors, Inc., New York, NY  
TA-W-12,269; Mitchell Industries, Inc., Philadelphia, PA  
TA-W-12,483; Manny's Outerwear, Inc., Elizabeth, NJ  
TA-W-12,338; Standard Products Co., Inc., Campbell Plastics Div., Schenectady, NY  
TA-W-12,423; Venus Coat Co., Jersey City, NJ  
TA-W-12,668; Western Electric Co., Inc., Kansas City Works, Lee's Summit, MO

TA-W-12,636; Whitley Products, Inc., Pierceton, IN  
TA-W-12,411; Venus Creations, Inc., New York, NY  
TA-W-12,412; Venus Textile Manufacturing Co., Social Circle, GA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,578; Milwaukee Tool & Equipment Co., Inc., Milwaukee, WI  
TA-W-12,923; Middletown Leather Co., Hackettstown, NJ  
TA-W-13,007; Coos Head Timber Co., Bunker Hill Sawmill, Coos Bay, OR  
TA-W-12,703; Warrior Asphalt Co., Tuscaloosa, AL  
TA-W-12,438; Bernardi Fashions, Inc., Jersey City, NJ  
TA-W-13,108; Lukens Steel Co., Coatesville, PA  
TA-W-12,687; Mayflower Coat Manufacturing Co., Brockton, MA  
TA-W-12,759; Wayne Production Broaching Co., Morenci, MI  
TA-W-12,684; Keds Corp., Lawrence, MA  
TA-W-12,646; Watertown Industries, Inc., Watertown, TN  
TA-W-12,580; A.C. Williams Co., Delaware Casting Div., Delaware, OH  
TA-W-12,568; Uniroyal, Inc., Naugatuck, CT

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,105; U.S. Steel Corp., U.S.S. Fabrication Div., Ambridge, PA

Aggregate U.S. Imports of fabricated structural steel did not increase as required for certification.

TA-W-12,199; Hyster Co., Portland, OR

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,641; Park Silk Co., Inc., Lebanon, PA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,767; Park Silk Co., Inc., New York, NY

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,446; Best Coat Co., Inc., Roxbury, MA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,758; S & M Leather Coat Co., Trenton, NJ

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,559; ARP Instruments, Inc., Lexington, MA

The investigation revealed that criterion (3) has not been met. Imports did not increase as required for certification.

TA-W-12,720; CPC International, Inc., Corn Products Div., Pekin, IL

The investigation revealed that criterion (3) has not been met. Imports of corn sweeteners were negligible during the period under investigation.

TA-W-12,738; IAI Co., West Point, PA

The workers did not produce an article within the meaning of the Trade Act of 1974.

TA-W-12,601; Alpine Togs, Inc., New York, NY

The investigation revealed that criterion (2) has not been met. Sales or production, or both, did not decrease as required for certification.

TA-W-12,435; Al Kamen Coat Co., Inc., Hoboken, NJ

The investigation revealed that criterion (2) has not been met. Sales or production, or both, of the firm have not decreased absolutely as required for certification.

#### Affirmative Determinations

TA-W-12,061; Coats Plus, Inc., Hoboken, NJ

A certification was issued in response to a petition received on January 6, 1981 covering all workers separated on or after January 2, 1980.

TA-W-12,443; Russell Taylor, Inc., Secaucus, NJ

A certification was issued in response to a petition received on March 16, 1981 covering all workers separated on or after February 27, 1981.

TA-W-12,045; Reid Stevens, Commack, NY

A certification was issued in response to a petition received on January 2, 1981 covering all workers separated on or after November 1, 1980 and before April 1, 1981.

TA-W-12,315; Samsonite Corp., Denver, CO

A certification was issued in response to a petition received on February 9,

1981 covering all workers separated on or after February 2, 1980

TA-W-12,616; Toni Totes of Vermont, Inc., South Londonderry, VT

A certification was issued in response to a petition received on April 4, 1981 covering all workers separated on or after April 2, 1980 and before May 1, 1981.

TA-W-12,708; G.T.E. Products Corp., (Formerly G.T.E. Sylvania), Circuit Products Div., Williamsport, PA

A certification was issued in response to a petition received on May 18, 1981 covering all workers separated on or after October 15, 1980.

TA-W-12,572; Fox Shoe Manufacturing Corp., New York, NY

A certification was issued in response to a petition received on March 31, 1981 covering all workers separated on or after March 7, 1981.

TA-W-12,108; Mil Garment Co., Inc., Red Bank, NJ

A certification was issued in response to a petition received on January 13, 1981 covering all workers separated on or after May 17, 1980 and before December 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period May 17, 1982-May 21, 1982. Copies of these determinations are available for inspection in Room 10332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 25, 1982.

Marvin M. Fooks,  
Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14774 Filed 5-29-82; 8:45 am]

BILLING CODE 4510-30-M

#### Occupational Safety and Health Administration

[V-82-3]

#### Dow Chemical USA; Variance and Interim Order

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTIONS:** (1) Notice of application for variance and interim order;

(2) Grant of interim order

**SUMMARY:** This notice announces the application of Dow Chemical USA for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1910.304(f)(6) (i) and (ii)

concerning electrical grounding for fixed equipment.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

**DATES:** The effective date of the interim order is June 1, 1982. The last date for interested persons to submit comments is July 1, 1982. The last date for affected employers and employees to request a hearing on the application is July 1, 1982.

**ADDRESSES:** Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3662, Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: (202) 523-7183, or the following Regional and Area Offices.

#### Regional Offices

U.S. Department of Labor, OSHA, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30367

U.S. Department of Labor, OSHA, 32nd Floor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Department of Labor, OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor, OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64126

#### Area Offices

U.S. Department of Labor, OSHA, Building 10, Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084

U.S. Department of Labor, OSHA, Federal Office Building, Room 734, 234 North Summit Street, Toledo, Ohio 43604

U.S. Department of Labor, OSHA, Federal Office Building, Room 634, 200 North High Street, Columbus, Ohio 43215

U.S. Department of Labor, OSHA, Federal Office Building, Room 4028, 550 Main Street, Cincinnati, Ohio 45202

U.S. Department of Labor, OSHA, 1400 Torrence Avenue, 2nd Floor, Calumet City, Illinois 60409

U.S. Department of Labor, OSHA, 2320 LaBranch Street, Room 2118, Houston, Texas 77004

U.S. Department of Labor, OSHA, West Mark Building, Suite 212, 4120 West Markham, Little Rock, Arkansas 72205

U.S. Department of Labor, OSHA, Hoover Annex, Suite 200, 2156 Wooddale Boulevard, Baton Rouge, Louisiana 70806

U.S. Department of Labor, OSHA, 1150 Grand Avenue, 6th Floor, 12 Grand Building, Kansas City, Missouri 64106.

#### Notice of Application

Notice is hereby given that Dow Chemical USA, An operating Unit of the Dow Chemical Company, 2020 Dow Center, Midland, Michigan 48640, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.304(f)(6)(i) and (ii) concerning electrical grounding for fixed equipment.

The addresses of the places of employment that will be affected by the application area as follows:

Texas Division with plants at Freeport, Texas; Oyster Creek Division with plants at Freeport, Texas and Russellville, Arkansas; Louisiana Division located at Plaquemine, Louisiana; Eastern Division with facilities at Dalton, Georgia, Findlay, Ohio, Granville, Ohio, Joliet, Illinois, Hebron, Ohio, Hanging Rock, Ohio, Magnolia, Arkansas and Riverside, Missouri; (herein collectively called "plant sites").

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.304(f)(6)(i) and (ii) which states in part that non-current-carrying metal parts of fixed equipment shall be grounded by an equipment grounding conductor which is contained within the same raceway, cable, or cord, or runs with or encloses the circuit conductors.

The applicant contends that its grounding techniques provide (respecting safety from electrical shock hazards) employment and places of employment for employees that are as safe and healthful as would be provided by the requirements of the standard from which the variance is sought. This is because equipment grounding conductors are connected directly to adjacent ground mats consisting of interconnected cables, reinforcing steel and grounding rods instead of running these conductors back to the power

source in close proximity to the circuit phase conductors and then grounding them at that point. (The applicant has submitted a complete description of its grounding method.) In actual operating experience, the applicant has found only insignificant impedance differences between this system and a system whereby the earth and a buried ground mat are used as the equipment grounding conductor. A key section of the OSHA electrical standard appears to be based on ensuring that heavy fault currents will cause the feeder circuit breakers to trip. The applicant contends that for their integrated chemical process plants, they cannot operate safely with this type of system for isolating fault currents.

The applicant states that its plants are typically large installations with several different types of plants producing wide varieties of industrial chemicals. At their largest installations (Texas and Louisiana Divisions), more than 100 different plants are involved. In many cases, they generate and distribute their own electrical power to these plants. These plants are intricately interconnected such that the product in one plant becomes the raw material for the next plant. Most of these are large plants which produce thousands of pounds per hour of products. In the event of electrical fault at some point in one of these individual plants, it is critical that the problem be localized and then shutdown only that particular piece of equipment or plant. If allowed to cascade throughout the whole system, there would be great hazard to the employees because of disrupted processes involving sensitive or dangerous chemical compounds or products and great economic loss due to unnecessary plant shutdowns. The applicant states that "these are the fundamental reasons why we have designed our plant grounding systems as we have—maximum worker and plant safety and efficient plant operations." With resistance grounded "y" systems and ungrounded delta systems, heavy fault currents are not needed for fault protection. Other means, such as relaying or alarms are used to provide protection.

The applicant further states that its system is certainly equivalent to OSHA's and, in fact, superior to it, particularly where electrolytic cells are in the surrounding area. When going from one side of an electrolytic cell line to another, the grounding potential may change due to the direct current. If a ground conductor is carried through the area of an electrolytic cell for several hundred feet, a difference of only 5-10 volts would cause a current to flow that

could be excessive. This could have the potential to destroy the ground wire or start a fire and thereby present the increased threat of worker injury. Grounds installed by the ground mat system are exposed and visible for periodic inspection. These grounds are inspected periodically to ensure that the integrity is maintained.

The applicant strongly believes that its system is superior to that required by the standard that even if it was required to retrofit its plant sites (at a very considerable cost in time and dollars), it would not scrap its existing time-tested proven method of grounding by the buried ground mat system. Rather, the plants would have two systems of grounding, at an immense additional cost, with no demonstrable increase in worker safety. The applicant has been using the ground mat system of grounding for over 30 years without the ground wire returned to the source and has experienced absolutely no difficulty nor personnel injury due to a grounding failure or fault during this time.

#### Grant of Interim Order

It appears from the application for a variance and interim order and from the evidence submitted by the applicant that, as required by section 6(d) of the Act, DOW CHEMICAL USA will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.304(f)(6)(i) and (ii). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that DOW CHEMICAL USA be, and it is hereby, authorized to use the electrical grounding method described in its application at the plant sites listed above in lieu of complying with 29 CFR 1910.304(f)(6)(i) and (ii). Additionally, the applicant shall agree to allow OSHA to inspect its premises in connection with this variance application and this interim order. All other provisions of the electrical standard are unaffected by this order and therefore must be complied with in conjunction with the terms of this order. DOW CHEMICAL USA shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance, are invited to submit written data, views, and arguments relating to the pertinent application no later than July 1, 1982. In addition employers and employees who believe they would be affected by the grant or denial of the variance may request a hearing on the application no later than July 1, 1982, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

The Assistant Secretary may revoke this order at any time if the applicant does not comply with any requirement of the order or the relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C. this 26th day of May, 1982.

Thorne G. Auchter,  
Assistant Secretary of Labor.

[FR Doc. 82-14775 Filed 5-29-82; 8:48 am]  
BILLING CODE 4510-26-M

#### [V-82-2]

#### PACECO, Inc.; Application for Variance

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Notice of application for variance.

**SUMMARY:** This notice announces the application of PACECO, Inc. for a variance from the standard prescribed in 29 CFR 1910.107(d)(9) concerning spray finishing operations, air exhaust requirements.

**DATES:** The last date for interested persons to submit comments is July 1, 1982. The last date for affected employers and employees to request a hearing on the application is July 1, 1982.

**ADDRESSES:** Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3662, Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Concannon, Director, Office of Variance Determination, at the above address, Telephone: (202) 523-7183 or the following Regional and Area Offices:

U.S. Department of Labor OSHA, 1375 Peachtree Street NE., Suite 587, Atlanta, Georgia 30367  
U.S. Department of Labor, OSHA, Federal Building, Suite 1445, 100 West Capital Street, Jackson, Mississippi 39201.

#### Notice of Application

Notice is hereby given that PACECO, Inc., Post Office Box 3400, Gulfport, Mississippi 39503-1400 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1598; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standards prescribed in 29 CFR 1910.107(d)(9) concerning spray finishing operations, air exhaust requirements.

The address of the place of employment that will be affected by the application is as follows: PACECO Inc., West Seaway Access Road, Gulfport, Mississippi.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regardless the merits of the application, the applicant contends that it is providing a place of employment as safe as that requested by § 1910.107(d)(9) which states, in part, "Air exhausted from spray operations shall not be recirculated."

The applicant contends that the variance is necessary to minimize the costs involved with handling and conditioning the large quantities of air required to ventilate the spray room and, further, that the proposed recirculation system will provide a place of employment as safe and healthful as that requested by the standard.

The applicant states that its processing unit includes three major rooms in which processing will be performed. These are a receiving area and machine blast room, a manual blast room, and a paint spray and cure room.

The receiving area and machine blast rooms contain an area for placement of fabrications and assemblies and a blasting machine.

The manual blast room contains equipment capable of manually blasting the steel assemblies and is temperature-humidity controlled. Manual blasting is performed continuously prior to the work batch being moved to the paint spray and cure room.

The paint spray and cure room is also temperature-humidity controlled. The

assemblies are painted by four employees using air spray equipment, and cured after painting, and before removal from the room.

The applicant contends that employees will be in the paint spray and cure room only during painting operations. During curing this area will be essentially unoccupied.

The applicant states that the processing unit will be capable of processing, during an eight hour work period, one carload (80-foot standard-gauge railroad car) of randomly selected steel parts and assemblies. A single piece, however, shall neither exceed (1) 60 tons in weight, nor (2) the dimensional limitations of the blast machine. The approximate processing times are as follows:

Room 1, Dry and Machine Blast—0.2-0.5 hrs.

Room 2, Manual Airblast, Touch Up—1 hr.

Room 3, Paint—2.5 hrs.

Room 3, Cure (first coat)—4-5 hrs.

The applicant further contends that the processing unit is designed to comply with all building codes and all applicable OSHA, NFPA and EPA regulations except the portions of 29 CFR 1910.107(d)(9) regarding recirculated air in the paint spray and cure room.

The applicant states that the working area of the paint and cure room is approximately 45 feet wide, 44 feet high and 148 feet long. Double wall and door construction at each end provides the supply and return air plenums. The recirculated and makeup air will be handled in the ceiling plenum. During painting the air will be pulled across the assemblies at a rate of at least 100 feet per minute. Conditioned makeup air will be provided to maintain adequate ventilation, temperature and humidity control. The exterior doors and walls are solid and airtight. The south interior door is made of perforated panel through which air is supplied to the room from floor to ceiling and wall to wall. The north interior wall is a checker board of dry filters, floor to roof and wall to wall.

Two axial flow exhaust fans are located in the north plenum to exhaust to the atmosphere 32,000 CFM each. The ceiling plenum serves as fan room and supply duct for the south (supply air) plenum. There are four recirculating axial flow fans located in the ceiling plenum, each with a rated capacity of 85,200 CFM. Outside air, as needed for dilution temperature and humidity control, is drawn through a makeup air unit. There is a mix of 64,000 CFM of

conditioned outside air with 196,800 CFM return air to deliver 260,800 CFM through the south (supply air) plenum.

The applicant states that one detectic device for explosive paint vapors will be provided in the north (return air) plenum behind the filter wall and shall be interlocked so as to activate an audible and visible alarm and automatically shutdown the painting operation if the paint vapors exceed the permissible exposure limit (PEL) for the solvent or solvents in use. It is anticipated that four painters will apply approximately 20 gallons of paint per hour in this operation. The maximum solvent content of the various paints used is 65 percent. Based on these projection (20 GPH), the maximum dilution or makeup air required to maintain an 8 hour time weighted average below the permissible exposure level is considerably below 64,000 cubic feet per minute. The maximum makeup air quantity needed to maintain the instantaneous exposure level below the PEL is 66,000 CFM which is only slightly above the 64,000 CFM this is supplied. The spray equipment will also be interlocked with the organic vapor detection unit designed to automatically shut the spraying operation off whenever the instantaneous concentration exceeds the PEL for any of the solvents in use. As additional worker protection supplied air respirators approved by the U.S. Bureau of Mines for this type application will be furnished for all painters.

The applicant contends that its proposed method as described above will provide a place of employment for its employees which is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance, are invited to submit written data, views, and arguments relating to the pertinent application no later than July 1, 1982. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than July 1, 1982, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, D.C., this 26th day of May 1982.

Thorne G. Auchter,  
Assistant Secretary of Labor.

[FR Doc 82-14776 Filed 5-28-82; 8:45 am]

BILLING CODE 4510-26-M

### Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-90; Exemption Application No. D-3031]

#### Exemption From the Prohibitions for Certain Transactions Involving the Retirement Program Plan for Union Carbide Corp. and its Participating Subsidiaries Located in New York, N.Y.

**AGENCY:** Office of Pension and Welfare Benefit Programs, Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This exemption permits the following transaction:

(1) The investment by Metropolitan Life Insurance Company Special Account No. 28 (the Account), a single customer separate account maintained by the Metropolitan Life Insurance Company (Metropolitan) for the Retirement Program Plan for Union Carbide Corporation and its Participating Subsidiaries (the Plan) in a joint venture (the Joint Venture) with O'Donnell, Brigham and Partners/Northwest (Northwest), a party in interest with respect to the Plan by virtue of its business relationships with Metropolitan; (2) the participation by Metropolitan in the Plan's decision to invest in the Joint Venture; (3) the loan of money (the Loan) by the Plan to Northwest in connection with the Joint Venture; and (4) the possible lease of portions of the Kent Facility to certain parties in interest.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On April 2, 1982, notice was published in the *Federal Register* (47 FR 14256) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described

transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that a copy of the notice was distributed in accordance with the requirements set forth in the proposed exemption. No public comments or requests for a hearing were received by the Department. However, the applicant has requested certain clarifications and modifications as follows: (1) Paragraph 6 of the Summary of Facts and Representations (the Summary) states that "a subsidiary of Northwest" will manage the Kent Facility. The applicants note that the managing agent is a partnership composed of the same four partners as Northwest and as such is not a subsidiary of Northwest; (2) the brokerage commission to be paid Northwest for new tenants will be paid by the Joint Venture, not by the Plan as stated in the notice; (3) the applicants wish to substitute Mr. Leahy, who is independent of all parties to the transactions and who initially reviewed and approved the Plan's investment in the Joint Venture, to perform the monitoring functions of UCC described in the notice, thereby permitting UCC to have business relationships with Northwest in the future; and (4) paragraph 6 of the Summary states that "Northwest will not knowingly lease any portion of the Kent Facility to any party in interest with respect to the Plan." The applicants state that compliance with this condition poses administrative difficulties and wish to substitute the following condition, which they emphasize is adequately protective of the Plans: "Northwest will not lease any portion of the Kent Facility to Metropolitan, UCC, Northwest, the managing agent of the Kent Facility or any of their affiliates or any person who has discretionary authority, responsibility or control over the Plan assets involved in the Joint Venture." The Department notes and incorporates the clarifications described in comments 1 and 2. The Department has reviewed the requested modifications contained in comments 3 and 4 and believes that the

exemption as modified, will satisfy the statutory criteria of section 408(a). Therefore, the Department hereby approves and incorporates in the exemption the modifications described in comments 3 and 4. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

#### Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471,

April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The investment by the Plan, through the Account, in the Joint Venture; (2) the participation by Metropolitan in the Plan's decision to invest in the Joint Venture; (3) the loan by the Plan to Northwest; and (4) the possible lease of portions of the Kent Facility to certain parties in interest, provided that the terms and conditions of the above transactions are at least as favorable to the Plan as those obtainable from unrelated parties.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 28th day of May 1982.

Alan D. Lebowitz,

*Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

[FR Doc. 82-14963 Filed 5-28-82; 11:24 am]

BILLING CODE 4510-29-M

#### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

##### Artists in Education Advisory Panel; Notice of Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Artists in Education Advisory Panel to the National Council on the Arts will be held on June 24, 1982, from 8:30 a.m.-6:00 p.m. in room 1426 and on June 25, 1982, from 8:30 a.m.-5:00 p.m. in room 2202 (EEOC) of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 25th from 8:30 a.m.-5:00 p.m. to discuss policy issues.

The remaining sessions of this meeting on June 24th from 8:30 a.m.-6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

*Director, Office of Council and Panel Operation, National Endowment for the Arts.*

[FR Doc 82-14704 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

##### Theater Advisory Panel (Small Companies); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Small Companies) to the National Council on the Arts will be held on June 25-26, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

May 24, 1982.

[FR Doc. 82-14763 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

### Theater Advisory Panel (Playwrights Fellowships); Notice of Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Playwrights Fellowships) to the National Council on the Arts will be held on June 25, 1982, from 11:00 a.m.-4:00 p.m. in room 1425 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: May 24, 1982.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 82-14762 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

### Dance Advisory Panel (Dance/Film/Video); Notice of Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance/Film/Video) to the National Council on the Arts will be held on June 23-24, 1982, from 8:30 a.m.-5:30 p.m. in the 12th floor screening room of the Columbia Plaza

Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: May 24, 1982.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 82-14761 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

#### Music Advisory Panel (Orchestra); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra) to the National Council on the Arts will be held on June 12, 1982, from 10:00 a.m.-4:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 12th, from 1:00 p.m.-4:30 p.m. to discuss policy, fiscal year 1984, and guidelines.

The remaining sessions of this meeting on June 12th from 10:00 a.m.-1:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to

subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

May 20, 1982.

[FR Doc. 82-14729 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

### Visual Arts Advisory Panel (Policy); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Policy) to the National Council on the Arts will be held on June 5-6, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 5th, from 1:30 p.m.-5:30 p.m. and on June 6th from 9:00 a.m.-5:30 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on June 5th from 9:00 a.m.-1:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

May 19, 1982.

[FR Doc. 82-14728 Filed 5-28-82; 8:45 am]

BILLING CODE 7537-01-M

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 30-6931; Renewal of Byproducts Material License No. 19-08330-03]

**Armed Forces Radiobiology Research Institute (Cobalt-60 Storage Facility; Oral Argument**

Notice is hereby given that, in accordance with the Appeal Board's order of May 25, 1982, oral argument on the appeal of the Citizens for Nuclear Reactor Safety, Inc. (CNRS), from the Licensing Board order resolving issues raised by the petition for leave to intervene, served April 2, 1982, will be heard at 10:00 a.m. on Thursday, June 17, 1982, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: May 25, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-14802 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-247-SP, 50-286-SP]

**Consolidated Edison Co., of New York (Indian Point, Unit No. 2) and the Power Authority of the State of New York (Indian Point, Unit no. 3; Order Setting Location for Prehearing Conference and First Session of Evidentiary Hearing**

May 26, 1982.

Upon consideration of the suggestions and arguments offered by various parties with respect to locations for subsequent sessions in this proceeding, and pursuant to the schedule set forth in our Memorandum and Order dated April 23, 1982, it is this 26th day of May, 1982.

**Ordered:**

(1) That the Prehearing Conference pursuant to 10 CFR 2.752 will be held in the Basement Hearing Room of the Social Services Building, 85 Court Street, White Plains, New York 10601. The Conference will begin at 9:30 a.m. on June 17, 1982.

(2) That the first session of the Evidentiary Hearing will be held in the Ceremonial Courtroom, Westchester County Courthouse, Grove Street, White Plains, New York 10601. The Hearing will begin at 9:30 a.m. on June 22, 1982.

Judge Carter participated in the issuance of this Order but was unavailable to sign it.

The Atomic Safety and Licensing Board.

Oscar H. Paris,

Administrative Judge.

Frederick J. Shon,

Administrative Judge.

[FR Doc. 82-14840 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

**Florida Power & Light Co.; Issuance of Amendment to Facility Operating License and Negative Declaration**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The amendment pertains to the Environmental Technical Specifications (Appendix B to the Facility Operating License). The amendment (1) delete all water quality requirements, (2) allows termination and deletion of endangered sea turtle programs, (3) changes and deletes organization titles in the section on administrative controls and (4) makes minor revisions to locations of sample collection sites for the radiological monitoring program. The amendment also divides Appendix B Technical Specifications into two parts: Part I—Radiological Environmental Technical Specifications, and Part II—Environmental Protection Plan (Non-radiological) Technical Specifications.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for this license amendment relating to the deletion of the endangered sea turtle programs, and has concluded that an environmental impact statement is not warranted because the action will not significantly affect the quality of the human environment. The Commission has determined that the organization changes in the administrative controls section of the environmental technical

specifications and the changes to locations of sample collection sites for the radiological monitoring program will not result in any significant environmental impact and pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with these changes. The Commission has determined that the deletion of water quality requirements is a ministerial action required as a matter of law and that therefore no environmental impact statement or environmental impact appraisal and negative declaration need be prepared in connection with this action.

For further details with respect to this action, see (1) the applications for amendment dated October 27, 1980 and March 12, 1981, (2) Amendment No. 50 to License No. DPR-67, and (3) the Commission's letter to the licensee dated May 21, 1982, and related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 21st day of May 1982.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-14799 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289-SP (Restart)]

**Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Notice of Oral Argument**

Notice is hereby given that, in accordance with the Appeal Board's order of May 17, 1982, oral argument on the emergency planning issues indicated in the order will be heard at 9:30 a.m. on Thursday, June 24, 1982, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: May 26, 1982.

For the Appeal Board.

C. Jean Shoemaker,  
Secretary to the Appeal Board.

[FR Doc. 82-14803 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

### Nuclear Power Plant Staff Working Hours

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Publication of revised policy regarding nuclear power plant staff working hours

**SUMMARY:** On February 11, 1982, the Nuclear Regulatory Commission published a "Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors," 47 FR 7352.

Comments received since publication have revealed questions concerning the policy statement. Accordingly, the policy statement has been revised and the revised version is reproduced below. Changes include: (1) The addition of a sentence which explicitly states that the objective of the working hour policy is to have operating personnel work an 8-hour day, 40-hour week; (2) The addition of a phrase to indicate that the stated working hour restrictions are applicable during extended periods of shutdown for refueling, major maintenance or major plant modifications; and (3) The addition of a phrase exempting extended shutdown periods from the requirements to consider use of overtime only on an individual basis.

### Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors

Licenses of operating plants and applicants for operating licenses shall establish controls to prevent situations where fatigue could reduce the ability of operating personnel to keep the reactor in a safe condition. The controls should focus on shift staffing and the use of overtime—key job-related factors that influence fatigue.

The objective of the controls would be to assure that, to the extent practicable, personnel are not assigned to shift duties while in a fatigued condition that could significantly reduce their mental alertness or their decision making capability. The controls shall apply to the plant staff who perform safety-related functions (e.g., senior reactor operators, reactor operators, health physicists, auxiliary operators, and key maintenance personnel).

Enough plant operating personnel should be employed to maintain adequate shift coverage without routine heavy use of overtime. The objective is to have operating personnel work a

normal 8-hour day, 40-hour week while the plant is operating. However, in the event that unforeseen problems require substantial amounts of overtime to be used, or during extended periods of shutdown for refueling, major maintenance or major plant modifications, on a temporary basis, the following guidelines shall be followed:

a. An individual should not be permitted to work more than 16 hours straight (excluding shift turnover time).

b. An individual should not be permitted to work more than 16 hours in any 24-hour period, nor more than 24 hours in any 48-hour period nor more than 72 hours in any seven day period (all excluding shift turnover time).

c. A break of at least eight hours should be allowed between work periods (including shift turnover time).

d. Except during extended shutdown periods, the use of overtime should be considered on an individual basis and not for the entire staff on a shift.

Recognizing that very unusual circumstances may arise requiring deviation from the above guidelines, such deviation shall be authorized by the plant manager or his deputy, or higher levels of management. The paramount consideration in such authorization shall be that significant reductions in the effectiveness of operating personnel would be highly unlikely.

In addition, procedures are encouraged that would allow licensed operators at the controls to be periodically relieved and assigned to other duties away from the control board during their tour of duty.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lawrence P. Crocker, (301) 492-8357.

Dated at Bethesda, Maryland, this 25th day of May, 1982.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Acting Chief, Licensee Qualifications Branch,  
Division of Human Factors Safety.

[FR Doc. 82-14801 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

### South Carolina Department of Health and Environmental Control and the Nuclear Regulatory Commission; Memorandum of Agreement Related to Use of Third Party Data and Regulation of NRC Licensee-Shippers of Radioactive Waste to the Barnwell Facility

The Memorandum of Agreement published below describes the cooperative regulatory policy being implemented by the NRC and the State of South Carolina with regard to enforcement activities at the low-level

radioactive waste disposal facility located at Snelling, South Carolina. The basis for this Memorandum of Agreement are two-fold: (1) The Office of the Executive Legal Director, NRC, recently determined that information gathered by South Carolina State Inspectors can be used by the NRC in enforcement actions against NRC licensees; (2) Pursuant to the provisions of the South Carolina Radioactive Waste Transportation and Disposal Act of 1980, (Act No. 429), the State enhanced control over the shipment of radioactive waste into and within the State, and intensified its enforcement actions.

#### FOR FURTHER INFORMATION CONTACT:

Robert E. Trojanowski, Regional State Liaison Officer, Telephone 404-221-5597, U.S. Nuclear Regulatory Commission, R11, 101 Marietta St., N.W., Suite 3100, Atlanta, Georgia 30303. Dated at Atlanta, Georgia this 17th day of May 1982.

For the Nuclear Regulatory Commission.

James P. O'Reilly,

Regional Administrator, Region II.

### Memorandum of Agreement Between the U.S. Nuclear Regulatory Commission and the S.C. Department of Health and Environmental Control, Related to the Use of Third Party Data and the Regulation of NRC Licensee-Shippers of Radioactive Waste to the Barnwell Facility; Background

The Chem-Nuclear Systems, Inc. (CNSI) low level radioactive waste disposal facility located at Snelling, South Carolina, has been in operation since 1971. Both the U.S. Nuclear Regulatory Commission (NRC) and the S.C. Department of Health and Environmental Control (DHEC) have responsibilities for the regulation of NRC licensees who ship radioactive waste to the disposal facility. NRC's regulatory authority is derived from the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and the regulations implementing these Acts contained in 10 CFR 71.5. South Carolina, an agreement State, derives its regulatory authority from the applicable State regulations which are compatible with the Federal regulations cited above.

CNSI operations are regulated under both a South Carolina agreement State license and an NRC license which authorizes the receipt and burial of special nuclear material (SNM) in quantities greater than authorized under State jurisdiction. Both DHEC and the NRC conduct routine periodic inspection for those portions of site operations

covered by their respective licenses. Since April 1979, DHEC has essentially maintained full time inspection coverage at the disposal facility. At the request of the State, NRC Region II has provided 13 days of inspection effort per calendar quarter since September 1979.

Pursuant to the provisions of the South Carolina Radioactive Waste Transportation and Disposal Act of 1980 (Act No. 429), the State enhanced control over the shipment of radioactive waste into and within the State, and intensified its enforcement actions. Specifically, the Act directs the Department of Health and Environmental Control (DHEC) to issue permits for the transportation of radioactive waste, and authorizes civil sanctions against shippers located in or out of the State for violations committed within South Carolina.

The Office of the Executive Legal Director, NRC, recently determined that information gathered by DHEC inspectors can be used by the NRC in enforcement actions against NRC licensees. Therefore, DHEC and NRC desire to coordinate their enforcement activities regarding the transportation and disposal of radioactive waste into and within South Carolina in order to avoid duplicative enforcement activities and promote the more efficient use of available inspector resources, both State and federal, thereby increasing the efficiency and effectiveness of their respective enforcement activities. Accordingly, NRC believes that DHEC's recommendation that the current level of NRC inspection coverage at the radioactive waste disposal facility at Snelling, South Carolina, which receives full time inspection coverage from DHEC, be reduced is well taken in light of DHEC's proven record of effective inspection and enforcement since the enactment of Act 429 of 1980 and its willingness to make its inspectors and reports available for use in NRC enforcement actions. NRC will continue to inspect its licensees to the applicable federal regulations, but the emphasis of these inspections will be at the point of origin as opposed to being conducted at the low level waste disposal facility.

Both the NRC and DHEC recognize that the adoption of these policies must be approached with a spirit of cooperation to include the timely exchange of pertinent information relative to NRC licensee-shipper data and other applicable information. This Memorandum of Agreement is intended to define broad policy matters and both parties agree to develop specific procedures, as necessary, to implement these policies.

#### Purpose

The purpose of this Memorandum of Agreement is to implement certain policies advantageous to both parties, and to promote compliance with State and federal laws regarding shipments of radioactive waste by NRC licensees into or within the State of South Carolina.

#### Agreements and Understandings

In order to define and clarify the roles of DHEC and the NRC, the parties agree as follows:

1. This agreement does not alter the authority of the State through DHEC to issue and to terminate transportation permits, to regulate operations at the site that are normally under the jurisdiction of the State, and to take any other actions normally under State jurisdiction.

2. This agreement does not alter the authority of the NRC to take enforcement actions against its licensees who violate NRC regulations, and to take any other actions normally under federal jurisdiction.

3. Efforts will be made by both parties to avoid duplicative and excessive action against a shipper for the same violation. However, this is not meant to preclude appropriate dual actions such as termination of a transportation permit by DHEC and NRC enforcement action for the same violation. Specifically, NRC will not normally impose civil penalties against NRC licensee-shippers when:

a. The evidence of violation is discovered by DHEC in the absence of NRC; and

b. A DHEC order for suspension or imposition of a civil penalty appears to NRC to provide an adequate remedial incentive for the licensee-shipper; and

c. The real or potential threat to the general public or the environment is determined to be minimal; and

d. There are not other aggravated or repetitive circumstances indicative of a general or specific disregard for regulatory requirements.

4. When a violation of State or federal requirements is observed by a DHEC inspector relative to a shipment by an NRC licensee, the following steps will be taken:

a. DHEC will notify NRC Region II by telephone within 24 hours of finding of the violation. On the basis of this notification, NRC will make the determination whether or not to dispatch an NRC inspector and/or investigator to the site.

b. If the NRC determines that an inspector or investigator should be dispatched to the disposal site, those personnel will be dispatched within 24 hours. DHEC may require, when

appropriate, that the package or shipment be held until the NRC team arrives on the site.

c. If the decision is made that an NRC team will not respond to the site, DHEC will be informed of this decision, and NRC will consider other action based on the State evidence.

d. If enforcement action is warranted, DHEC will furnish a copy of its supporting evidence to the NRC. The amount of information required will be that necessary for effective enforcement action. Information will be in a mutually agreeable format and will be provided in a timely fashion.

e. This agreement recognizes that should an NRC licensee formally protest enforcement action based on information supplied by a DHEC inspector, that DHEC inspector may be required to provide testimony at an NRC hearing. The NRC will fund all travel costs associated with such testimony, and will supply appropriate legal counsel for the DHEC inspector.

5. Efforts will be made by both parties to keep the other informed in a timely manner of any significant enforcement actions, status of pending cases, changes in regulations, interpretations, new developments, Information Notices, Circulars, Bulletins or other announcements and information relating to their respective enforcement responsibilities at the Barnwell facility.

6. Neither the NRC nor DHEC will issue press releases or otherwise publicize contemplated enforcement action or evidence concerning an NRC licensee-shipper without prior notification to the other party to this agreement.

7. DHEC will notify NRC in a timely manner of any intent to diminish inspection frequencies of NRC licensee shipments of radioactive waste within South Carolina.

8. Routine or special inspections of arriving shipments at the disposal facility of CNSI and of NRC licensee-shippers will occasionally be made, as necessary, by NRC to ensure compliance with the applicable federal regulations.

9. The principal NRC contact for these matters is the Chief, Technical Inspection Branch, Engineering and Technical Programs Division, U.S. Nuclear Regulatory Commission, Region II, Atlanta, Georgia 30303. (404) 221-5525.

The principal contact for DHEC for these matters is the Chief, Bureau of Radiological Health, South Carolina Department of Health and Environmental Control, Columbia, South Carolina 29201. (803) 758-5548

10. Nothing in this agreement shall restrict or extend the constitutional or statutory authority of either agency. This agreement shall take effect immediately upon endorsement by S.C. Department of Health and Environmental Control and the U.S. Nuclear Regulatory Commission, and may be terminated upon thirty (30) days written notice by either party.

For the South Carolina Department of Health and Environmental Control.

Dated: May 4, 1982.

Robert S. Jackson,

Commissioner, South Carolina Department of Health and Environmental Control.

Dated this 17th day of May 1982, at Atlanta, Georgia.

For the United States Nuclear Regulatory Commission.

James P. O'Reilly,

Regional Administrator, Region II.

[FR Doc. 82-14300 Filed 5-28-82; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Radio Technical Commission for Aeronautics (RTCA); Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of Special Committee 136 on Installation of Emergency Locator Transmitters (ELT) in Aircraft to be held on June 21-23, 1982 in Conference Rooms 5A-B, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 1:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Thirteenth Meeting Held on April 5-7, 1982; (3) Review Second Draft of Committee Report on Minimum Operational Performance Standards for Emergency Locator Transmitters; (4) Consideration of Comments Received on

Second Draft Report; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 21, 1982.

Karl F. Bierach,  
Designated Officer.

[FR Doc. 82-14690 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

#### Radio Technical Commission for Aeronautics (RTCA); Special Committee 150—Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation above Flight Level 290 to be held on June 24-25, 1982 in RTCA First Floor Conference Room, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review of Committee Terms of Reference; (3) Identification of Elements Related to Establishing Minimum System Performance Standards for Vertical Separation; (4) Establish Working Groups to Address Specific Tasks; (5) Develop Committee Work Program and Schedule for Accomplishment; (6) Assignment of Tasks; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain

information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006, (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on May 25, 1982.

Karl F. Bierach,  
Designated Officer.

[FR Doc. 82-14692 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-13-M

### Maritime Administration

#### Change of Name of Approved Trustee

Notice is hereby given that effective December 23, 1977, Girard Trust Bank, Philadelphia, Pennsylvania, changed its name to Girard Bank.

Dated: May 26, 1982.

By Order of the Maritime Administrator,  
Georgia Pournaras Stamas,  
Assistant Secretary.

[FR Doc. 82-14751 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-81-M

### Research and Special Programs Administration

#### Grants and Denials of Applications for Exemptions

**AGENCY:** Materials Transportation Bureau, DOT.

**ACTION:** Notice of grants and denials of applications for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in April 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

#### RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2587-X	DOT-E 2587	Denison, Inc., Fredonia, KS	49 CFR 173.315(a)(1)	To authorize shipment of liquid oxygen in non-DOT specification cargo tanks. (Mode 1.)
2709-X	DOT-E 2709	U.S. Department of Defense, Washington, DC.	49 CFR 173.52, 173.93, 177.821, 177.834(1)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S metal drum/polyethylene containers or non-DOT specification drums for shipment of Class A and Class B explosive liquids. (Mode 1.)
2732-X	DOT-E 2732	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a), 173.65(b), 173.65(c)	To authorize use of non-DOT specification packagings for the transportation of high explosives. (Modes 1 and 2.)

## RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2981-X	DOT-E 2981	Hercules, Inc., Wilmington, DE	49 CFR 173.64(a), 173.93(a)	To authorize transport of certain Class A and Class B explosives in packagings not provided in 49 CFR. (Modes 1 and 2.)
2981-X	DOT-E 2981	Austin Powder Co., Cleveland, OH	49 CFR 173.64(a), 173.93(a)	To authorize transport of certain Class A and Class B explosives in packagings not provided in 49 CFR. (Modes 1 and 2.)
3549-X	DOT-E 3549	U.S. Department of Energy, Washington, DC	49 CFR 173.65(a), 173.77	To authorize shipment of certain Class A explosives in special, non-DOT specification packaging. (Modes 1 and 2.)
3563-X	DOT-E 3563	U.S. Department of Energy, Washington, DC	49 CFR 172.101, 173.302(a), 173.395(a)	To authorize use of non-DOT specification cylinders for shipment of a nonflammable, nonliquefied compressed gas. (Modes 1, 2, 4, and 5.)
3648-X	DOT-E 3648	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize transport of certain cryogenic liquids in non-DOT specification vacuum insulated cargo tanks. (Mode 1.)
4291-X	DOT-E 4291	United Technologies Corp., Sunnyvale, CA	49 CFR 173.239(a)(2)	To authorize use of a non-DOT specification aluminum portable tank for the shipment of a certain oxidizer. (Modes 1 and 2.)
4460-X	DOT-E 4460	Ethyl Corp., Baton Rouge, LA	49 CFR 173.29, 176.74(c), 176.76(g)(3)	To authorize special stowage limits for DOT Specification 51 portable tanks containing metallic sodium. (Mode 3.)
4554-X	DOT-E 4554	B.F. Goodrich Chemical Co., Cleveland, OH	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification cargo tank for transportation of liquefied ethylene. (Mode 1.)
4661-X	DOT-E 4661	Foote Mineral Co., Exton, PA	49 CFR 173.34(e)(1)	To authorize transport of butyl lithium in petroleum solvent in DOT specification 4BA240 cylinders with alternative retest procedures. (Modes 1, 2 and 3.)
5196-X	DOT-E 5196	Shell Oil Co., Houston, TX	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification cargo tank for transportation of a flammable gas. (Mode 1.)
5861-X	DOT-E 5861	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel DOT Specification 4DS cylinder, for transportation of a nonflammable compressed gas. (Modes 1, 2, 4, and 5.)
5948-X	DOT-E 5948	U.S. Department of Energy, Washington, DC	49 CFR 173.398(c)	To authorize shipment of radioactive waste materials in DOT Specification 17C or 17H steel drums or DOT Specification 19A or 19B wooden crates in ATMX 500 or 600 rail cars. (Mode 2.)
6016-X	DOT-E 6016	Strate Welding Supply Co., Inc., Buffalo, NY	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-P	DOT-E 6016	Magnolia Welding Supply Co., Houston, TX	49 CFR 173.315(a)	To become a party to Exemption 6016. (Mode 1.)
6016-X	DOT-E 6016	Airco, Inc., Murray Hill, NJ	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Harvey Co., Greensburg, PA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Langdon Oxygen Co., Texarkana, TX	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	O. E. Meyer & Sons, Inc., Sandusky, OH	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6064-X	DOT-E 6064	Martin Marietta Chemicals (Sodyeco Div), Charlotte, NC	49 CFR 173.65(e), 178.24-4(a)	To authorize transport of a high explosive in DOT Specification 21P fiber drum having an inside polyethylene container similar to DOT Specification 2U with certain exceptions. (Mode 1.)
6113-X	DOT-E 6113	Providence Gas Co., Providence, RI	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113-X	DOT-E 6113	Valley Gas Co., of Cumberland, RI	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113-X	DOT-E 6113	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6205-X	DOT-E 6205	Northern Petrochemical Co., Morris, IL	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
6205-X	DOT-E 6205	Chicago Bridge and Iron Co., Oak Brook, IL	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
6243-X	DOT-E 6243	Liquid Carbonic Corp., Chicago, IL	49 CFR 172.101, 172.101, 173.315(a), 173.315(a)	To authorize use of a non-DOT specification vacuum insulated cargo tank for transportation of liquefied carbon monoxide. (Mode 1.)
6309-X	DOT-E 6309	Insta-Foam Products, Inc., Joliet, IL	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification steel portable tanks for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6309-X	DOT-E 6309	Olin Corp., Stamford, CT	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification steel portable tanks for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1 and 2.)
6464-X	DOT-E 6464	Fall River Gas Co., Fall River, MA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for shipment of certain flammable gases. (Mode 1.)
6464-X	DOT-E 6464	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for shipment of certain flammable gases. (Mode 1.)
6501-X	DOT-E 6501	GOEX, Inc., Cleburne, TX	49 CFR 173.62	To authorize transport of liquid high explosives in DOT Specification 6D steel drums overpacked with a DOT Specification 2SL liner. (Mode 1.)
6607-X	DOT-E 6607	Bio-Lab, Inc., Conyers, GA	49 CFR 173.217(a)	To authorize a preformed expanded polystyrene inner pack, overpacked in a fiberboard box not provided for in the regulations for shipment of a certain oxidizing material. (Modes 1, 2, and 3.)
6657-P	DOT-E 6657	Mansfield Oxygen Corp., Mansfield, OH	49 CFR 173.34(e)(15)(i), 175.3	To become a party to Exemption 6657. (Modes 1, 2, 3, 4, and 5.)
6726-X	DOT-E 6726	Born Free Plastics, Inc., Gardena, CA	49 CFR & F, Part 173, Subpart D	To authorize manufacture, marking and sale of non-DOT specification reusable blow-molded polyethylene containers for shipment of certain corrosive liquids, flammable liquids and oxidizers. (Modes 1, 2.)
6735-X	DOT-E 6735	Great Lakes Chemical Corp., El Dorado, AR	49 CFR 173.252(g)	To authorize transport of bromine in a non-DOT specification cylinder constructed in accordance with all requirements of DOT Specification 4B, 4BA or 4BW except that the cylinder shall be marked "DOT-E 6735" in lieu of the DOT specification marking. (Modes 1, 2, and 3.)
6746-X	DOT-E 6746	The Firestone Tire and Rubber Co., Akron, OH	49 CFR 173.315(a)(1)	To authorize shipment of anhydrous ammonia in portable tanks built, marked and maintained in compliance with the DOT Specification MC-331 cargo tank. (Modes 1 and 3.)
6806-X	DOT-E 6806	Dow Chemical Co., Midland, MI	49 CFR 173.302(a), 175.3	To authorize transport of a flammable gas in a DOT Specification 3E1800 cylinder by passenger-carrying aircraft. (Mode 5.)
6826-X	DOT-E 6826	Richmond Lox Equipment Co., Livermore, CA	49 CFR 172.101, 173.314(c)	To authorize manufacture, marking and sale of non-DOT specification vacuum insulated tank car tanks for transportation of liquefied flammable compressed gases. (Mode 2.)

## RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6883-X	DOT-E 6883	Hedwin Corp., Baltimore, MD.	49 CFR 173.119, 173.154, 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.256(a), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(g), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.288, 173.289(a)(1), 173.292(a)(1), 173.346(a), 178.19.	To authorize manufacturer, marking and sale of non-DOT specification molded polyethylene containers for shipment of oxidizers, poison B, corrosive liquids, organic peroxides and flammable liquids. (Modes 1, 2, and 3.)
6895-X	DOT-E 6895	Westinghouse Electric Corp., Bloomfield, NJ.	49 CFR 173.140(a)(1), 175.3	To authorize shipment of a flammable liquid in a DOT Specification 37A steel drum. (Modes 1, 2, 3, and 4.)
6919-X	DOT-E 6919	Northern Petrochemical Co., Morris, IL	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification insulated cargo tank for shipment of certain flammable gases. (Mode 1.)
6921-X	DOT-E 6921	Cities Service Co., Tulsa, OK.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification portable tank for the transportation of liquified helium. (Modes 1 and 3.)
6921-X	DOT-E 6921	Airco Industrial Gases, Murray Hill, NJ.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification portable tank for the transportation of liquified helium. (Modes 1 and 3.)
6926-X	DOT-E 6926	Union Carbide Corp., New York, NY.	49 CFR 173.365(a)(6), 173.365(a)(6), 178.238-3, 178.238-3.	To authorize use of a five-ply DOT Specification 44D extensible kraft paper bag not presently authorized for the shipment of poisonous solids. (Modes 1, 2, and 3.)
6984-X	DOT-E 6984	Austin Powder Co., Cleveland, OH	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubs, overpacked in an IME Standard 22 container. (Mode 1.)
6984P-X	DOT-E 6984	EDS Engineering & Drilling Co., Washington, MO.	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To become a party to Exemption 6984. (Mode 1.)
6985-X	DOT-E 6985	U.S. Department of Energy, Washington, DC.	49 CFR 173.154(a)(7), 173.86(a).	To authorize shipment of diallyl phthalate-pyrotechnic materials in a aluminum case packed in a DOT Specification 15A wooden box. (Mode 1.)
7014-X	DOT-E 7014	Eurotainer, Paris, France	49 CFR 173.125(a)	To authorize use of non-DOT specification intermodal portable tanks for transportation of ethyl alcohol. (Modes 1, 2, and 3.)
7015P-X	DOT-E 7015	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 7015. (Modes 1, 2, and 3.)
7062-X	DOT-E 7062	Bennett Industries, Pacoima, CA	49 CFR 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To authorize variation from the specifications of a DOT Specification 34 polyethylene container for certain liquid materials. (Modes 1, 2, and 3.)
7073-X	DOT-E 7073	Ethyl Corp., Baton Rouge, LA.	49 CFR 173.354(a)(6)	To authorize use of non-DOT specification portable tanks for transportation of a Class B poisonous liquid. (Modes 1, 2, and 3.)
7227-X	DOT-E 7227	Richmond Lox Equipment Co., Livemore, CA.	49 CFR 172.101, 173.315	To authorize manufacture, marking and sale of vacume insulated non-DOT specification portable tanks for transportation of liquid nitrogen. (Mode 3.)
7438-X	DOT-E 7438	Ethyl Corp., Baton Rouge, LA.	49 CFR 173.354(a)(5)	To authorize use of non-DOT specification cargo tanks for the transportation of a Class B poisonous liquid (Mode 1.)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking, and sale of certain non-specification cargo tanks for the transportation of certain flammable and corrosive liquids and poison waste material. (Mode 1.)
7542-X	DOT-E 7542	U.S. Cylinders, Inc., Citronelle, AL	49 CFR 173.303(a)	To authorize manufacture, marking and sale of non-DOT specification steel cylinders for ship of certain flammable gases. (Modes 1 and 2.)
7558-X	DOT-E 7558	Union Carbide Corp., Danbury, CT.	49 CFR 173.315(a).	To authorize the use of a non-DOT specification portable tank for the transportation of certain nonflammable gases. (Modes 1 and 3.)
7598-X	DOT-E 7598	Pratt & Whitney Aircraft Group, East Hartford, CT.	49 CFR 173.154(a), 173.182(b), 173.194(a), 173.234(a), 173.245(a), 173.249(a), 173.263, 173.264, 173.266, 173.268, 173.272, 173.283, 173.287, 173.352, 173.370, 178.255-1(a).	To authorize shipment of certain corrosive materials, oxidizers and Class B poisons in DOT Specification 60 except the ends are bolted instead of welded. (Mode 1.)
7607-X	DOT-E 7607	Engineering-Science, McLean, VA	49 CFR 172.101, 175.3.	To authorize shipment of hydrogen in certain non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7607-X	DOT-E 7607	Foxboro Analytical, South Norwalk, CT.	49 CFR 172.101, 175.3.	To authorize shipment of hydrogen in certain non-DOT specification seamless stainless steel cylinders. (Mode 5.)
7616-X	DOT-E 7116	The Kansas City Southern Railway Co., Kansas City, MO.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7657-X	DOT-E 7657	Welker Engineering Co., Sugar Land, TX.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification stainless steel cylinders for transportation of compressed gases. (Modes 1 and 4.)
7770-X	DOT-E 7770	Fauvet-Girel, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylichloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7770-X	DOT-E 7770	Eurotainer, Paris, France	49 CFR 173.143, 173.264(b)(4)	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylichloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7895-X	DOT-E 7895	Dow Corning Corp., Midland, MI.	49 CFR 173.245(a), 173.290.	To authorize use of DOT Specification 51 stainless steel portable tanks for shipment of certain corrosive materials. (Modes 1 and 3.)
7915-X	DOT-E 7915	U.S. Department of Defense, Washington, DC.	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7915-X	DOT-E 7915	Olin Corp., East Alton, IL.	49 CFR 173.93(b)	To authorize transport of certain propellant explosives in water in DOT Specification MC-307 or MC-312 cargo tanks. (Mode 1.)
7933-X	DOT-E 7933	Greif Brothers Corp., Springfield, NJ.	49 CFR 173.119(a)(b), 173.124, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.364, 178.19.	To authorize manufacture, marking, and sale of non-DOT specification reusable, blow-molded, polyethylene containers for the transportation of certain corrosive and flammable liquids and an oxidizer. (Modes 1, 2, and 3.)
7954-X	DOT-E 7954	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.504, 173.301(d)(2)	To authorize shipment of nonflammable gases in manifolded DOT Specification 3A2400 or 3AA2400 cylinders. (Mode 1.)

## RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7997-X	DOT-E 7997	Dow Chemical Co., Midland, MI	49 CFR 173.245	To authorize transport of bromine chloride in a DOT Specification MC-312/ISO type lead lined portable tank by highway and vessel. (Modes 1 and 3.)
8129-P	DOT-E 8129	IT Corp., Wilmington, CA	49 CFR Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8153-X	DOT-E 8153	Chemical Waste Management, Inc., Emelle, AL	49 CFR 173.119(a), 173.245(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of certain waste flammable liquids and corrosive materials. (Mode 1.)
8153-X	DOT-E 8153	Browning-Ferris Industries Chemical Services Inc., Houston, TX	49 CFR 173.119(a), 173.119(m), 173.245(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of certain waste flammable liquids and corrosive materials. (Mode 1.)
8162-X	DOT-E 8162	Structural Composites Industries, Inc., Pomona, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
8180-X	DOT-E 8180	Dow Corning Corp., Midland, MI	49 CFR 173.136(a)(3), 173.247(a)(7)	To authorize use of non-DOT specification steel drums for shipment of a corrosive material and a flammable liquid. (Modes 1 and 2.)
8284-X	DOT-E 8284	Allied Corp., Morristown, NJ	49 CFR 173.272(a)(i)(2), 174.3, 179.202-12(b).	To authorize shipment of oleum in DOT Specification 103AW or 111A100W2 tank cars equipped with safety valves instead of safety vents. (Mode 2.)
8289-X	DOT-E 8289	Olin Corp., East Alton, IL	49 CFR 173.93	To authorize shipment of certain identified solid propellant explosive, Class B, in non-DOT specification cylindrical metal cans overpacked in fiberboard boxes. (Mode 1.)
8303-X	DOT-E 8303	Martin Marietta Chemicals, Charlotte, NC	49 CFR 172.101, 173.154	To authorize transport of water-wet 2,4 dinitrophenol as flammable solid in DOT Specification 56 aluminum portable tanks. (Mode 1.)
8309-X	DOT-E 8309	Carrier Corp., Syracuse, NY	49 CFR 173.306(e)	To authorize shipment of refrigerating machines having two charged vessels containing more than 2,000 pounds of Freon (Group 1 refrigerant) but not more than 10,000 pounds. (Modes 1, 2, and 3.)
8328-X	DOT-E 8328	U.S. Coast Guard Research & Development Center, Washington, DC	49 CFR 173.304(a), 173.306(a), 175.3	To authorize use of a non-DOT specification container for the transportation of a nonflammable foam-gas mixture. (Modes 1, 3, and 4.)
8352-X	DOT-E 8352	Degussa Corp., Teterboro, NJ	49 CFR 173.154	To authorize shipment of ammonium persulfate and sodium persulfate in non-DOT specification plastic bags similar to DOT Specification 44P bags. (Modes 1, 2, and 3.)
8353-X	DOT-E 8353	Thiokol Corp., Huntsville, AL	49 CFR 178.252-2(b)	To authorize an alternate closure device in a DOT specification 56 portable tank for the transportation of ammonium perchlorate. (Mode 2.)
8371-X	DOT-E 8371	Connecticut Bulk Carriers, Inc., Stamford, CT	49 CFR 173.271	To authorize use of a non-authorized DOT specification portable tank lined with baked phenolic resin, for shipment of corrosive liquids. (Modes 1 and 3.)
8377-X	DOT-E 8377	Teledyne McCormick Selph, Hollister, CA	49 CFR 172.101, 173.113, 175.3	To authorize transport of devices described as detonating fuzes, Class C explosives in non-DOT specification fiberboard boxes packed in non-DOT specification strong wooden boxes. (Modes 1 and 4.)
8453-P	DOT-E 8453	D. C. Guelich Explosive Co., Clearfield, PA	49 CFR 173.114a	To become a party to Exemption 8453. (Mode 1.)
8468-X	DOT-E 8468	Hedwin Corp., Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.288, 173.346.	To authorize manufacture, marking and sale of DOT Specification 34 drums for shipment of certain flammable, poison B, corrosive liquids and organic peroxides. (Modes 1, 2, and 3.)
8489-P	DOT-E 8489	Olin Corp., Stamford, CT	49 CFR 173.154, 173.182, 173.245b	To become a party to Exemption 8489. (Modes 1 and 3.)
8499-X	DOT-E 8499	Hedwin Corp., Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.288, 173.346.	To authorize manufacture, marking and sale of DOT Specification 34 drums of 30-gallon capacity for shipment of certain flammable, poison B, corrosive liquids and oxidizers. (Modes 1, 2, and 3.)
8556-X	DOT-E 8556	L'Air Liquide Corp., Paris, France	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks for shipment of liquefied hydrogen. (Modes 1 and 3.)
8638-X	DOT-E 8638	Ethyl Corp., Baton Rouge, LA	49 CFR 172.101 column 7a, Part 107 Appendix B1.	To authorize stowage of drums containing motor fuel antiknock compound underdeck instead of on deck without marking of the exemption number on the drum. (Mode 3.)
8644-X	DOT-E 8644	Richmond Lox Equipment Co., Livermore, CA	49 CFR 172.101, 173.315	To authorize shipment of liquid nitrogen or oxygen in non-DOT specification tank motor vehicles (cargo tanks). (Mode 3.)
8660-X	DOT-E 8660	Hach Co., Ames, IA	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 173.126, 173.138, 173.237, 173.246.	To authorize shipment of certain small quantities of Class B poisonous liquids and solids, excepted from labeling, when packaged in specially designed containers. (Mode 1.)
8668-P	DOT-E 8668	Sherwood Medical Industries, Inc., Deland, FL	49 CFR 173.119, 175.3	To become a party to Exemption 8668. (Modes 1, 2, and 4.)
8704-X	DOT-E 8704	Thiokol Corp., Elkton, MD	49 CFR 172.101 column 6(b)	To authorize shipment of two rocket motors having excess gross weight. (Mode 4.)
8732-P	DOT-E 8732	Dow Chemical Co., Midland, MI	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8775-X	DOT-E 8775	Osmose Wood Preserving Co., Buffalo, NY	49 CFR 173.366(b)(3)	To authorize import shipments of arsenic trioxide in metal drums with a maximum capacity and gross weight which exceeds that presently authorized. (Modes 1 and 2.)

## NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8658-N	DOT-E 8658	Waters Associates, Inc., Milford, MA	49 CFR 172.101, 173.118(a), 173.500(b)(4), 175.3, 175.30, 176.3, Paris 100-199.	To authorize the shipment of small quantities of flammable liquids in stainless steel, brass, or gold bellows assembly overpacked in a zip-loc polyethylene envelopment or polystyrene cases in a B-flute, single wall, corrugated fiberboard box. (Modes 1, 2, 3, 4, and 5.)
8770-N	DOT-E 8770	Eastman Kodak Co., Rochester, NY	49 CFR 172.402, 173.286(e)	To authorize shipment of a corrosive liquid and minute quantity of a flammable, poisonous solid in DOT Specification 12A, 12B or 15A fiberboard or wooden boxes with inside glass bottles. (Modes 1, 2, and 3.)

## NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8772-N	DOT-E 8772	Armak Co., Chicago, IL	49 CFR 172.101 column 6(b)	To authorize an increase in the net quantity limitation, not exceeding five gallons per package, for shipment of certain corrosive liquids and flammable liquids that are corrosive, when shipped via cargo-only aircraft. (Mode 4.)
8784-N	DOT-E 8784	Boeing Aircraft Co., Seattle, WA	49 CFR 173.245, 173.346	To authorize use of a DOT Specification 57 steel portable tank for shipment of certain corrosive materials or poison B liquids. (Mode 1.)
8786-N	DOT-E 8786	Gas Spring Corp., Colmar, PA	49 CFR 173.1200(a)(8)(i), 173.306(a)(1), 175.3	To authorize use of a non-DOT specification cylinder for shipment of limited quantities of compressed gases. (Modes 1, 2, 3, and 4.)
8788-N	DOT-E 8788	Frontier Industries, Santa Maria, CA	49 CFR 173.119, 178.340-7	To authorize manufacture, marking and sale of non-DOT specification cargo tanks similar to DOT Specification MC-312 except for circumferential reinforcement with ring stiffeners, for shipment of crude oil, petroleum, classed as a flammable liquid. (Mode 1.)
8790-N	DOT-E 8790	Rose Industries, Inc., Angleton, TX	49 CFR 173.119(a), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5	To authorize manufacture, marking and sale of non-DOT specification cargo tanks similar to DOT Specification MC-307/312 except for bottom outlet valve variation for shipment of liquid and semi-solid waste material. (Mode 1.)

## EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8673-X	DOT-E 8673	Alaska International Airline, Anchorage, AK	49 CFR 172.101(6)(b), 175.30	To authorize limited shipment of inhibited hydrochloric acid solution in a DOT Specification 60 rubber lined portable tank. (Mode 4.)
EE 8738-X	DOT-E 8738	Flying Tiger Line, Los Angeles, CA	49 CFR 175.320(a)	To authorize transport of Class A explosives loaded on the same aircraft with Class C explosives and other cargo not presently permitted. (Mode 4.)
EE 8746-X	DOT-E 8746	Rich International Airways, Inc., Miami, FL	49 CFR 172.101, 175.320(a)	To authorize transport of Class A explosives loaded on the same aircraft with Class C explosives. (Mode 4.)
EE 8803-N	DOT-E 8803	Resource Technology Services, Inc., Devon, PA	49 CFR 172.101	To authorize one-time movement of silver picrate in two non-DOT specification glass bottles, packed in removable head metal drums and surrounded therein by vermiculite. (Mode 1.)

## DENIALS

- 5200-X Request by E. I. du Pont de Nemours & Company, Inc., Wilmington, DE to authorize use of DOT Specification 105A400W and 114A340W tank car tanks for shipment of flammable and nonflammable dispersant and refrigerant gases and mixtures denied April 20, 1982, as being unnecessary.
- 8728-N Request by S.A.Y. Industries Inc., Leominster, MA to authorize shipment of packages of Gasohol Plus (over 99% methyl alcohol), classed as a flammable liquid, without the flammable liquid label thereon denied April 20, 1982.
- 8771-N Request by Spencer Kellogg, Buffalo, NY to authorize marking of a compartmented cargo tank loaded with both a flammable and a combustible resin solution with only the identification number of the flammable resin solution denied April 20, 1982.
- EE 8777-N Request by M&T Chemical Inc., Rahway, NJ to authorize an emergency exemption to ship tin tetrachloride, anhydrous DOT Specification 6D/2SL packaging denied April 30, 1982.
- 8796-N Request by Petroplex Acidizing, Inc., Midland, TX to authorize shipment of hydrochloric acid solution in non-DOT specification steel cargo tanks denied April 15, 1982.

Issued in Washington, DC,  
on May 19, 1982.

**J. R. Grothe,**  
Chief, Exemptions Branch, Office of  
Hazardous Materials Regulation,  
Materials Transportation Bureau.

[FR Doc. 82-14634 Filed 5-28-82; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

[Supplement to Department Circular; Public  
Debt Series—No. 14-82]

## Interest Rates; F-1987 Series

May 26, 1982.

The Secretary announced on May 25, 1982, that the interest rate on the notes designated Series F-1987, described in

Department Circular; Public Debt  
Series—No. 14-82 dated May 19, 1982,  
will be 13½ percent. Interest on the  
notes will be payable at the rate of 13½  
percent per annum.

**Paul H. Taylor,**  
Fiscal Assistant Secretary.

[FR Doc. 82-14767 Filed 5-28-82; 8:45 am]

BILLING CODE 4810-40-M

**Hazardous Substance Liability  
Insurance; Feasibility of Private  
Insurance for Post-Closure Financial  
Responsibility**

**AGENCY:** Office of Financial Institutions  
and Capital Markets Policy, Office of  
the Secretary, Treasury.

**ACTION:** Cancellation of public hearing.

**INFORMATION:** The Comprehensive  
Environmental Response, Compensation

and Liability Act of 1980 requires the President to make a determination, after a public hearing, on the feasibility of establishing or qualifying an optional system of private insurance for post-closure financial responsibility for hazardous waste disposal facilities. On May 5, 1982, the Department published a public notice (See 47 FR 19504) stating that a public hearing on this issue would be held on June 2, 1982 in the Main Treasury Building, Washington, D.C., if interested persons wished to make an oral presentation. The Department also stated that it would consider any written data that interested persons may wish to submit in lieu of making a presentation at a hearing.

Since no person has requested to make an oral presentation, there will be no hearing on June 2, 1982. The Department will consider, however, all

written comments that interested persons may wish to submit, provided such comments are received by June 9, 1982.

**ADDRESS:** All comments should be sent to Gordon Eastburn, Acting Deputy Assistant Secretary, Office of Financial

Institutions and Capital Markets Policy, Room 3025, Department of the Treasury, Washington, D.C., 20220.

**FOR FURTHER INFORMATION CONTACT:**

Mark G. Bender, Senior Economist, Office of Financial Institutions and Capital Markets Policy, Room 2206,

Department of the Treasury. Telephone (202) 566-2505.

Dated: May 26, 1982.

Gordon Eastburn,

*Acting Deputy Assistant Secretary.*

[FR Doc. 82-14821 Filed 5-28-82; 8:45 am]

**BILLING CODE 4810-28-M**

# Sunshine Act Meetings

Federal Register

Vol. 47, No. 105

Tuesday, June 1, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS

	<i>Items</i>
International Trade Commission .....	1
Legal Services Corporation .....	2, 3, 4

### 1

#### INTERNATIONAL TRADE COMMISSION

[USITC SE-82-20]

**TIME AND DATE:** 3:30 p.m., Tuesday, June 8, 1982.

**PLACE:** Room 117, 701 E Street, NW., Washington, D.C. 20436.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731-TA-93 (Frozen French Fried Potatoes from Canada)—briefing and vote.
6. Investigation 731-TA-94 (Bicycle Tires and Tubes from Taiwan)—vote.
7. Any items left over from previous agenda.

Portions closed to the public:

6. Investigation 731-TA-94 (Bicycle Tires and Tubes from Taiwan)—briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 523-0161.

[S-811-82 Filed 5-27-82; 10:14 am]

**BILLING CODE 7020-02-M**

### 2

#### LEGAL SERVICES CORPORATION

(Presidential Search Committee).

**TIME AND DATE:** 2 p.m.-5 p.m., Tuesday, June 15, 1982. (Continuation of the meeting is planned for June 16, 1982, as time permits)

**PLACE:** Legal Services Corporation, 733 15th Street, NW., Eighth floor conference room 2, Washington, D.C.

**STATUS OF MEETING:** Open (Portion of the meeting will be closed to discuss a personnel matter under 45 CFR 1622.5(a) and 1622.5(e)).

#### MATTERS TO BE CONSIDERED:

1. Status of Presidential Search.
2. Procedures for Final Selection.
3. Personnel Matters (Closed).

#### CONTACT PERSON FOR MORE

**INFORMATION:** LeaAnne Bernstein, Office of the President, (202) 272-4040.

Dated: May 26, 1982.

Gerald M. Caplan,  
*Acting President.*

[S-810-82 Filed 5-27-82; 10:11 am]

**BILLING CODE 6820-35-M**

### 3

#### LEGAL SERVICES CORPORATION

(Provision of Legal Services Committee)

**TIME AND DATE:** 10 a.m.-12:30 p.m., Tuesday, June 15, 1982.

**PLACE:** Legal Services Corporation, 733 15th Street, NW., Eighth floor conference room 2, Washington, D.C.

**STATUS OF MEETING:** Open.

#### MATTERS TO BE CONSIDERED:

1. Alternative Delivery Structure.
2. Private Bar Involvement.
3. Support Centers.
4. Client Representation.

#### CONTACT PERSON FOR MORE

**INFORMATION:** LeaAnne Bernstein, Office of the President, (202) 272-4040.

Dated: May 26, 1982.

Gerald M. Caplan,  
*Acting President.*

[S-809-82 Filed 5-27-82; 10:11 am]

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#### LEGAL SERVICES CORPORATION

(Board of Directors)

**TIME AND DATE:** June Meeting as required by 45 CFR 1601.15(a) first Friday of June, 10 a.m. "Cancelled."

#### CONTACT PERSON FOR MORE

**INFORMATION:** LeaAnne Bernstein, Office of the President, (202) 272-4040.

Dated: May 26, 1982.

Gerald M. Caplan,  
*Acting President.*

[S-812-82 Filed 5-27-82; 10:25 am]

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# Federal Register

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Tuesday  
June 1, 1982

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Part II

## Department of the Interior

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Office of Surface Mining Reclamation and  
Enforcement

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Conditional Approval of the Permanent  
Regulatory Program Submission From the  
State of Illinois Under the Surface Mining  
Control and Reclamation Act of 1977

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 913

## Conditional Approval of the Permanent Regulatory Program Submission From the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule.

**SUMMARY:** On December 22, 1981, the State of Illinois resubmitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This follows an initial approval in part and disapproval in part of the proposed program which was published in the *Federal Register* on October 31, 1980 (45 FR 72468-72505). The purpose of the resubmission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. Only those portions of the State's original submission which were not initially approved or which were changed are considered in this decision. This rule grants conditional approval of the Illinois permanent regulatory program.

A new Part 913 is being added to 30 CFR Chapter VII to implement this decision.

**EFFECTIVE DATE:** This conditional approval is effective June 1, 1982. This conditional approval will terminate as specified in 30 CFR 913.11 unless the deficiencies identified below have been corrected in accordance with the dates specified in 30 CFR 913.11, adopted below.

**ADDRESSES:** Copies of the Illinois program and the administrative record on the Illinois program are available for public inspection and copying during regular business hours at:

Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" Street, NW, Washington, D.C., Phone: (202) 343-7896.

Office of Surface Mining, Federal Building and U.S. Courthouse, Fifth Floor, Room 510, 46 East Ohio Street, Indianapolis, Indiana 46204

Illinois Department of Mines and Minerals, Division of Land Reclamation, 227 South 7th Street, Suite 204, Springfield, Illinois 62706

**FOR FURTHER INFORMATION CONTACT:** Mr. Arthur Abbs, Chief, Division of

State Program Assistance, Program Operations and Inspection, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW, Washington, D.C. 20240, Phone: (202) 343-5351

**SUPPLEMENTARY INFORMATION:****A. General Background**

The general background on the permanent program, the program approval process, and the Illinois program submission were discussed in the October 31, 1980 *Federal Register*, (45 FR 72468-72505). Amendments to the Federal permanent program regulations were published December 12, 1980 (45 FR 82084-83100); January 23, 1981 (46 FR 7894 and 7906); July 17, 1981 (46 FR 37232); August 17, 1981 (46 FR 41702); September 29, 1981 (46 FR 47720); October 8, 1981 (46 FR 50018-50019); October 28, 1981 (46 FR 53376), and November 2, 1981 (46 FR 54495). An interpretive rule was published November 7, 1980 (45 FR 73945-73946). Additional regulations were suspended August 19, 1981 (46 FR 42063) and December 7, 1981 (46 FR 59934), pending further rulemaking.

In the October 31, 1980 *Federal Register* notice, the Secretary announced his partial approval and partial disapproval of the Illinois program. The Illinois surface mining legislation was enacted September 22, 1979. The legislative provisions in the State's initial submission were approved with the exceptions noted under the heading "Approval in Part/Disapproval in Part", October 31, 1980 (45 FR 72504-72505). The program narrative portions of the initial submission were approved with the exceptions noted in the individual findings Nos. 14 through 31 in the October 31, 1980 *Federal Register* (45 FR 72468-72505). The proposed rules submitted by Illinois on June 16, 1980, were not fully promulgated by the 104th day following program submission, as required by 30 CFR 732.11(d). Therefore, the October 31, 1980 *Federal Register* notice did not contain findings on the State's regulatory provisions. However, the Illinois regulations were promulgated on September 12, 1980, and amendments subsequent to that time were adopted on January 4, 1982. The regulations become effective on the date of approval of the Illinois program.

**B. Background on the Illinois Resubmission**

In accordance with the procedures set forth in 30 CFR 732.13(f), the State of Illinois originally had 60 days from the date of publication of the Secretary's partial approval decision on October 31,

1980, to resubmit a revised program for consideration. On December 11, 1980, the Seventh Judicial Circuit Court of Sangamon County, Illinois enjoined the Illinois Department of Mines and Minerals (IDMM) from submitting or resubmitting to the Office of Surface Mining (OSM) the Illinois State program until June 11, 1981. The injunction was later extended for an additional six months, to December 11, 1981. Under the general statement of policy issued by OSM on August 26, 1981 (46 FR 43041-43043), the State had sixty days from the date the injunction was lifted within which to resubmit its program. The State submitted its revised program for consideration on December 22, 1981. Announcement of the Illinois resubmission was made in newspapers of general circulation within the State of Illinois and published in the *Federal Register* on December 24, 1981 (46 FR 62477-62478). That *Federal Register* notice also announced a public comment period extending to January 25, 1982, and a public hearing which was held on January 18, 1982, in Springfield, Illinois. Illinois submitted modifications to the resubmission on April 13, 1982, and a public comment period was opened on these modifications from April 14, through April 29, 1982.

Public disclosure of comments by Federal agencies was made on March 9, 1982 (47 FR 10058). On May 13, 1982 the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Illinois program.

The Regional Director completed his program review on May 10, 1982, and forwarded the public hearing transcripts, written presentations, and copies of all comments to the Director together with a recommendation that the program be conditionally approved.

On May 13, 1982, the Director recommended to the Secretary that the Illinois program be conditionally approved.

The basis and purpose statement for the Secretary's decision to conditionally approve the Illinois program consists of this notice and the October 31, 1980 *Federal Register* notice, announcing the Secretary's initial decision. The Illinois program consists of the formal submission of March 3, 1980 (Administrative Record No. (ARN) ILL-0003), as amended on June 16, 1980, July 30, 1980, December 22, 1981, April 13, 1982, and April 28, 1982 (ARN ILL-0103, 0358, 0384, 0451 and 0465), and as clarified in meetings with Illinois described below.

Throughout the remainder of this notice, "Illinois program" or "Illinois

submission" is used to mean the documents cited above together with those parts of the initial submission partially approved on October 31, 1980. The term "resubmission" only refers to those portions of the Illinois program resubmitted on December 22, 1981 (ARN ILL-0384), as modified on April 13 and 28, 1982 (ARN ILL-0451 and 0465). The term "March 18 and 19, 1982, meeting" refers to a meeting held between OSM and the IDMM (ARN ILL-0443), the purpose of which was to discuss apparent deficiencies which had been found in the Illinois program submission.

On December 19, 1980, the State of Illinois sued OSM and the Department of Interior, alleging that the Secretary's initial decision was procedurally incomplete in that it failed, among other things, to specify those parts of the Illinois submittal which were specifically approved, to consider alternatives submitted, and to include sufficient detail to enable the State to prepare properly a resubmittal. The Secretary determined that his action was procedurally incomplete, as alleged, and a Stipulation for Consent Decree was approved and entered by Judge J. Waldo Ackerman in the U.S. District Court for the Central District of Illinois on August 14, 1981. Under the Consent Decree, the parties agreed to a number of items, including the following:

1. That in the October 31, 1980 initial decision, the Secretary failed to indicate those portions of the Illinois program that were approved, he did not consider as "state windows" the alternatives to the Secretary's regulations submitted by Illinois, and he did not take into account the regulations submitted to OSM on July 30, 1980.

2. The Illinois program submittal should be completely reexamined.

3. In order to provide for the resubmission of Illinois' program, the parties would initiate a series of meetings and discussions to reexamine the program to identify approved portions and review and identify those revised provisions which appear approvable, subject to any public comments or new information brought to OSM's attention during the formal review of Illinois' resubmission.

4. Illinois would resubmit its proposed program to the Secretary as soon as the injunction is lifted.

5. Meetings pursuant to the Consent Decree would be conducted in accordance with the Secretary's guidelines for contacts with Interior Department employees and officials during consideration of State permanent regulatory programs (44 FR 54444-54445, September 19, 1979).

When the Secretary announced his initial decision on the Illinois program, he included with the analysis his findings on the program provisions. During the period from the date of publication of the Secretary's decision (October 31, 1980) to the date of the resubmission (December 22, 1981), OSM and IDMM held several meetings to discuss the Secretary's findings and proposed additions or amendments to the Illinois program. The meetings were held on November 20, 1980, December 9 and 10, 1980, June 30 and July 1, 1981, and August 24 and 25, 1981. These meetings were conducted in accordance with OSM's Guidelines for Postsubmission Contacts Between the Department of the Interior, the States and the Public (44 FR 54444-54445, September 19, 1979). The results of these meetings are documented in the Administrative Record (ARN ILL-0251, 0304, 0305, 0347, and 0360), as are additional letters from OSM to IDMM (ARN ILL-0233, 0338, 0340, 0370, 0378 and 0462) providing comments on the status of the Illinois program. A number of deficiencies cited in the Secretary's initial decision were tentatively resolved at these meetings and except as noted under the heading "Secretary's Findings" below, Illinois has amended its program through its resubmission to correct the remaining deficiencies cited in the notice announcing the Secretary's initial decision. Previous findings such as 14.1 (45 FR 72472) and 15.1 (45 FR 72473) which were positive in nature and did not require further action are not rediscussed in this decision. Where appropriate, the reader is referred to specific findings in the October 31, 1980, Federal Register notice for a complete discussion of the issues.

### C. Secretary's Findings

In reaching his decision to conditionally approve the Illinois program submission, the Secretary finds, in accordance with Section 503(a) of SMCRA and 30 CFR 732.15, that Illinois has the capability, except as noted below, to carry out the provisions of SMCRA and to meet its purposes in the following ways. Findings made under Section 503(a) (1) through (7) and (b) (1) through (4) are numbered (1) through (11). Findings made under 30 CFR 732.15(a), (b) (1) through (16), (c), and (d) are numbered (12) through (31).

#### Finding 1

The Illinois Surface Coal Mining Land Conservation and Reclamation Act (Illinois SCMLCRA), and the regulations adopted thereunder provide, except as noted in the findings below, for the regulation of surface coal mining and

reclamation operations on non-Federal and non-Indian lands in Illinois in accordance with SMCRA. This finding is based on the requirements of Section 503(a)(1) of SMCRA (30 U.S.C. 1253(a)(1)). The issues underlying this finding are analyzed in Findings 12 through 31, below.

#### Finding 2

The Illinois SCMLCRA provides, except as noted in the finding below, sanctions for violations of Illinois laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Illinois Department of Mines and Minerals or its inspectors.

This finding is based on the requirements of Section 503(a)(2) of SMCRA (30 U.S.C. 1253(a)(2)). The issues underlying this finding are analyzed in Finding 21, below.

#### Finding 3

The Illinois Department of Mines and Minerals has sufficient administrative and technical personnel and sufficient funds to enable Illinois to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. This finding is based on the requirements of Section 503(a)(3) of SMCRA (30 U.S.C. 1253(a)(3)).

#### Finding 4

Illinois SCMLCRA provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within Illinois.

This finding is based on the requirements of Section 503(a)(4) of SMCRA (30 U.S.C. 1253(a)(4)).

#### Finding 5

Illinois has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA.

This finding is based on the requirements of Section 503(a)(5) of SMCRA (30 U.S.C. 1253(a)(5)). The issues underlying this finding are analyzed in Finding 22, below.

#### Finding 6

Illinois has established, for the purpose of avoiding duplication, a

process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations.

This finding is based on the requirements of Section 503(a)(6) of SMCRA (30 U.S.C. 1253(a)(6)).

#### Finding 7

Illinois has, except as noted in the findings below, fully enacted regulations consistent with regulations issued pursuant to SMCRA.

This finding is based on the requirements of Section 503(a)(7) of SMCRA (30 U.S.C. 1253(a)(7)). The issues underlying this finding are analyzed in Findings 14-31, below.

#### Finding 8

The Secretary has, through OSM, solicited and publicly disclosed on March 9, 1982 (47 FR 10058), the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Illinois program.

This finding is based on the requirements of Section 503(b)(1) of SMCRA (30 U.S.C. 1253(b)(1)).

#### Finding 9

The Secretary has obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Illinois program being approved today which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, and the Clean Air Act, as amended, 42 U.S.C. 1857 *et seq.*

This finding is based on the requirements of Section 503(b)(2) of SMCRA (30 U.S.C. 1253(b)(2)).

#### Finding 10

The Secretary has, through OSM, held a public review meeting in Springfield, Illinois on April 10, 1980, to discuss the completeness of the Illinois program submission, held public hearings in Springfield, Illinois on July 24, 1980, and Marion, Illinois on July 25, 1980, on the adequacy of the Illinois program submission, and held a public hearing on the resubmission of the Illinois program on January 18, 1982, in Springfield, Illinois.

This finding is based on the requirements of Section 503(b)(3) of SMCRA (30 U.S.C. 1253(b)(3)).

#### Finding 11

The Secretary finds that the State of Illinois has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

This finding is based on the requirements of Section 503(b)(4) of SMCRA (30 U.S.C. 1253(b)(4)).

#### Finding 12

In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Illinois program submission, including the section-by-section comparison of the Illinois law and the regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that the Illinois program provides, except as noted in the findings below, for Illinois to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII. The issues underlying this finding are analyzed in the findings discussed throughout this Federal Register notice.

#### Finding 13

Finding 13 of the October 31, 1980 Federal Register notice stated that the Illinois permanent program submission did not contain any proposed "state window" alternative approaches under the provisions of 30 CFR 731.13 (44 FR 15324). However, under the Stipulation for Consent Decree entered into by OSM and Illinois, OSM agreed that it had failed to consider as "state windows" the alternatives to the Secretary's regulations submitted by Illinois. Since that Consent Decree was filed on August 14, 1981, the Federal standards for reviewing State alternatives have been amended. The amended rules (46 FR 53376-53389, October 28, 1981) provide that a State may adopt and the Secretary may approve any provisions which are as effective as the Federal regulations in meeting the requirements of SMCRA. Therefore, any alternative approaches proposed by Illinois have been reviewed under the new standard.

#### Finding 14

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Illinois program includes provisions, except as noted below, adequate to do so. Special provisions comparable to 30 CFR Parts 820, 822 and 825 for anthracite mines, alluvial valley floors, and special bituminous mines, are not applicable to

or included in Illinois law or regulations. This finding is made under the requirements of 30 CFR 732.15(b)(1). Illinois incorporates provisions corresponding to Sections 515 and 516 of SMCRA in Articles III and IV, Illinois SCMLCRA and in the Illinois State Program Regulations Parts 1816 and 1817. Discussion of significant issues raised during the review of the Illinois environmental performance standards follows.

14.1 In response to findings made in the October 31, 1980 Federal Register, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 14.2, 14.4, 14.6, 14.7, 14.8, 14.10, 14.14, 14.15 and 14.16.

14.2 *Rule 1816.49(c)*—In the regulations concerning proposed permanent impoundments, Illinois provides that perimeter slopes shall be stable and consistent with the intended use and shall not be steeper than the angle of repose. The Federal regulation, 30 CFR 816.49(c), provides that the maximum slope adjacent to a proposed permanent impoundment must be 2h:1v. At the March 18 and 19, 1982 meeting (ARN ILL-0443), Illinois explained that the controlling factors in this rule are that the slopes be stable and consistent with the intended use of the impoundment and that the maximum slope allowed would depend on the use of the impoundment. The Secretary assumes that Illinois would not approve in a permit application any permanent impoundment unless the State made the necessary findings that perimeter slopes would be stable and consistent with the postmining use of the impoundment. Based on this understanding, the Secretary finds that the Illinois rule is as effective as 30 CFR 816.49(c) and therefore consistent with the Federal regulations.

14.3 *Rules 1816.64(a) and 1817.65(a)*—Illinois rule 1816.64(a) requires publication of a blasting schedule before beginning a blasting program in which blasts using more than 25 pounds of explosives are to be detonated. The Federal requirements for surface mines in 30 CFR 816.61(b) and 816.64(a)(1) provide that blasts using more than five pounds of explosive or blasting agent shall be conducted according to the published schedule. Illinois rule 1817.65(a) requires notice to residents before beginning a blasting program in which blasts using more than 25 pounds of explosives are to be

detonated. The Federal requirements for surface effects of underground mines in 30 CFR 817.65(a) provide that residents or owners of any dwelling located within one-half mile of the permit area are to be notified prior to any blasting event. Therefore, the Secretary finds the Illinois provisions are inconsistent with the Federal rules. As a condition of approval, Illinois must modify its regulations to: (1) Require publication of a blasting schedule for blasts using more than five pounds of explosives, consistent with 30 CFR 816.64(a); and (2) require notification of residents of any surface blasting event, consistent with 30 CFR 817.65(a).

14.4 *Rule 1816.103(a)(1)*—The Illinois regulation concerning cover or treatment of toxic materials and coal seams allows for covering the pit floor and the highest coal seam with a minimum of four feet of water. The Federal regulation, 30 CFR 816.103, does not allow for cover with water. Illinois submitted technical data (ARN ILL-0384, Volume R5) to support its contention that cover with water of final cut pits is an effective method of treatment. Illinois stated that when water covers a coal seam, air, an essential ingredient to acid production, is excluded, and no acid formation will occur. This conclusion is based on principles of pyrite oxidation, an acid producing process, and oxygen diffusion. OSM reviewed the technical reports used by Illinois to support its contention.

The Secretary finds that, while the general concept of covering with water has merit, the average depth of the study lakes used in the technical reports was nine meters or 29½ feet. OSM concurs that thermal stratification is effective in isolating the bottom strata (hypolimnion) from receiving or replenishing oxygen supplies from the upper strata (epilimnion). However, thermal stratification does not occur in fresh-water lakes unless they are approximately ten meters deep. In order to achieve an effective separation between the pyrites and the oxygen required to produce acid, the level of dissolved oxygen must be kept near zero. The most productive aquatic habitat is in shallow water up to a depth of one meter (3.3 feet) and this zone contains the highest levels of dissolved oxygen. Dissolved oxygen levels rise considerably during daylight hours as photosynthesis occurs in these shallow areas. In conclusion, covering with four feet of water is not effective in preventing acid production. At a minimum, the column of water should be about ten meters (33 feet) to assure

strong thermal stratification and minimum levels of dissolved oxygen.

OSM conveyed its analysis of this rule in a letter to Illinois dated April 20, 1982 (ARN ILL-0462). Illinois submitted additional information in support of this proposal, dated April 28, 1982 (ARN ILL-0465). This material arrived too late to be made available for public review and comment. However, OSM analyzed this information and concluded that it did not provide adequate technical justification for approving this Illinois provision. Therefore, the Secretary cannot find that the Illinois provision is consistent with the Federal regulations or Section 515(b)(14) of SMCRA. The Secretary, however, has directed OSM to work with Illinois to further analyze the technical literature and provide assistance in developing a proposal consistent with the Act and the Federal regulations. Pending completion of that effort, the Secretary will condition approval of the Illinois program upon revisions to require a minimum cover of ten meters (33 feet) of water or to otherwise make the State program consistent with the Federal rule.

14.5 *Rule 1817.71(g)*—Illinois would allow depressions or impoundments on excess spoil fills when approved by the regulatory authority. The Federal regulations, 30 CFR 817.71(g), prohibit this practice in order to minimize infiltration of surface water into the fill so as to maintain the lowest possible hydrostatic pressure within the fill. Illinois has explained (ARN ILL-0451) that it does not intend to approve any "accidental" impoundments and that the Illinois provision was intended to address a situation where underground development waste is incorporated in the construction of coal processing waste impoundments.

Illinois explained further that the possibility of excess spoil fills in the establishment of an underground mine in Illinois is unlikely. In a situation where mine development waste is incorporated into the construction of coal processing waste impoundments, the requirements of Illinois rules 1817.91-1817.93 must be met, ensuring that safety and environmental concerns will be properly addressed. Illinois rules 1817.91-1817.93 are requirements for design and performance standards for coal processing waste dams and embankments. This approach is consistent with that followed by the Mine Safety and Health Administration. Based on this explanation and Illinois' assurance that it does not intend to approve any accidental impoundments, the Secretary finds rule 1817.71(g) no

less effective than the Federal regulations.

14.6 *Rule 1816.22*—The Illinois performance standard for topsoil is entitled "Placeland Topsoil." The Illinois term "placeland" is defined as "undisturbed land prior to any mining activity." In order to make it clear that this does not exempt previously mined areas from the topsoil requirements, Illinois submitted a policy statement (ARN ILL-0451) explaining that the words "before any mining activity" are intended to refer only to the mining activity involved in the permit application which would be presently under consideration. Illinois explained that on some older, previously mined lands, topsoil was not required to be replaced and thus topsoil and/or substitute material may not be available. If topsoil and/or substitute material is present on an area that is to be re-mined, it must be removed pursuant to Section 1816.22. Based on this assurance, the Secretary finds the Illinois rule no less effective than the Federal regulations.

14.7 *Rule 1816.46*—Illinois uses the term "siltation structures" in connection with the performance standards for sediment control, and requires that such structures be designed, constructed and maintained in accordance with the "best technology currently available" (BTCA). The Illinois term "siltation structures" includes "sedimentation ponds." The Illinois rule would allow variances from the requirement of a sedimentation pond if an operator demonstrates that BTCA in a given situation is a siltation structure other than a sediment pond. The Federal rules, 30 CFR 816.46 and 817.46, require the use of sedimentation ponds because Section 515(b)(1)(B) requires BTCA for sediment control and at the present time, BTCA for sediment control is sedimentation ponds 44 FR 15159 (March 13, 1979). Illinois has submitted a statement (ARN ILL-0451) that it intends to retain the language currently used in its regulations and should a permit application propose to use a method other than a sediment pond and Illinois determines that this proposal is a better technology than use of a sediment pond, Illinois will submit the proposal to OSM for comment during the permit review process and prior to final action. The Secretary does not find this statement sufficient to assure that the Illinois rule is as effective as the Federal rule in meeting the requirements of Section 515(b)(10). Therefore, approval of the Illinois program is conditioned upon submission of a policy statement to the effect that Illinois understands that, at the present

time, BTCA for sediment control is sedimentation ponds and should Illinois wish to approve anything else, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. The Secretary has directed OSM to work with Illinois to develop alternative approaches that will meet the requirement to use BTCA for sediment control.

14.8 *Rules 1816.133(c) and 1817.133(c)*—The Illinois rules omit the specific approval criteria for alternative postmining land uses contained in 30 CFR 816.133(c) and 817.133(c). Illinois has submitted a policy statement (ARN ILL-0451) explaining that all the factors in 30 CFR 816.133(c) applicable to area mining are included in the Illinois regulations, Sections 1780.2, 1780.18, 1780.23, 1816.97, 1816.100, 1816.133 (a), (d), and 1817.133 (a), (d). Based on this explanation, and after reviewing the provisions cited by the State, the Secretary finds the Illinois rules consistent with the Federal requirements and Section 515(b)(2) of SMCRA.

#### Finding 15

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program includes provisions to implement, administer and enforce a permit system consistent with 30 CFR Subchapter G. This finding is made under the requirements of 30 CFR 732.15(b)(2).

Illinois incorporates provisions corresponding to Sections 506, 507, 508, 510, 511 and 513 of SMCRA and Subchapter G of 30 CFR Chapter VII in Article II, Illinois SCMLCRA and in the Illinois Regulations Parts 1770, 1771, 1778, 1779, 1780, 1782, 1783, 1785, 1786, 1787 and 1788.

Discussion of significant issues raised during the review of the Illinois permitting provisions follows.

15.1 In response to findings made in the October 31, 1980 *Federal Register*, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 *Federal Register* no longer exist: 15.2, 15.4, 15.8 and 15.9.

15.2 *Rule 1785.23(b)*—Illinois has provided an entirely new permitting category called "minor underground mine facilities not at or adjacent to the processing or preparation facility or area," which includes air shafts, fan and ventilation buildings, small support buildings, access power holes, and other

small structures and roads. Illinois explained in its legal opinion (ARN ILL-0384, Volume R5) that this rule was adopted to take into account the distinct differences between surface and underground mining. There is no Federal counterpart to this provision. This category of facilities would be subject to an abbreviated permit application and review period on the basis that these types of structures have a very minimal impact on the land and the environment. The Secretary expressed a concern in the March 18 and 19, 1982 meeting (ARN ILL-0443) that air shafts are often large structures which can cause an extensive amount of surface disturbance and affect the hydrologic balance. Illinois has submitted a policy statement (ARN ILL-0451) explaining that:

(1) Illinois Rule 1785.23(c)(2)(v) requires a description of the measures to be used to comply with the applicable requirements of Section 1817.182; (2) Illinois Rule 1817.182(a) requires application of applicable performance standards of Parts 1817-1828 if such minor facilities significantly affect land, air or water resources; and (3) Illinois Rule 1817.182(k) requires that minor facilities be utilized in a manner which minimizes disturbance of the prevailing hydrologic balance and shall include sediment control measures such as those listed in 1817.45 or siltation structures which comply with 1817.46. Further, the IDMM may specify additional measures to be adopted by the permittee. Thus, should an air shaft be a large structure which may affect the environment, it would not be eligible for treatment under rule 1785.23(b). Based on these assurances, the Secretary finds the Illinois provision consistent with the Federal regulations.

15.3 *Rule 1784.20*. This Illinois rule requires underground permit applications to contain subsidence control information. The Illinois rule, which is virtually identical to its Federal counterpart, 30 CFR 784.20, provides that an application shall include a survey to show whether structures or renewable resource lands exist within the proposed permit and adjacent area and whether subsidence, if it occurred, could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands. If the survey makes this showing, a subsidence control plan is required which describes the measures to be taken to prevent or mitigate such effects.

However, because Illinois does not permit and bond the "shadow area" (the area beyond the permit area in which underground mine workings are located) much of the information required for the permit area under the Federal rule

would not be required under the narrower Illinois definition of permit area. In order to accommodate this difference, Illinois adopted subsection (e) to Section 1784.20 which provides that applications for underground mining permits shall include as an appendix to the subsidence control plan "the information required concerning permit areas (also set out elsewhere in the application) together with all such information pertaining to shadow areas, described by the following sections: 1782.16(a), 1783.12(b), 1783.13(a), 1783.14(a), 1783.14(a)(2), 1783.15(a), 1783.22(b), 1783.24(e), (i), (j), (k), 1783.25(a), (d), (e), (g), 1784.11, 1784.20 and 1784.23(a)." (Emphasis added) The Illinois rule thus requires information in the subsidence control plan for the permit, shadow and adjacent areas which is consistent with the Federal requirement in 30 CFR 784.20.

At the March 18 and 19, 1982 meeting (ARN ILL-0443), OSM expressed concern that because the Illinois rule requires the survey only for the permit and adjacent areas, the shadow area seemed to be excluded. Thus, although 1784.20(e) would protect the shadow area through the subsidence control plan, the plan is not required unless a survey first shows that subsidence could damage existing resources. Illinois assured OSM that it was its intention to require the survey for the shadow area as well as the permit and adjacent areas, and pointed to the legal opinion (Volume R5) as demonstrating that the survey requirement included the shadow area. Illinois also submitted a policy statement (ARN ILL-0451) assuring OSM that it interprets its rules to require a survey for the shadow area.

Specifically, Illinois noted that in adopting 1784.20(e), the State requires all applications to include "information required concerning the permit areas together with all such information pertaining to the shadow areas, described by the following sections: \* \* \* 1784.20 \* \* \*." Thus, Illinois interprets the provision to require a survey of the shadow area. In addition, Illinois noted that subsidence control plans will probably always be necessary in Illinois, due to the existence of renewable resource lands within the State. Therefore, any permit application claiming that no such lands exist will draw immediate attention and be closely scrutinized.

Based on these assurances, the Secretary finds that Illinois rule 1784.20 has provided for subsidence control as effective as that required by 30 CFR 784.20.

**Finding 16**

The Secretary finds that Illinois Department of Mines and Minerals has the authority to regulate or prohibit coal exploration consistent with 30 CFR Parts 776 and 815 (coal exploration), and that the Illinois program includes provisions adequate to do so. This finding is made under the requirements of 30 CFR 732.15(o)(3).

The Illinois program incorporates provisions corresponding to Section 512 of SMCRA and 30 CFR Parts 776 and 815 in Article V, Illinois SCMLCRA, and in the Illinois Regulations Parts 1776 and 1815.

**Finding 17**

The Secretary finds that the Illinois Department of Mines and Minerals does not have the authority under Illinois law and regulations to require that persons extracting coal incidental to government-financed construction maintain information on site consistent with 30 CFR Part 707.

However, the Illinois program does not contain provisions corresponding to Section 528(3) of SMCRA and 30 CFR Part 707 exempting the extraction of coal which is incidental to government-financed construction from the requirements of its program. Under the Illinois law and regulations, all such operations are subject to the full requirements of the State law and regulations. Therefore, the Illinois program is consistent with SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(4).

**Finding 18**

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within Illinois consistent with the requirements of Section 517 of SMCRA (inspection and monitoring) and 30 CFR Subchapter L (inspection and enforcement) and that the Illinois program includes provisions adequate to do so. This finding is made under the requirements of 30 CFR 732.15(b)(5).

Provisions corresponding to Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII for inspection and monitoring are found in Article VIII, Illinois SCMLCRA and in the Illinois Regulations Parts 1840, 1842, 1843, and 1845. Discussion of significant issues raised during review of the Illinois inspection and monitoring provisions follows.

18.1 In response to findings made in the October 31, 1980 Federal Register,

the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 18.3, 18.4, 18.5, and 18.6.

**Finding 19**

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations and the Illinois program includes provisions, except as noted below, for implementation, administration and enforcement of a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. This finding is made under the requirements of 30 CFR 732.15(b)(6). The performance bond and liability insurance provisions of Sections 507(f), 509, 510 and 519 of SMCRA and 30 CFR Subchapter J are incorporated in Article VI, Illinois SCMLCRA and in the Illinois Regulations Parts 1800, 1801, 1805, 1806, 1807, 1808, and 1810.

Discussion of significant issues raised during the review of the Illinois bonding provisions follows.

19.1 In response to findings made in the October 31, 1980 Federal Register, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 19.2, 19.3, and 19.4.

19.2 *Rule 1807.11(d)*—The Illinois rule provides that written notice of the inspection prior to bond release must be given to the surface owner but does not allow the surface owner to participate in the inspection. This is inconsistent with 30 CFR 807.11(d), which expressly provides that the surface owner may participate in the inspection. This right to participate is important in order for the surface owner to know whether or not to comment, and because under the terms of the lease, the surface owner may not have access to the leased land. Illinois submitted a policy statement (ARN ILL-0451) stating that it believes its Rules 1807.11(a), (c), and (e) provide protection to the landowner similar to that provided by 30 CFR 807.11(d). Under these State rules, the landowner is notified of the application for bond release and by registering a written objection, may require a hearing. The IDMM may then arrange with the applicant for access to the mining area. However, Illinois also stated that there

are obvious practical benefits to expressly assuring that landowners, their lessees and agents are allowed to accompany the Department during its bond release inspection, and thus the IDMM will amend its rules to add an express provision to this effect. Approval of the Illinois program is conditioned upon a revision to the program to add an express provision allowing the surface owner to accompany the State inspector during the bond release inspection.

**Finding 20**

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and provides regulations for civil and criminal sanctions for violations of Illinois law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845. This finding is made under the requirements of 30 CFR 732.15(b)(7).

The Illinois program incorporates provisions corresponding to Section 518 of SMCRA and 30 CFR Part 845 in Article VIII, Illinois SCMLCRA and in the Illinois Regulations Part 845.

Discussion of significant issues raised during the review of the Illinois bonding provisions follows.

20.1 In response to findings made in the October 31, 1980 Federal Register, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 20.1, 20.5, 20.6, 20.7, 20.8, 20.9, 20.10, 20.11, 20.12, 20.13, 20.14, 20.15, 20.16, and 20.17.

20.2 *Rule 1845.17(b)*—The Federal rule, 30 CFR 845.17(b), provides that where an otherwise properly served assessment is refused, it is still deemed properly served. The Illinois rule is silent on what constitutes proper service under Illinois law. However, Illinois has provided a statement (ARN ILL-0451) explaining that under Illinois law, refusal of registered or certified mail service would not defeat effective service. Also, Illinois notes that Rule 1843.14(a)(2) on service of notices of violation and cessation orders provides that: "Service shall be complete upon tender of the notice or order or of the mail and shall not be deemed incomplete because of refusal to accept." Because the time for contesting facts of a notice of violation, as well as a proposed penalty, runs from the

service of the proposed assessment, 1845.18(b), Illinois concludes that the provisions of Rule 1843.14(a)(2), quoted above, apply to the mailing of the proposed assessment, and that refusal to accept certified mail does not avoid service. Based on this explanation, the Secretary finds that the Illinois provision is consistent with the Federal regulations.

#### Finding 21

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois laws to issue, modify, terminate, and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA and 30 CFR Chapter VII, Subchapter L, and that the Illinois program includes provisions, except as noted below, adequate to do so. This finding is made under the requirements of 30 CFR 732.15(b)(8).

The authority to issue, modify, terminate, and enforce notices of violation, cessation orders and show cause orders is contained in Article VIII, Illinois SCMLCRA and in Illinois Regulations Parts 1840, 1842, 1843, and 1845. Discussion of significant issues raised during review of the Illinois enforcement provisions follows.

21.1 In response to findings made in the October 31, 1980 Federal Register, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problem raised by Finding 21.1 from the October 31, 1980 Federal Register no longer exists.

21.2 Rule 1843.12(a)(2)—Illinois rule 1843.12(a)(1) requires an authorized representative of the IDMM to issue a notice of violation if on the basis of a State inspection, he or she finds a violation. Illinois rule 1843.12(a)(2) provides that an authorized representative of IDMM may issue a notice of violation on the basis of a State inspection other than one described in 1843.12(a)(1).

During the meeting of March 18 and 19, 1982, OSM questioned Illinois' need for this provision since the analogous Federal regulation, 30 CFR 843.12(a)(2), seems to be directed at Federal, not State inspections. Illinois has indicated in a policy statement (ARN ILL-0451) that it intends to delete this provision from its regulations to avoid any confusion as to its meaning.

21.3 Rule 1843.12(f)—This Illinois rule provides for extensions of time beyond 90 days for abatement of violations where because of the nature of the violation or circumstances beyond

the permittee's control, abatement is impossible or would cause greater environmental harm than would abatement at a later date. The Illinois rule was based on the proposed Federal rule published April 22, 1981 (46 FR 22902). However, the final Federal rules published August 17, 1981 (46 FR 41702) were more narrowly drawn than the proposed rules to avoid abuses of the extension.

Illinois rule 1843.12(f)(1) authorizes on extension in any situation where abatement would cause more environmental harm than it would prevent. The Federal rule, 30 CFR 843.12(f)(4), limits this basis for an extension to situations where climatic conditions preclude abatement within 90 days or where, due to climatic conditions, abatement within 90 days clearly: (i) Would cause more environmental harm than it would prevent; or (ii) requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act.

The final Federal rule, 30 CFR 843.12(j), also requires that no extension may be granted for longer than 90 days without a fresh showing by the operator that the condition that had justified an extension in the first instance remains, and that all other requirements for an extension have been met. The purpose of this rule is to prevent the granting of extensions resulting in inordinate delays and procrastination on the part of operators in abating violations. Illinois has no counterpart to this requirement.

Accordingly, the Secretary finds that the Illinois rule is not consistent with 30 CFR 843.12. Approval of the Illinois program is conditioned on revisions to provide for extensions of the 90-day abatement period consistent with the Federal regulations.

#### Finding 22

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations to provide for designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F. This finding is made under the requirements of 30 CFR 732.15(b)(9). Illinois incorporates provisions corresponding to Section 522 of SMCRA and 30 CFR Chapter VII, Subchapter F in Article VII, Illinois SCMLCRA and in the Illinois Regulations Parts 1760, 1761, 1762, and 1764. Discussion of significant issues raised during the review of the Illinois provisions to designate areas as unsuitable for surface coal mining follows.

22.1 In response to findings made in the October 31, 1980 Federal Register, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 22.2, 22.3, and 22.5.

22.2 Rule 1761.11(h)—The Illinois rule appears to allow reclamation operations to take place within areas designated by Congress as unsuitable for mining. At the March 18 and 19, 1982 meeting, OSM asked the State to clarify under what circumstances reclamation could take place. The State explained that reclamation operations would be allowed for approved abandoned mine land projects or mandated reclamation of areas previously mined illegally. Based on this explanation, the Secretary finds the Illinois rule consistent with Section 522(e) of SMCRA. The Secretary does not believe that Section 522(e) was intended to prohibit these activities. Therefore, approved reclamation operations are permitted on areas designated as unsuitable for surface coal mining operations.

22.3 Rule 1764.15(e)—The Illinois rule contains a subsection not found in the Federal rule which provides that processing of petitions may be deferred as not timely unless the petitioner demonstrates " \* \* \* (i) that there is a serious possibility of an adverse effect on the petitioner's interest from coal mining in the area covered by the petition, and (ii) either that coal mining is being conducted or seriously being contemplated in the vicinity of the area covered by the petition, or that the enjoyment or exercise of the petitioner's interest may be adversely affected if the petition is not processed on a current basis \* \* \*". In addition, Rule 1764.15(e)(2) provides that processing of active (not deferred) petitions may be prioritized by the IDMM to minimize interference between competing interests. Illinois explained in its legal opinion, Volume R5, that these provisions are an internal management system for petitions, consistent with Section 522(c) of SMCRA. Moreover, Illinois stated that since a deferred petition remains "of record" and "under study" under the Illinois statute, no grant of a permit application may be made.

OSM asked Illinois for clarification of both these provisions at the March 18 and 19, 1982 meeting. The State explained that it anticipated that a large number of petitions would be filed as

soon as the State received primacy and it had tried to arrive at a practical solution for processing these petitions in the event that the number of petitions exceeds the available State personnel. The State also assured OSM of its intention to process all petitions as expeditiously as possible. OSM representatives noted that the one-year period for petition processing in Section 522(c) of SMCRA was intended primarily for the operator's benefit so as not to unduly delay mining. Illinois rule 1764.15(e)(1) provides that any person having an interest in coal mining in the area subject to the petition may at any time upon written, certified mail notice to the Department and the petitioner briefly explain its interest in coal mining and request current processing of the petition.

The Secretary finds, based on these explanations and assurances provided by the State, that the Illinois rule is consistent with Section 522 of SMCRA and the Federal rules, and will provide adequate protection to petitioners and others.

**22.4 Rule 1764.17(a)**—In the meetings with Illinois of June 30, 1981 (ARN ILL-0347) and August 24, 1981 (ARN ILL-0360), OSM expressed concern that the entire relevant data base should be incorporated as part of the hearing record, so that for purposes of appeal of the administrative decision, the record would be complete. The Illinois rule provides for all parties to an administrative hearing on a petition to reference and place on the record appropriate portions of the data base. Similarly, the hearing officer would review the data base and place on the record those portions deemed applicable, allowing for comment and challenge by the involved parties. Any subsequent judicial review would then be based on the composite record. Based on discussions with Illinois and further review of Illinois' statute and regulations, that the State's procedure should result in all relevant portions of the data base relating to the allegations in the petition being placed on the record. The Secretary finds this is in accordance with Section 522 of SMCRA and consistent with the Federal regulations.

**22.5 Rule 1764.17**—The Illinois rule provides for quasi-judiciary hearings on petitions to designate areas unsuitable for mining. The Federal regulation, 30 CFR 764.17, provides that the hearing shall be legislative and fact-finding in nature, without cross-examination of witnesses. However, this rule is not based on interpreting Section 522 of SMCRA as requiring legislative

hearings. Thus, the Secretary may approve State programs providing for quasi-judiciary hearings provided they contain adequate safeguards to protect witnesses from intimidation and to ensure that the State procedure is as effective as the Federal rule.

The Illinois rule provides that any party may be represented by counsel, make oral or written arguments, offer testimony and cross-examine witnesses, cause the issuance of subpoenas, or take any combination of such actions. The Illinois rule also provides that the rules of evidence applied in civil practice cases in Illinois courts shall be followed and that irrelevant, immaterial, or unduly repetitious evidence shall be excluded. However, the Illinois rule also provides that "evidence not admissible under such rules of evidence, including without limitation, citizen opinion on whether lands fall within the criteria for unsuitability and should be designated unsuitable, may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs." The rule also provides that any part of the evidence may be received in written form.

Thus, the Illinois rule allows, but does not require certain adjudicatory techniques such as cross-examination of witnesses. The parties may elect to use such techniques as appropriate. The Secretary concludes that these adjudicatory techniques are no less effective in making reasonable decisions than the legislative techniques specified in the Federal rule, so long as use of these techniques does not chill the petition process. Therefore, the Secretary finds that the Illinois rule is no less effective than the Federal rule, with the understanding that the State will insure that use of these techniques will not hamper the petition process or place an unfair burden on any party.

#### *Finding 23*

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program contains provisions for public participation in the development, revision and enforcement of the Illinois regulations consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. Illinois provides for public participation in the development, revision and enforcement of the Illinois program throughout the Illinois SCMLCRA and Illinois Regulations.

**23.1** In response to findings made in the October 31, 1980 *Federal Register*, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their

Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 *Federal Register* no longer exist: 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.7, 23.8, 23.9, 23.10, 23.11, 23.12, 23.13, 23.14, 23.16, 23.17, 23.18, 23.19, 23.20, 23.21, and 23.22.

#### *Finding 24*

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Illinois Department of Mines and Minerals consistent with 30 CFR Part 705. This finding is made under the requirements of 30 CFR 732.15(b)(11). Illinois incorporates provisions which prohibit financial interests in coal mining operations in Section 9.06, Illinois SCMLCRA and in the Illinois Regulations Part 1705.

#### *Finding 25*

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois SCMLCRA Section 3.13 to require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(12). Under 30 CFR 732.15(b)(12), the State is not required to implement regulations governing such training, examination and certification until six months after Federal regulations for these provisions have been promulgated. Federal regulations were promulgated on December 12, 1980 (45 FR 82084) but were never made effective. However, six months after OSM final rules on this subject become effective, Illinois will be required to have consistent regulations.

#### *Finding 26*

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations to provide for a small operator assistance program consistent with Section 507(c) of SMCRA and 30 CFR Part 795. This finding is made under the requirements of 30 CFR 731.15(b)(13). The Illinois program incorporates provisions corresponding to Section 507(c) of SMCRA and 30 CFR Part 795 in Section 2.02, Illinois SCMLCRA and in the Illinois Regulations Part 1795.

**26.1** In response findings made in the October 31, 1980 *Federal Register*, the

State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 26.1 and 26.2.

#### Finding 27

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and regulations to provide for protection of its employees in accordance with the protection afforded Federal employees under Section 704 of SMCRA. This finding is made under the requirements of 30 CFR 732.15(b)(14).

The Illinois program does not contain an express provision corresponding to Section 704 of SMCRA. However, in the March 18 and 19, 1982 meeting (ARN ILL-0443), Illinois pointed to the Illinois criminal code which provides criminal penalties for assault, battery, aggravated assault or battery, and intimidation (Ill. Rev. Statutes, Chapter 38, paragraphs 12-1 through 12-4, and 12-6) which should adequately deter violent or offensive physical interference with State employees. Illinois also submitted a statement (ARN ILL-0451) on the penalties for these crimes. Under Illinois law, any battery (including offensive touching) of a Department employee and any assault on a person known as a Department employee is a Class A misdemeanor, punishable by up to one year in jail. A person who threatens a Department employee with physical confinement, restraint, harm to any person or property, or threat of collective action is guilty of a Class 3 felony, punishable by a minimum of one year and up to ten years in the penitentiary. The Secretary thus finds that the Illinois program provides protection for employees of the IDMM consistent with the afforded Federal employees under Section 704 of SMCRA.

#### Finding 28

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois regulations provide for administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L. This finding is made under the requirements of 30 CFR 732.15(b)(15).

The Illinois program incorporates provisions corresponding to Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L in Article VIII, Illinois SCMLCRA; in the Illinois Regulations

Parts 1840, 1842, 1843, and 1845; and in the Illinois Administrative Review Act. Discussion of significant issues raised during the review of the Illinois provisions for administrative and judicial review follows.

28.1 In response to findings made in the October 31, 1980 Federal Register, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 28.3 and 28.4.

28.2 Section 8.06(b), 8.06(c), 8.07(d), and Rule 1843.17—Section 526 of SMCRA requires an operator to exhaust administrative remedies before seeking judicial relief. The Illinois statute provides that an operator may seek immediate injunctive relief from enforcement action. Illinois Rule 1843.17 requires operators to first exhaust administrative remedies before seeking judicial relief. The legal opinions submitted by Illinois dated June 13, 1980 and December 22, 1981, conclude that this regulation is valid. The legal opinion (Volume R5) argues that Illinois courts will ordinarily defer to the regulatory provision since it provides a remedy at law, and an injunction is not thus properly issuable. After reviewing the legal opinions, the Secretary finds that the Illinois provisions are consistent with SMCRA.

#### Finding 29

The Secretary finds that the Illinois Department of Mines and Minerals has the authority under Illinois law and the Illinois program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. This finding is made under the requirements of 30 CFR 732.15(1)(16). This authority is provided throughout the Illinois SCMLCRA and the Illinois Regulations.

#### Finding 30

The Secretary finds that the Illinois SCMLCRA and regulations adopted thereunder and other laws and regulations do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, except as noted below. This finding is made under the requirements of 30 CFR 732.15(c). Discussion of significant issues raised during the review of the Illinois provisions follows.

30.1 In response to findings made in the October 31, 1980 Federal Register,

the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 Federal Register no longer exist: 30.2, 30.3, 30.4, 30.5 and 30.7.

30.2 Rule 1701.5—Definition of "valid existing rights"—The Illinois definition of "valid existing rights" (VER) provides that the IDMM may declare that VER exists where it finds that "a judicial finding of a taking or damaging of property would be made \* \* \*". Illinois has provided a policy statement (ARN ILL-0451) explaining that its definition is based on Section 15, Article I of the Illinois Constitution and has submitted an analysis of Illinois court decisions on taking cases. Illinois states that the Illinois courts have consistently applied the test to determine whether a taking or damaging has occurred. The Illinois Constitution requires just compensation when property is taken or damaged. The provision requiring compensation when property is damaged was added in 1870, because prior to that time recovery was not allowed unless there had been a physical injury or possession, even though the property may have been rendered less valuable. The Illinois courts require that a special damage results, not of a kind and character suffered by the public generally. This holding has been affirmed by the Illinois Supreme Court and upheld by the United States Supreme Court. Based on this information, the Secretary finds that the Illinois definition is consistent with the Federal rule.

30.3 Rule 1700.11(f)—The Illinois rule provides that the following regulations and statutory provisions will not become applicable until eight months from the date of approval of the Illinois program: Parts 1816, 1817, 1818, 1819, 1823, 1824, 1825, 1826, 1827, and 1828, and Articles III, IV, V, and VII of the SCMLCRA. At the meeting of March 18 and 19, 1982, (ARN ILL-0443) OSM asked for clarification of this provision. OSM's concern was whether a new permanent program permit could be granted in the eight months after program approval if the performance standards of SMCRA are not applicable. Illinois stated that there was no requirement in SMCRA that operators must comply with the permanent program prior to eight months after program approval unless a State program requires such compliance.

OSM agreed at the meeting to review the relevant provisions of SMCRA.

Section 506(a) of SMCRA provides in relevant part that "no later than *eight months* from the date on which a State program is approved by the Secretary, \* \* \* no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program \* \* \*" (Emphasis added) Thus, under SMCRA operators need not begin meeting the permanent program performance standards until eight months from this date.

The Illinois rule requires, as do Sections 506(a) and 515(a) of SMCRA, that all permits issued under the approved State program shall require that all surface coal mining operations will meet all applicable performance standards of SMCRA after eight months from the date of approval of the Illinois program. Thus, the Secretary finds the Illinois provision consistent with SMCRA and the Federal regulations.

30.4 In Findings 30.4 and 30.5 of the October 31, 1980 *Federal Register*, the Secretary found that the Illinois definitions of "surface mining operations" and "underground mining operations" did not, when taken together, appear to include the surface impacts of underground coal mining. However, at a meeting held on November 20, 1980 (ARN Ill-0251) Illinois pointed out that the term "mining operations" in the Illinois statute acts as an "umbrella" term that includes both surface and underground mining. Furthermore, Illinois pointed to the definitions in its regulations, which should resolve any uncertainty. For example, the definition in Illinois rule 1701.5 of "surface coal mining operations" or "mining operations" includes "surface impacts incident to an underground coal mine \* \* \*" (emphasis added) Similarly, the definition in Illinois rule 1701.5 of "underground mining operations" means "the underground excavation of coal and \* \* \* surface operations incident to the underground extraction of coal \* \* \*" The definition in rule 1701.5 of "underground mining activities" means "a combination of—(a) Surface operations incident to underground extraction of coal or in situ processing \* \* \* and areas upon which materials incident to underground coal mining operations are placed, and (b) Underground operations \* \* \* which affect the surface." Therefore, the Secretary finds that the Illinois statutory and regulatory definitions of these terms, when viewed as a whole, provide jurisdiction consistent with the definition of "surface coal mining

operations" in Section 701(28) of SMCRA.

30.5 In Finding 30.1 of the October 31, 1980 *Federal Register* the Secretary found the Illinois definition of "affected land" in Section 1.03(a)(1) of the Illinois statute to be inconsistent with the definition in the Federal rules. Since that time, Illinois has revised a number of the definitions in its rules, including "affected area," "shadow area," "permit area," and "adjacent area." Though different conceptually than the Federal definitions, the Secretary has found that these definitions, taken together, are no less effective than the Federal definitions, for the reasons set forth below.

Illinois rule 1701.5 defines "permit area" as "the area of land and water within the boundaries of the permit which are designated on the permit application maps \* \* \*." The definition of "shadow area" was added to accommodate the distinct differences between underground and surface coal mines in Illinois. Illinois rule 1701.5 defines "shadow area" as "any area beyond the limits of the permit area in which underground mine workings are located. This area includes all resources above and below the coal that are protected by the (Federal) Act that may be adversely impacted by underground mining operations including impacts of subsidence."

Illinois rule 1701.5 defines "affected area" as "with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, affected area means: Any water or surface land upon which those activities are conducted or located."

"Adjacent area" is defined in Rule 1701.5 as "land located outside the permit area, or shadow area, depending on the context in which adjacent area is used, where air, surface or ground water, fish, wildlife, vegetation or other resources protected by the (Federal) Act may be adversely impacted by surface coal mining and reclamation operations."

Illinois requires all "affected areas" to be permitted and bounded. Illinois does not require permitting and bonding of the areas overlying underground mine workings, but it does require submission of a subsidence control plan for the shadow area. See Finding 15.3.

#### *Finding 31*

The Secretary finds that the Illinois Department of Mines and Minerals and other agencies having a role in the program have sufficient legal, technical and administrative personnel and funds

to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b) and other applicable State and Federal laws. This finding is made under the requirements of 30 CFR 732.15(d).

31.1 In response to findings made in the October 31, 1980 *Federal Register*, the State has changed the narrative discussion or promulgated regulations which are substantially identical to their Federal counterparts. For this reason, the Secretary finds that the problems raised by the following findings from the October 31, 1980 *Federal Register* no longer exist: 31.1, 31.2, 31.3, 31.4, 31.5, and 31.6.

#### **D. Disposition of Agency and Public Comments**

The comments received on the Illinois program during the public comment periods described above under "Background on the Illinois Resubmission" raised numerous issues. The Secretary considered these comments carefully in evaluating the Illinois resubmission, as indicated below.

#### **Department of the Interior**

1. The Minerals Management Service (MMS) (ARN ILL-0429) offered no comments on the resubmitted Illinois program but requested an opportunity to renew and comment should Illinois submit a separate program for the regulation of surface coal mining on Federal lands. Now that Illinois has assumed primary jurisdiction, the State may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State. Under 30 CFR 745.11, MMS would have an opportunity to comment on any proposed cooperative agreement.

2. The Fish and Wildlife Service (FWS), in a letter dated February 12, 1982 (ARN ILL-0427), provided a Biological Opinion pursuant to Section 7 of the Endangered Species Act (ESA) that the Illinois program is not likely to jeopardize the continued existence of Federally listed species or destroy or adversely modify their critical habitats. The FWS did express concern about the lack of a defined mechanism to be used to assure the continued existence of listed species and advised that its Biological Opinion extends only to the approval of the program and another Opinion would be needed for oversight of the program.

OSM is presently developing regulations to replace the remanded 30 CFR 779.20 and 780.16, which required

fish and wildlife information and a plan in permit applications, and full promulgation along with subsequent amendment of Illinois' program may eliminate some of the FWS's concern. Pending this revision, OSM will work with Illinois to insure that the State is meeting its responsibilities for protection of endangered and threatened species as set out in the Illinois program. The FWS comments will also be considered in the development of an oversight plan.

3. The FWS (ARN ILL-0410) commented that, in general, the resubmitted program satisfies most fish and wildlife requirements of SMCRA, especially the procedures for coordinating with Federal agencies. However, the FWS suggested that the Illinois program narrative, Volume R2, Tab I, be amended to include the names of several individuals having responsibility for fish and wildlife matters in Illinois. The suggestion has been furnished to the State, but the Federal Act and rules do not require that this be done.

4. The FWS (ARN ILL-0410) commented that the resubmission does not define the mechanisms to be used to assure that the continued existence of a Federally listed threatened or endangered species will not be jeopardized, and to assure compliance with the Migratory Bird Treaty Act, Bald Eagle Protection Act, and other applicable Federal fish and wildlife laws. Specifically, the FWS noted that Illinois Rules 1770.12, 1776.12(a)(3)(i), 1776.13(b)(2), 1786.19, 1784.21 and 1817.44(a)(3) omit references to the ESA and a counterpart to 30 CFR 784.21 is omitted entirely.

The Illinois resubmission at Volume R2, Tabs I and J, describes the mechanism for coordinating with other agencies, including compliance with the ESA. In addition, Rules 1770.12, 1776.12(a)(3)(i), 1776.13(b)(2), 1786.19, and 1817.44(a)(3) are identical to their Federal counterparts. Rule 1786.19(o) specifically requires the IDMM to find, in writing, that issuance of a permit will not "affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973." The Secretary cannot require the State to do more than the Federal regulations require.

Illinois does not have a rule corresponding to 30 CFR 784.21, which required permit applications to contain fish and wildlife reclamation plans. However, 30 CFR 784.21 was suspended, and therefore Illinois is not required to include such a regulation until final

Federal rules are promulgated. SMCRA and the Federal regulations do not require State programs to demonstrate specifically how they will comply with the Migratory Bird Treaty Act or the Bald Eagle Protection Act. Thus, the Secretary cannot require Illinois to provide this information. However, the Illinois procedures for coordinating with Federal agencies should provide adequate protection for bald eagles and migratory birds.

5. The FWS (ARN ILL-0410) commented that Illinois rule 1816.133 on determination of postmining land use considers only premining land capability rather than the three criteria in Section 508(a)(2) of SMCRA: (1) Use; (2) capability; and (3) productivity. However, Illinois Rules 1779.22 and 1780.23 require the permit applicant to provide information on the uses, capability and productivity of the land within the proposed permit area. Thus, the Secretary finds that the Illinois rules are consistent with Section 508(a)(2) of SMCRA and 30 CFR 779.22 and 780.23.

6. The FWS (ARN ILL-0410) commented that pages 9, 11, 14 and 34 of Illinois narrative Volume R2, Tab A, should be amended to show Federal agency notification requirements. The Illinois processes requiring coordination and consultation with Federal agencies involved in permit issuance are described in Volume R2, Tabs I and J.

#### Department of Agriculture

7. The Soil Conservation Service (SCS) (ARN ILL-0408 and 0409) commented that the questions raised by SCS in the review of the original Illinois submission have been satisfactorily addressed. The SCS also stated its position in reference to Illinois Rule 1823.14(a), that no natural soil in Illinois should be exempted from being reconstructed to a minimum depth of 48 inches providing it is formed in 48 inches or more of soil material. The Illinois rule is identical to its Federal counterpart.

#### Department of Labor

8. The Mine Safety and Health Administration (MSHA) (ARN ILL-0435) commented that the Illinois narrative Volume R2, page 76, requires the operator to attach to the mining plan a certification from MSHA verifying that all such impoundments meet minimum requirements pursuant to Pub. L. 83-566. MSHA notes that it has no jurisdiction under Pub. L. 83-566 and therefore does not issue a certification regarding it. The Illinois requirement to which MSHA refers is an interim permit application requirement, not a permanent program requirement subject to this approval.

9. MSHA (ARN ILL-0435) commented that Illinois narrative Volume R2, page 232 on rule 1816.49(b) requiring a 1.0-foot freeboard to be maintained appears to be in conflict with the OSM regulations which require a 3.0-foot freeboard at all times. The OSM regulations do not require a 3.0 foot freeboard at all times. The Federal requirements in 30 CFR 816.93(a)(1) and 817.93(a) are that design freeboard shall be no less than 3 feet. Illinois rules 1816.93(a)(1) and 1817.93(a)(1) contain an identical 3 foot requirement. Illinois inserts a standard of 1.0-foot freeboard in 1816.49(b) which is not present in 30 CFR 816.49(b). Therefore, Illinois is no less effective than the Federal regulations.

10. MSHA (ARN ILL-0435) commented that Illinois narrative Volume R2, page 288, requires approval of design and construction of dams with a height of 20 feet or more and with a storage of 20 feet or more. MSHA notes that its regulations require plans for an impounding structure with a height of 5 feet or more and a storage volume of 20 acre-feet or more, or with a height of 20 feet or more, or any impoundment, as determined by MSHA, which presents a hazard to coal miners. The Illinois rule 1816.46(d) is identical to the Federal requirement in 30 CFR 816.46(q), which imposes additional requirements for any embankment that is more than 20 feet in height or has a storage volume of 20 acre-feet or more. In such a situation, the MSHA criteria of 30 CFR 77.216 must also be met.

#### Environmental Protection Agency

11. The Environmental Protection Agency (EPA) (ARN ILL-0414) commented that a supplemental opinion by the Illinois Attorney General is required to make the resubmission complete. The Federal rule, 30 CFR 731.14(c), provides that the legal opinion may be submitted by either the Attorney General or the chief legal officer of the State regulatory authority. As a part of its resubmission (Volume R5), Illinois submitted a legal opinion from the chief legal officer of the Illinois Department of Mines and Minerals. This opinion fulfills the requirement of 30 CFR 731.14(c).

12. EPA (ARN ILL-0414) commented that a map showing the jurisdictional boundaries of the Army Corps of Engineers would be a helpful addition to the Illinois narrative Volume R2. While such a map is not required, this suggestion has been furnished to the State.

13. EPA (ARN ILL-0414) commented that Illinois rule 1783.15, requiring the permit application to contain information on ground water, including

aquifers, has a provision allowing the applicant to claim that "no significant aquifer" exists. Under the rule, if the applicant makes such a claim, the applicant must state the basis for the determination. This issue was discussed at the March 18 and 19, 1982 meeting (ARN ILL-0443). OSM noted that the Federal performance standard counterpart to this permitting requirement, 30 CFR 816.52(a), requires monitoring "when surface mining activities may affect ground water systems which serve as aquifers which significantly ensure the hydrologic balance." (emphasis added) The important criterion is whether surface mining activities will affect significant aquifers, i.e., aquifers which significantly ensure the hydrologic balance. Illinois is free to reject an applicant's claim that no significant aquifer exists and require further information. Based on this provision and the Federal emphasis, the Secretary finds the Illinois rule consistent with the Federal regulations.

14. EPA (ARN ILL-0414) commented that Illinois erroneously omits a counterpart to 30 CFR 816.46(c), which requires sedimentation ponds to provide the required theoretical detention time, on the basis that the Federal rule was suspended. The Federal rule was suspended on December 31, 1979 (44 FR 77451). Therefore, Illinois is not required to include this regulation until final Federal rules are promulgated. However, Illinois rule 1816.46(b) requires that the sediment pond design criteria shall be no less stringent than current criteria of the U.S. Environmental Protection Agency and Office of Surface Mining, which is consistent with the Federal regulations.

15. EPA (ARN ILL-0414) commented that Illinois rules 1816.46(c) and 1816.71(a)(1) refer to the applicable effluent limitations contained in 1816.42, but that 1816.42 has no effluent limitations. Illinois rule 1816.42(a) incorporates by reference the applicable State and Federal effluent limitations and water quality requirements.

16. EPA (ARN ILL-0414) commented that Illinois rule 1817.41(c) qualifies the corresponding Federal provision by adding the phrase "as interpreted by the Agency primarily responsible for the enforcement thereof" to the requirements that "there shall be no violations of Federal and State water quality statutes, regulations, standards or effluent limitations." The Secretary understands this statement to mean as interpreted by the EPA but will suggest to Illinois that this phrase be deleted as unnecessary.

#### Public Comments

The following acronyms were used to identify commenters: Illinois South Project (ISP), which represented a number of groups; Village of Catlin, Illinois (VOC); Knox County Board (KCB); AMAX Coal Co. (AMAX); and Old Ben Coal Co. (Old Ben).

17. *Rule 1700.11(f)*. ISP (ARN ILL-0412) commented that this rule provides that the performance standards shall not be applicable until eight months from the date of Secretarial approval and that this causes a blanket exemption from compliance. The Secretary has reviewed the rule and finds that Illinois is consistent with Section 506(a) of SMCRA which provides that no person shall conduct surface mining operations after eight months from the date of State program approval except under a permit issued pursuant to the permanent program. See Finding 30.3.

18. *Statutes 1.03(a)(1), (11), (24) and (26) and Rule 1701.5*. ISP (ARN ILL-0412) commented that Illinois has introduced confusion into the question of its jurisdiction over various kinds of mining activities because of the use of eight different terms throughout the Illinois law and regulations. The Secretary finds that the use of these different definitions provides greater detail and clarity that takes into account the unique mining conditions in Illinois and has found that the definitions are consistent with the Federal regulations and SMCRA. See Findings 30.4 and 30.5.

19. *Statute 1.03(a)(1) and Rule 1701.5*. ISP (ARN ILL-0412) objected to the Illinois definitions of "affected area" and "coal." The Secretary has addressed the definition of "affected area" in Finding 30.5. The Secretary disagrees that the definition of "coal" is a problem. The Illinois definition of "coal" in rule 1701.5 is identical to the Federal definition of "coal" at 30 CFR 700.5.

20. *Rule 1701.5*. ISP (ARN ILL-0412) commented that the Illinois definition of "intermittent stream" triples the drainage area needed to determine such a stream and thus weakens the application of the stream channel diversion standards at 1816.44 and 1817.44. Illinois explained in its legal opinion (Volume R5) that the preamble to the Federal rule on the definition of "intermittent stream" (44 FR 14932, March 13, 1979) indicates that the one-square mile watershed concept was adopted because at least two States, Alabama and Illinois, have found it easy to administer and apply. Illinois noted, however, that the one square mile rule in Illinois is that of the Illinois Department of Transportation, Division

of Water Resources (IDOT/DWR) and is applicable to urban or urbanized areas. Illinois stated that it believed this one square mile rule was inappropriately applied to surface mining because areas to be surface mined are not urban areas. Accordingly, Illinois amended its definition of "intermittent stream" to mean a stream that drains a watershed of at least three square miles or below the local water table for at least some part of the year and obtains its flow from both surface runoff and ground water discharge. The three square mile standard represents middle ground between the six square mile (average annual flow of five cubic feet per second) jurisdiction for a Section 404 permit and the one square mile jurisdiction of IDOT/DWR which is concerned with flood storage capacity in urban areas.

Illinois stated that drainage ways with a watershed of less than three square miles will be treated under the diversion requirements of 1816.43 which should address concerns of how to handle flood volumes generated in these watersheds during the mining and restoration period.

The Secretary therefore finds that Illinois has adopted a reasonable definition of "intermittent stream" that recognizes the specific physical characteristics of Illinois and is no less effective than the Federal definition.

21. *Rules 1701.5 Definition of "permit term"*—KCB (ARN ILL-0402) commented that the definition of "permit term" in the State statute, Section 1.03(a)(18), is not consistent with the definition in the State rules because the rule definition includes "reclamation operations". KCB questioned whether the statutory definition would take precedence over the regulatory definition. The Secretary does not construe the statutory definition as limited to the period during actual mining operations. The Illinois rule is intended to implement the statutory definition and as such may expand upon it so long as it is not contrary to it.

22. *Rule 1701.5—Definition of "person having an interest which is or may be adversely affected or person with a valid legal interest"*. KCB (ARN ILL-0402) questioned whether this definition would include as a "person" local units of government. The definition of "person" in 1701.5 includes "any agency, unit or instrumentality of Federal, State or local government \* \* \*". Therefore, the definition questioned by the commenter would clearly include local units of government in the category of "persons" having an interest.

23. *Rule 1701.5*. ISP and VOC (ARN ILL-0412 and 0404) commented that the Illinois definition of "valid existing rights" is defective for the following reasons: (1) One provision would allow an administrative determination of when a judicial finding of a taking or damaging would be required, thus prejudging the constitutionality of the provision; (2) it would allow a final judicial order of a "taking" to be deemed a determination of VER, thus depriving interested persons of the right to appeal such an order; (3) it authorizes exemptions for VER for property rights which came into existence after August 3, 1977; (4) it authorizes exemptions for VER for operations under construction or in existence at the time a designation becomes effective; (5) it is not clear what a "taking" is or what the measure of damage should be; (6) to the extent the Illinois definition conflicts with the OSM definition it is ineffective; and (7) the term "valid existing rights" appears nowhere in the Illinois statute and is therefore unauthorized in the Illinois rules. The Secretary has considered these arguments and has concluded that the Illinois definition is consistent with SMCRA and the Federal rules. See Finding 30.2 above.

24. *Rule 1705.11*. KCB (ARN ILL-0402) recommended that all "contractual" employees who are not regular employees of the State or the IDMM should be required to file a statement of employment and financial interest. The Illinois definition of "employee" in 1701.5, which is identical to its Federal counterpart at 30 CFR 705.5, includes "consultants" who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. Consultants would certainly include contractual employees who were hired to perform functions or duties under the Act if they perform decisionmaking functions. The Illinois rule is therefore consistent with the Federal conflict-of-interest provisions.

25. *30 CFR 760.4(c)*. ISP (ARN ILL-0412) commented that the Illinois program fails to require that the regulatory authority integrate as closely as possible decisions to designate lands unsuitable with land use planning. The Secretary disagrees, finding the requirement to integrate land use planning decisions is provided in the Illinois statute 7.02(d) and in the narrative description in Volume R2, Tab K.

26. *Rules 1761.11(c) and 1761.12(e)(1)*. ISP and VOC (ARN ILL-0412 and 0404) commented that Illinois prohibits mining

only on publicly owned places on the National Register of Historic Places, while the Federal rule prohibits mining on any places listed on the National Register. Similarly, the Federal regulations require that a copy of the permit application be transmitted to the agency having jurisdiction over any places listed on the National Register, while Illinois limits this requirement to publicly owned places. The Federal regulations, 30 CFR 761.11(c) and 761.12(f)(1), were suspended on November 27, 1979, insofar as they applied to privately owned places listed on the National Register. Therefore, the Secretary cannot require Illinois to include these provisions.

27. *Rules 1761.11(e)*. ISP (ARN ILL-0412) objected that, while 30 CFR 761.11(e) prohibits mining within 300 feet of an occupied dwelling without the written consent of the owner, Illinois' regulation prohibits such mining only with respect to dwellings in existence, under construction, or contracted for at the time of public notice of a permit application. The Illinois rule is intended to address a situation in which an individual moves a mobile home or trailer onto or near the permit area after public notice, thus possibly preventing mining. As stated in the February 23, 1982 letter to Illinois (ARN ILL-0430), OSM does not construe its regulation to allow ongoing mining to be halted by building or moving a dwelling within 300 feet of the permit area, so Illinois' concept is consistent with the Federal rule.

28. *Rule 1761.11(h)*. ISP (ARN ILL-0412) requested clarification of this rule to insure that no mining or reclamation activities are conducted on designated lands. The Secretary finds that the Illinois rule is consistent with Section 522(e) of SMCRA. See Finding 22.2 above.

29. *Rule 1761.11(i)*. ISP (ARN ILL-0412) asked for explanation of this rule, which provides that possession of a permit on an area designated as unsuitable does not bar the applicability of the designation provisions. Illinois has explained that the rule is a notification to operators that despite having a permit to mine, all coal lands are still subject to the relevant unsuitability provisions.

30. *Rule 1762.11(a)*. Illinois rule 1762.11(a) provides that an area shall be designated as unsuitable if the IDMM finds that reclamation is not technologically and economically feasible under the State Act and these regulations. VOC (ARN ILL-0404) requested clarification of whether Illinois' addition of the term "under the

State Act" limits the application of the rule on designations for technical and economic infeasibility. The State rule is identical to its Federal counterpart, 30 CFR 762.11(a), except that Illinois substitutes "State Act" for "the Act". Because the State statute is in accordance with SMCRA, the Secretary finds that the phrase does not make the State's rule inconsistent with SMCRA.

31. *Rule 1764.13(a)*. KCB (ARN ILL-0402) commented on standing to petition, recommending an amendment to specify that a county unit of government has standing. The Illinois rule gives standing to all "interested parties" in the unsuitability designation process, which would include a county unit of government.

32. *Rule 1764.15(a)(3)*. KCB (ARN ILL-0402) requested a definition of the term "frivolous", a criterion for rejection of an unsuitability petition. The Federal rules also use the term frivolous without defining it, and the Secretary cannot require the State to do so. The Secretary relies on the exercise of good judgment by the State to determine what is frivolous.

33. *Rules 1764.15(b) and 1764.17(e)*. ISP (ARN ILL-0412) commented that the Illinois regulations require preparation of both a "Land Report" and a "detailed statement" to meet the requirement of a detailed statement in Section 522(d) of SMCRA, and requested clarification of the need for and use of these two reports. Illinois rule 1764.15(b) requires that a Land Report be prepared by the Institute of Natural Resources. Rule 1764.17(e) requires the IDMM to prepare a detailed statement prior to designating any land areas as unsuitable for surface coal mining operations. Rule 1764.19(a) requires the IDMM to reach a decision using, among other things, "the Land Report prepared under Section 1764.17(e)". The Land Report and the detailed statement are thus the same document.

34. *Rule 1764.15(b)(4)*. ISP (ARN ILL-0412) objected to the absence of a requirement to publish a notice of receipt of a petition in the *Illinois Register*. The *Illinois Register* does not allow publication of notices other than rulemaking notices. The Illinois rule requires publication in a regional newspaper of general circulation in the locale of the area covered by the petition. Thus, the Secretary finds that the Illinois rule is no less effective than the Federal rules in providing notice to the public that a petition has been filed because persons having an interest in coal mining are generally located in the coal fields or rely on information reported in local newspapers.

35. *Rule 1764.15(e)(1) and (2)*. ISP (ARN ILL-0412) commented that the Illinois rule on deferral of unsuitability petitions obstructs petitioners' rights and encourages deferral until actual conflict between development and preservation groups is present. ISP also commented that Illinois rule 1764.15(e)(2) authorizing the regulatory authority to "prioritize" petitions is unnecessary given the requirement of Section 522(c) that decisions be made within one year of receipt of the petition. The Secretary believes that Illinois has set forth a practical procedure for processing petitions within the mandates of SMCRA. See Finding 22.3 above.

36. *Rule 1764.17*. ISP (ARN ILL-0412) objected that the Illinois rule provides for adjudicatory hearings on petitions. The Secretary has found that the Illinois procedures for hearings on petitions to designate an area as unsuitable are consistent with the Federal rules and SMCRA. See Finding 22.5 above.

37. *Rule 1764.17(c)* VOC (ARN ILL-0404) commented that the notice of the public hearing on a petition should include the location where copies of the application may be reviewed and obtained. The Illinois rule is identical to its Federal counterpart, 30 CFR 764.17(c). The VOC suggestion, while useful, is not required.

38. *Statute 2.01 and Rules 1771.11(a) and 1771.21(a)(1)*. ISP (ARN ILL-0412) commented that Illinois provisions are inconsistent with SMCRA 506(a) of SMCRA because "complete application" is defined as " \* \* \* an apparent good faith effort \* \* \* ". The Secretary finds that the use of the modifier "apparent" does not limit a good faith effort and is consistent with OSM policy (See ARN ILL-0443). He notes that the American Heritage Dictionary defines "apparent" to mean "readily seen \* \* \* plain or obvious." The Illinois provision is consistent with SMCRA and no less effective than the Federal regulations.

39. *Rule 1771.11(a)(2)*. AMAX (ARN ILL-0403) requested clarification that the "initial decision" referred to in this rule relates to the approval or denial of the permit application. The Secretary certainly understands the phrase "initial decision" to refer to approval or denial of the permit application.

40. *Rule 1771.21(b)(1)*. ISP (ARN ILL-0412) observes that Illinois does not include the word "complete" as a modifier for a permit application. However, Illinois rule 1771.23 does require that a complete application be filed.

41. *Rule 1776.11(b)(3)*. ISP (ARN ILL-0412) commented that Illinois does not require a map of the exploration area

and that this omission could hamper citizen participation. The corresponding Federal requirement, 30 CFR 776.11(b)(3), was suspended insofar as it required a map. Therefore, Illinois is not presently required to include this provision.

42. *Rule 1778.13(d) and 1782.13(d)*. ISP (ARN ILL-0412) commented that a five-year cut-off date on permitting information on previous coal mining permits held by the applicant is not as effective as the Federal rules since they require information on permits subsequent to 1970. Illinois rule 1778.14 is identical to 30 CFR 778.14, which requires information on any permits suspended or revoked in the last five years. The Secretary finds, therefore, that Illinois rule 1778.13(d) requiring information on permits held during the previous five years is no less effective than the Secretary's regulations in meeting Section 507(b) of SMCRA.

43. *Rules 1778.14(d) and 1782.14(b)(6)*. ISP (ARN ILL-0412) commented that Illinois requires applicants to provide information on their current financial condition which would provide assurance that no further bond forfeiture will occur. ISP noted that the Federal rules do not require this information and believes Illinois will use irrelevant information to make a decision on a permit application. Illinois requires this information only from applicants who have had a permit suspended or revoked, or a bond forfeited. As such, it is an additional requirement that is not inconsistent with the Federal regulations or Section 507(b)(5) of SMCRA.

44. *Rules 1778.16(c) and 1782.16(c)*. ISP (ARN ILL-0412) commented that the rules contain typographical errors in that the references to 1761.12(e) should be to 1761.12(d). This information has been furnished to the State.

45. *30 CFR 778.19 and 782.19*. ISP (ARN ILL-0412) commented that the State fails to include a requirement for listing all other licenses and permits needed by the permit applicant. Illinois is not required to include a counterpart to these regulations so long as it demonstrates that it has provided for coordinating the review of other permits and licenses, as required by Section 503(a)(6) of SMCRA. The Secretary finds that Illinois has adequately provided for coordinating the review of other permits and licenses, as demonstrated in its legal opinion, volume R5, page 42 (ARN ILL-0384), and in its rule 1770.12 which requires the IDMM to coordinate the review and issuance of other permits and licenses.

46. *Rules 1779.5, 1780.5, 1783.5 and 1784.5*. ISP (ARN ILL-0412) expressed its concern about the possible hampering of

public review by the manner in which Illinois allows applicants to incorporate data by reference in permit applications. These Illinois rules allow permit applicants to comply with the requirements of Parts 1778-1780 and 1782-1784 by relying on accurate data already in the possession of the applicant or the IDMM through incorporating such data by reference into permit applications. ISP requests that such data be explicitly cited by volume, page, etc. The IDMM requires that incorporated data be publicly available under Sections 507 and 513 of SMCRA and 30 CFR Part 786. The Secretary believes Illinois has provided appropriate safeguards to see that data so incorporated is available to the public.

47. *Rules 1779.7 and 1783.7*. ISP (ARN ILL-0412) commented that the Illinois rules allow permit applicants to comply with the requirements for information on seasonal variability of certain hydrologic and climatological data without collecting data over twelve months if accurate statistical procedures, as approved by the IDMM, are used to extrapolate from data collected in less time. The Secretary finds that because the IDMM must approve any alternative statistical procedures, the Illinois rule is as effective as the Federal rule.

48. *30 CFR 779.18 and 783.18*. ISP (ARN ILL-0412) objected to the absence of counterparts to the Federal rules which enable the regulatory authority to request certain climatological data. Because the Federal rules provide that requesting such data is discretionary, the State does not need to include these rules in its program.

49. *Rule 1779.27(d)*. VOC (ARN ILL-0404) suggests that this rule should be revised to require a new soil survey if a current survey is not available. The Illinois rule is identical to its Federal counterpart, which requires a survey to be made if no soil survey exists.

50. *Rules 1780.12 and 1784.12*. Federal regulations at 30 CFR 780.12 and 784.12 set permit application requirements for preexisting structures, including a showing that the structure meets the interim or permanent program performance standards and a compliance plan if the structure must be modified. ISP (ARN ILL-0412) commented that the Illinois rules are ineffective because they require no specific showing as to compliance with performance standards, contain no mandatory requirements for compliance plans, and discuss plans for dams and embankments, which are expressly excluded from the existing structure

exemption at 30 CFR 701.11(d)(2) and Illinois rule 1700.11(d)(2).

The Secretary has examined the Illinois rules and notes the following: (1) Illinois rules 1780.12(a)(1) and 1784.12(a)(1) require the applicant to submit a description of each structure including sufficient information for the IDMM to determine if the structure meets the performance standards. This requirement is the functional equivalent of the "showing" required under 30 CFR 780.12 and 784.12; (2) Illinois rules 1780.12(b) and 1784.12(b) require that for each non-conforming structure to be modified or reconstructed, a compliance plan and schedule shall be submitted which should include sufficient detail to show that each non-conforming structure will be modified to meet the performance standards within the specified time-frame. In addition, rule 1786.21 provides that no permit application may be approved unless the IDMM finds that modification or reconstruction of a non-conforming structure will bring the structure into compliance with the design and performance standards of Parts 1810-1828 no later than six months after issuance of the permit, the risk of harm to the environment or public health or safety is not significant and that the applicant will monitor the structure to ensure compliance with the performance standards. These Illinois provisions, taken together, are virtually identical to the Federal counterparts at 30 CFR 780.12, 784.12, and 786.21; (3) contrary to the commenter's assertion, dams and embankments are not expressly excluded from the existing structure exemption at 30 CFR 701.11(d)(2). Rather, 30 CFR 701.11(d) provides only that the exemptions of 30 CFR 701.11(d)(1)(i) and (d)(1)(ii) are not applicable to dams and embankments. That is, dams and embankments must meet both the performance standards and design criteria of the permanent program. The Illinois rules 1780.12(a)(2) and 1784.12(a)(2) require the applicant to provide sufficient information for the IDMM to determine whether the structure meets the performance standards and design standards. If the structure does not meet these standards, rule 1780.12(b)(2) requires the structure to be reconstructed to meet these standards. This requirement is identical to that in 30 CFR 701.11(d)(1)(iii), (d)(1)(iv), 780.12(b), and 786.21(a)(2)(ii).

Therefore, the Secretary finds that the Illinois rules on permit application information for preexisting structures are no less effective than the Federal rules.

51. *Rule 1780.13*. ISP (ARN ILL-0412) asserts that the State has omitted certain requirements for data in an applicant's blasting plan and is thus less effective than the Federal rules.

Specifically, ISP noted that the Illinois rule fails to require that the permit application contain information on the types and amounts of explosives and a description of the blasting procedures that will be followed. Without this information, ISP asserted that the IDMM will be unable to ascertain whether the blasting plan will prevent damage to surrounding structures, especially old, plaster or lathe, or poorly constructed structures which are protected by Section 515(b)(15)(C) of SMCRA.

Illinois does not require all the detailed information required by the Federal rules. The Illinois rule does require, however, that the applicant explain how compliance with the performance standards will be achieved, and also requires information on notification to the public of blasting schedules and the availability of pre-blast surveys, a copy of the blasting log form, the anticipated minimum square root scaled distance to the nearest structure, a description of supervisory duties of persons responsible for blast preparation, and a description of unavoidable hazardous conditions for which deviation from the blasting schedule will be needed. Therefore, the Secretary finds that the State rule requires sufficient information in the blasting plan for the IDMM to determine that the operator will meet the performance standards of Section 515(b)(15) of SMCRA no less effectively than under its Federal counterpart.

52. *Rule 1780.15*. VOC (ARN-ILL-0404) commented that Illinois omits a counterpart to 30 CFR 780.15 (Air pollution control plan). The Federal rule has been suspended and Illinois is not required to include this provision until final Federal rules are promulgated.

53. *Rules 1780.21(c) and 1784.14(c)*. ISP (ARN ILL-0412) commented that the Illinois rules track the corresponding Federal rules which require reclamation plans to include a determination of the probable hydrologic consequences of the proposed mining activities, except that Illinois substitutes "permit area" for "mine plan area." The use of the term "mine plan area" in the Federal rules was suspended and the term "permit area" was substituted on August 4, 1980. The Illinois rules are thus identical to their Federal counterparts.

54. *Statute 3.09(b) and Rule 1780.25*. ISP (ARN ILL-0412) states that Illinois' omission of a statement that permanent impoundments (last-cut lakes) "will not

be allowed except as authorized in the mining and reclamation plan" renders the Illinois rule less effective than the Federal rule. The Federal rule, 30 CFR 780.25, does not contain this statement. The Secretary has approved the practice of leaving last-cut lakes. See Finding 14.2.

55. *Rule 1780.38*. ISP (ARN ILL-0412) commented that this rule, requiring the permit application to contain a rehabilitation design plan for siltation structures, diversions, impoundments and treatment facilities, provides a general exemption from design standards for these structures. Illinois (ARN ILL-0443, page 4, item 8) has explained that this provision is an additional requirement which assures State control over changes in the original design of siltation structures, before rehabilitation is allowed and the permit area abandoned. Based on this assurance, the Secretary finds the Illinois provision consistent with the Federal rules.

56. *Rule 1782.15(a)*. ISP (ARN ILL-0412) commented that the State rule requiring a showing that the underground mine permit applicant has a right of entry excludes from the requirement areas which are not disturbed by surface activities but merely overlie underground workings. The State requires a description of the legal right to enter for the permit and shadow areas, including areas where subsidence is planned. The Secretary finds that this provision is no less effective than 30 CFR 782.15, which requires such a showing only for the permit area.

57. *Parts 1783 and 1784*. ISP (ARN ILL-0412) commented that these parts, concerning permit application requirements for underground mining, are less effective than the Federal rules due to the Illinois definitions for "permit area", "affected area", "adjacent area", and "shadow area" because they appear to exclude from the requirements "land or water which is located above underground mine workings." The Secretary does not agree. See Findings 30.4 and 30.5 above.

58. *Rules 1783.12(b)*. AMAX (ARN ILL-0403) suggested that the operator should have to identify cultural and historic resources only if they are to be "affected" by the mining operation. The Illinois rule is identical to the Federal rule, which requires that the permit list and describe these resources in order for the regulatory authority to determine whether they will be affected by the mining operation. Thus, the State's rule is no less effective than the Federal rule.

59. *Rule 1783.15(c)*. ISP (ARN ILL-0412) commented that Illinois rule 1783.15, requiring the permit application to contain information on ground water, including aquifers, has a provision allowing an applicant to claim that no significant aquifer exists and therefore avoid the requirements of subsections (a) and (b). The Secretary has addressed this concern in comment number 13 above.

60. *Rule 1783.16(b)(2)(v)*. ISP (ARN ILL-0412) pointed out a typographical omission of the word "in", which should appear before the word "milligrams". This comment has been furnished to the State.

61. *30 CFR 783.17*. ISP (ARN ILL-0412) commented that Illinois incorrectly omits a counterpart to 30 CFR 783.17, which requires the permit applicant to identify the extent to which mining activities may result in contamination or interruption of water supplies and identify alternative sources of supply, on the basis that 30 CFR 817.54, requiring replacement of water supply, was suspended. The Secretary finds that the omission of a counterpart to 30 CFR 783.17 does not make the State program inconsistent with the Federal rule because Illinois requires virtually the same information in rule 1784.14 on protection of the hydrologic balance.

62. *Rule 1783.19*. ISP (ARN ILL-0412) commented that the Illinois rule allows the permit applicant to wait until two years before revegetation begins to submit information on vegetative types and plant communities if reference areas will be used to determine the success of revegetation, while the Federal rule requires this information in the permit application. The Federal rule provides that the regulatory authority may, but is not required to, request a description of plant communities and vegetative types. Thus, the Illinois rule is consistent with 30 CFR 783.19.

63. *Rule 1783.24*. ISP (ARN ILL-0412) pointed out a typographical error in which the phrase "boundaries and land" should read "boundaries of land." This information has been provided to the State (ARN ILL-0443).

64. *Rule 1784.16*. ISP (ARN ILL-0412) pointed out that Illinois has inadvertently omitted from its resubmission a counterpart to 30 CFR 784.16(a)(2), containing design criteria for various kinds of impoundments. Illinois agreed in the March 18 and 19, 1982 meeting, that the provision in question was inadvertently omitted from the resubmission printing of its rules, but pointed out that it was adopted on September 16, 1980 and never repealed. Based on this assurance, the Secretary

finds that the Illinois rules do contain this provision. (See ARN ILL-0443).

65. *Rule 1784.18(a)*. ISP (ARN ILL-0412) commented that Federal rule 30 CFR 784.18(a) requires that permit applications address situations where approval to conduct underground mining activities within 100 feet of a road is sought, while Illinois requires such information only for the surface activities related to underground mining. However, Illinois rule 1786.19(d)(4) provides that the IDMM may not approve a permit where the permit area is within 100 feet of the outside right-of-way line of any public road. This requirement is identical to 30 CFR 786.19(d)(4). Therefore, the Secretary finds the Illinois rule no less effective than the Federal rule in complying with Section 522(e)(4) of SMCRA.

66. *Rule 1784.20*. ISP (ARN ILL-0412) commented that Illinois rule 1784.20, on subsidence control information, is not as effective as the Federal rule because due to the Illinois definitions of permit area, shadow area, affected area, and adjacent area, the pre-subsidence survey will not be conducted on all areas located above underground mine workings. Furthermore, ISP notes that certain environmental resources information is not included in 1784.20(e). The Secretary does not agree that Illinois rule 1784.20 is less effective than its Federal counterpart. See discussion under Findings 15.3 and 30.4.

67. *Rule 1784.20(e)*. Old Ben (ARN ILL-0405) commented that this rule requires that the same information be submitted in two different places in the permit application: once in the body of application and once in the subsidence control plan. Old Ben recommends that the alternative of cross-referencing should be allowed. The Secretary finds that the suggestion has merit, but cannot be required of the State. However, the suggestion has been furnished to the State.

68. *Rule 1785.13 (b) and (e)(2)*. ISP (ARN ILL-0412) commented that the Illinois rule authorizes experimental practices for agricultural postmining land uses, which is allegedly inconsistent with Section 711 of SMCRA and 30 CFR 785.13. Section 711 of SMCRA authorizes use of experimental practices to encourage advances in mining and reclamation practices, or to allow postmining land use for industrial, commercial, residential, or public use (including recreational facilities). Postmining land uses for non-commercial agricultural use are not authorized.

However, under Illinois rule 1785.13(h), Section 711 of SMCRA, and 30 CFR 785.13(d), the Secretary (through

the Director, OSM) must approve any experimental practice. Unless all the criteria of Section 711 and 30 CFR 785.13 are met, permit approval will not be granted. Therefore, the Director, OSM, would be unable to approve any experimental practice which would allow a non-commercial agricultural postmining land use.

69. *Rule 1785.17*. ISP (ARN ILL-0412) commented that the Illinois rule on grandfathering of prime farmland deprives citizens of their right to have input into the grandfathering decision because Illinois has bifurcated the grandfather exemption decision from the permitting decision. Illinois rule 1786.19(1) provides that no permit shall be approved unless the IDMM finds that the applicant has, with respect to prime farmland, obtained a negative determination or satisfied the requirements of 1785.17. The applicant's claim that the operation is grandfathered (negative determination) would be subject to public comment during the permit application review period. These Illinois requirements are identical to their Federal counterparts at 30 CFR 785.17(a) and 786.19(1). The Secretary thus finds the Illinois rule no less effective than the Federal rules.

70. *Rule 1785.17*. ISP (ARN ILL-0412) commented that, despite the recent adoption by OSM of final rules establishing standards for exemptions from complying with the prime farmland requirements of the Act (46 FR 47722, September 29, 1981), Illinois has adopted only the vague language of Section 510(d) of SMCRA.

There has been extensive litigation over the "grandfather clause." The original Federal rule at 30 CFR 785.17(a) was suspended on December 31, 1979. Revised rules were promulgated on January 23, 1981, but the effective date was postponed several times to August 15, 1981. Illinois submitted its proposed regulatory program in March 1980 and promulgated final rules on September 12, 1980.

The State could not have anticipated the adoption of the final OSM rule on September 29, 1981. Furthermore, as stated in the October 31, 1980 initial decision on Illinois under "Effect of Litigation of the Federal Permanent Regulatory Program" (45 FR 72469):  
" \* \* \* 3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a counterpart to a suspended regulation. 4. A State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA

upon which the suspended regulations were based. 5. A State program may not contain any provision that is inconsistent with a provision of SMCRA \* \* \*.

Illinois implements the statutory language of Section 510(d) of SMCRA in Rule 1785.17(a) in a manner consistent with SMCRA. Illinois will be afforded an opportunity to amend its regulations, as appropriate, under the provisions of 30 CFR 732.17, if necessary to make its program consistent with the September 29, 1981 rule.

71. *Rule 1785.17(b), 1785.17(d)(4) and 1823.11(a)*. ISP (ARN ILL-0412) commented that Illinois appears to limit the scope of the prime farmland permitting requirements by imposing requirements only on "surface mining activities," rather than "surface coal mining and reclamation operations". Illinois rule 1785.17(d)(2) does not allow issuance of a permit unless the requirements of 1785.17(b) are met. Rule 1785.17(b) requires detailed permit application information and a plan for mining and restoration of the prime farmland to be affected. Rule 1785.17(b) is identical to its Federal counterpart, 30 CFR 785.17(b). Rule 1785.17(b) requires this information for land within the proposed permit area identified as prime farmland under 1779.27 or 1783.27. Illinois rule 1783.27 requires an investigation of areas affected by surface operations or facilities. This requirement is identical to its Federal counterpart, 30 CFR 783.27(a). The Secretary therefore finds the Illinois rules no less effective than the Federal rules.

72. *Rule 1785.17(b)(6) and (d)(3)*. KCB (ARN ILL-0402) commented that one of the application requirements for prime farmland is available agricultural school studies or other scientific data that demonstrates that the proposed method of reclamation will achieve, *within a reasonable time*, equivalent or higher levels of yield after mining as existed before mining. KCB commented that the phrase "within a reasonable time" should be defined or general parameters set. The Illinois rules are identical to their Federal counterparts, 30 CFR 785.17(b)(7) and (d)(3). The Secretary cannot require the State to provide more stringent requirements than the Federal regulations.

73. *Rule 1785.17(e)*. ISP (ARN ILL-0412) commented that this Illinois rule exempts certain surface facilities of underground mines from the prime farmland standards when the applicant demonstrates that: (1) No non-prime farmland is reasonably available for the surface facilities; (2) the ultimate land use will not have an adverse effect on

surrounding prime farlands; and (3) the applicant will use BTCA. ISP objected that this is an incorrect interpretation of the District Court ruling which remanded 30 CFR Part 823 as an across-the-board application of prime farmland standards to underground mines, but upheld the Secretary's authority to apply prime farmland standards to some underground mines. The Federal rule was suspended (45 FR 51547, August 4, 1980) and Illinois is not required to include it.

74. *Rules 1786.11(a), 1786.12(b), and 1786.17(a)*. ISP (ARN ILL-0412) expressed concern about the possible inadequacy of time allowed by Illinois for public review and comment on a revision to a pending permit application. Illinois rule 1786.11(a)(6) allows permit applications to be revised until 20 days following the last newspaper notice that an application has been filed. The newspaper notice informs the public that such a revision may be filed. Comments on the application must be filed within 30 days after the last newspaper publication. Thus, according to ISP, the public may have as little as 10 days to review and comment on any revisions.

The Federal regulation, 30 CFR 786.11(d)(2), allows revisions, but does not provide any specific provision for notifying the public that a revision has been filed, nor does it provide for public comment. Therefore, the Illinois rule is no less effective than the Federal rule in meeting the requirements of Section 513(a) of SMCRA.

75. *Rule 1786.16*. KCB (ARN ILL-0402) pointed out a typographical error in that the reference to Section 1781.11(a) should be corrected to read Section 1786.11(a). This comment has been furnished to the State.

76. *Rule 1786.17(c)(2)*. KCB (ARN ILL-0402) noted that the last sentence of subparagraph (c)(2) is incomplete. The words "are satisfied" were inadvertently omitted from the resubmission printing of the Illinois rules but are contained in the official version of the rules dated January 4, 1982 (ARN ILL-0444).

77. *Rule 1788.12(a)*. ISP (ARN ILL-0412) commented that the Illinois rule allows too much flexibility in permit revisions, especially in the parameters for what changes constitute "significant departures" from the method of mining originally contemplated. Rule 1788.12(a)(1) defines "significant departures" as any changes in the method or conduct of mining and reclamation operation except: (1) Changes of direction of mining or location of mining equipment within the permit area; (2) substitution of mining

equipment designed for the same purpose, the use of which is not detrimental to achievement of final reclamation; (3) for underground mines, any change in direction or location of mining within the permit area, in response to unanticipated events; (4) any other change described in writing which the IDMM approves in writing after determining that the described change will have no significant potential adverse impact on the achievement of final reclamation plans or upon the surrounding area; (5) any alteration in the reclamation plan which does not involve significant delay or any change in land use described in writing and excused by the IDMM; and (6) any temporary change in operation or reclamation plans necessitated by unanticipated and unusually adverse weather conditions, act of God, strikes, or other causes beyond the reasonable control of the permittee, after review and approval by IDMM. The Secretary finds that these exceptions are reasonable and that Illinois has adequately provided for permit revisions consistent with 30 CFR 786.12.

78. *Rule 1788.12(b)(5)*. ISP (ARN ILL-0412) commented that this rule allows for such significant boundary changes without the need to apply for a new permit that it is inconsistent with Section 511(a)(2) of SMCRA and 30 CFR 788.12(a). As an example, ISP states that under Illinois rules a 101 acre site could be extended by 20 acres without obtaining a revised permit. The Secretary believes ISP has misread the Illinois rule. Rule 1788.12(b)(5) requires that an application for a revised permit be filed for *all* incidental boundary revisions. All other boundary revisions are subject to the requirements for new permits in Parts 1778-1785.

79. *Rule 1806.11*. AMAX (ARN ILL-0403) commented that Illinois should allow self-bonding. While self-bonding is authorized by Section 509(c) of SMCRA, the State is not required to provide for self-bonding.

80. *Statute 6.07 and Rule 1806.12(c)*. ISP (ARN ILL-0412) commented that the Illinois statute appears to authorize discretionary authority to forfeit bonds rather than the mandatory authority provided by 30 CFR 808.11(a). The Secretary disagrees, finding that the Illinois statute, as implemented by 1808.11(a), is consistent with SMCRA. ISP also commented that the Illinois statute limits the amount of bond forfeiture to the amount for the area where the violation occurred, rather than for the entire permit area as required in Section 509 of SMCRA. The Secretary disagrees, finding that the

Illinois statute, as implemented by 1806.12(c), is consistent with SMCRA.

81. *Rule 1807.11(d)*. ISP (ARN ILL-0412) commented that the Illinois rule, contrary to 30 CFR 807.11(d), does not allow the owner, agent or lessee to participate in the bond release inspection. The Secretary agrees that this is a problem which must be corrected (ARN ILL-0443, page 6, item 16) and Illinois has agreed to do so. See Finding 19.2.

82. *Rule 1816.11*. VOC (ARN ILL-0404) objected to the rule deleting certain perimeter requirements for signs and markers on blasting. Illinois has simplified the requirements set forth in the Federal rules. The Federal rule, 30 CFR 816.11, requires that conspicuous signs which state "Warning! Explosives in Use" must be placed at all entrances to the permit area from public roads or highways. Illinois omits this requirement but requires that "Blasting Area" signs be posted along the edge of any blasting area that comes within 100 feet of any road. The signs must explain the blast warning and all clear signals. Before any person could approach close enough to the blasting area to be harmed, he would see the warning signs near the roads in the blasting area. The Secretary, therefore, finds that the Illinois rules provide equivalent protection and thus are no less effective than the Federal rules.

83. *Rules 1816.21(a) and 1817.21(a)*. ISP (ARN ILL-0412) pointed out that the word "moved" should be changed to "removed", in the general rule on topsoil removal. The Secretary disagrees that use of the word "moved" renders the Illinois rule any less effective than the Federal rule and notes that Illinois rule 1816.22, the substantive topsoil provision, requires all topsoil to be "removed".

84. *Rule 1816.22*. ISP (ARN ILL-0412) commented that Illinois appears to be exempting previously mined lands from topsoil removal requirements by introduction and definition of the term "placeland." The Secretary has addressed this concern in Finding 14.6.

85. *Rule 1816.23(b)(1)(i)*. ISP (ARN ILL-0412) commented that the State rule is less effective than the Federal rule because it would allow the use of annual plants alone, rather than a mixture of annuals and perennials, on a stockpile of topsoil which will be in place one year or less. The Secretary, disagrees, because the Illinois rule in allowing annuals alone will provide for at least as much biomass and root growth as would occur from a mixture. Section 515(b)(5) of SMCRA states that stored topsoil must be covered by "quick growing plant or other means" to

preserve from wind and water erosion. Should unexpected circumstances result in a stockpile being in place more than one year, the IDMM may require additional measures to prevent stockpile erosion. Therefore, the Secretary finds the Illinois rule is no less effective than the Federal rule.

86. *Rule 1816.42(a)*. AMAX (ARN ILL-0403) requested that intercepted, non-affected drainage, when combined with mine drainage should not result in the operator meeting standards any more stringent than those which existed prior to mining. The Illinois rule is consistent with the Federal rules and in accordance with SMCRA.

87. *Statute 3.08 and Rules 1816.42(a), 1816.46 and 1816.47*. ISP (ARN ILL-0412) commented that the best technology currently available (BTCA) for siltation control is a sedimentation pond and as directed in 30 CFR 816.42(a)(1) all "surface drainage \* \* \* shall be passed through "such structures". As set forth in Finding 14.7, the Secretary has required that the State propose a program amendment or experimental practice before allowing any exceptions or alternatives to sediment ponds (ARN ILL-0443).

88. *Rules 1816.42(a)(1) and 1817.42(a)(1)*. The Illinois Environmental Protection Agency (ILL EPA) (ARN ILL-0401) commented that the term "siltation structure" is not defined in the regulations and recommended either deleting the term and substituting "sedimentation pond" or clarifying what the term "siltation structure" means and adding general requirements for siltation structures.

Illinois Rule 1701.5 defines "siltation structure" as "a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will meet applicable effluent standards." The Illinois definition of "sedimentation pond" as "a primary sediment control structure \* \* \*" makes it clear that a siltation structure includes, but is not limited to, sediment ponds. Illinois uses the same term ("siltation structure") employed in Section 515(b)(10) of SMCRA. The Secretary has advised Illinois that at the present time, the requirement to use the "best technology currently available" can be met only by using sedimentation ponds. Illinois has agreed not to approve any other siltation structures until it has submitted the proposal to OSM for review and approval. See Finding 14.7 above.

89. *Rules 1816.42(a)(1) and 1817.42(a)(2)*. ILL EPA (ARN ILL-0401) commented that the Illinois rule requires siltation structures to be maintained, in part, until the untreated drainage from the disturbed area meets the applicable

State and Federal water quality requirements for the receiving stream. ILL EPA recommended that the requirement be limited to only effluent limitations. The Secretary finds that the Illinois rule is identical to its Federal counterpart, 30 CFR 816.42(a)(2) and therefore consistent with it.

90. *Rule 1816.42(b), 1816.42(c), 1817.42(b), and 1817.42(c)*. ILL EPA (ARN ILL-0401) commented that these rules refer to the effluent limitations of this section, implying that there are applicable effluent standards other than those set forth by Federal or State laws and regulations, and that these references are confusing unless Illinois intends to promulgate minimum standards. The Secretary interprets these references to allow, at a future date, for Illinois to include its own minimum standards. Until that time however, Illinois incorporates the applicable Federal effluent limitations at 40 CFR Part 434.

91. *Rule 1816.42(b)*. ISP (ARN ILL-0412) commented that the Illinois rule contains no effluent standards comparable to 30 CFR 816.42(a)(7). Illinois incorporates by reference existing State and Federal effluent limitations and water quality standards in 1816.42.

92. *Rule 1816.43(h)*. ISP (ARN ILL-0412) commented that the hydraulic conveyance rule for diversion of overland flow is ineffective because it allows for use of channels, banks and flood plains when the terrain can accommodate the precipitation event "without endangering health or the environment." In view of the precautionary phrase, the Secretary finds the State procedure acceptable, allowing use of natural flood conveyance and storage areas, rather than constructing artificial drainage ways—which may be far more disruptive of the ecology and local use in the Illinois landscape.

93. *Rules 1816.46 and 1817.46*. ISP (ARN ILL-0412) commented that Illinois omits from these rules what limited design parameters for sediment ponds remain after suspension of many of OSM's rules on design criteria for sediment ponds. ISP specifically cites requirements for theoretical detention time (30 CFR 816.46(c)), dewatering devices (30 CFR 816.46(d)), sediment removal (30 CFR 816.46(n)), and emergency spillways (30 CFR 816.46 (g) and (i)).

Illinois rule 1816.46(b) provides that sediment pond design criteria shall be published as technical guidelines and "shall be no less stringent than current criteria of U.S. Environmental Protection

Agency and Office of Surface Mining". Because so many Federal design standards had been suspended, Illinois apparently determined to simply incorporate whatever Federal criteria were currently in effect, rather than have to amend its rules frequently as the Federal regulations are revised. Therefore, the Secretary finds the Illinois rules on sediment pond design consistent with the Federal rules.

94. *Rules 1816.46(h) and 1817.46(g)*. ISP (ARN ILL-0412) objected to the retention of sediment ponds as permanent structures after mining. The Federal rules, 30 CFR 816.46(u), provide for retention of ponds if compatible with the postmining land use. In addition, Illinois has included requirements for proper rehabilitation of such structures (Rule 1780.38). The Secretary finds that retention of ponds is consistent with the Federal rules.

95. *Rule 1816.49(c)*. ISP (ARN ILL-0412) commented that the Illinois rule on perimeter slopes for permanent impoundments is less effective than the Federal rule because, unlike the 50% gradient slopes required in 30 CFR 816.49(c), Illinois allows angle or repose slopes. The Secretary has approved this provision with the understanding that any slopes approved by Illinois under the rule will be stable and consistent with the intended use of the impoundment. The controlling factors are suitability for intended use and protection of the environment. See Finding 14.2 above.

96. *Rule 1816.49(c)(iii)*. ISP (ARN ILL-0412) commented that this rule provides that topsoil replacement will not be required on angle of repose slopes, although it does require that topsoil substitute material be placed on angle of repose slopes. ISP objects that topsoil substitute material may not be equivalent to topsoil, and that no practical method exists to place any soil medium on angle of repose slopes. As noted in Finding 14.2 above, the Secretary has approved the Illinois rule on permanent impoundments with the understanding that any slopes approved by Illinois will be stable and consistent with the intended use of the impoundment. Illinois rule 1816.49(c)(iii) does require that topsoil substitute material be placed on these slopes. The Secretary assumes that Illinois will not authorize permanent impoundments unless slope protection is provided that is adequate to minimize surface erosion, as required by Illinois rule 1816.49(d).

97. *Rule 1816.62(a)*. ISP and KCB (ARN ILL-0412 and 0402) commented that Illinois should not require a written request for a pre-blast survey because the preamble to the Federal rule

expressly rejected requiring that the request be in writing. The Secretary finds that the Act does not specify the form of the request, and accordingly, Illinois is not inconsistent with Section 515(b)(15)(E) of SMCRA.

98. *Rule 1816.64(a)(2)*. ISP (ARN ILL-0412) commented that the Illinois rule is less effective than 30 CFR 816.64(a)(2) because the applicability of the notification requirement is based on one-half mile from the *blasting area* rather than the *permit area*, as required by 30 CFR 816.64(a)(2). The Secretary finds, however, that Illinois rule 1816.64(a)(2) is no less effective than the Federal rule in meeting the requirements of the Act because Section 515(b)(15)(A) requires that copies of the schedule be mailed to residents living "within one-half mile of the proposed *blasting site*" (emphasis added).

99. *Rule 1816.64(a)*. ISP and KCB (ARN ILL-0412 and 0402) objected to the Illinois rule allowing use of 25 pounds of explosives before public notice of blasting is required. The Federal counterpart rules impose the more stringent limit of 5 pounds. The Secretary agrees and has requested Illinois to correct this deficiency as a condition of approval. See Finding 14.3.

100. *Rule 1816.64(b)(2)(ii)*. ISP (ARN ILL-0412) asserted that Illinois' omission of a limitation on blasting to "an aggregate of 4 hours in any one day" renders the State rule less effective than its Federal counterpart, 30 CFR 816.64(b)(2)(ii). However, the four-hour time limit in 30 CFR 816.64 is not necessarily related to the prevention of damage, but rather related to local public convenience. The IDMM has the authority under 1786.27 and 1786.29 to specify permit conditions, including limitations on blasting time, as appropriate for the locale. The Secretary is confident that Illinois will exercise its authority in a reasonable manner.

101. *30 CFR 816.64(b)(2)(v)*. ISP (ARN ILL-0412) commented that Illinois omits a counterpart to this Federal rule requiring that blasting schedules include a description of unavoidable hazardous situations which require unscheduled detonation.

The types of situations requiring unscheduled detonation include unusual weather conditions or unavoidable delays that would threaten operator or public safety. Because 1816.65(a) requires advance authorization for unscheduled blasting, including public notice requirements, the Secretary finds that the omission of this provision from the blasting schedule does not render the Illinois rule less effective than the Federal rule in protecting the public from the effects of blasting.

102. *30 CFR 816.64(c)(2)*. 30 CFR 816.64(c)(2) provides that if there is a substantial pattern of non-adherence to the published blasting schedule, the regulatory authority may require preparation of a revised blasting schedule. ISP (ARN ILL-0412) asserted that because Illinois omits a counterpart to this rule it is thus less effective. Illinois stated in its legal opinion (Volume R5) that it omitted this requirement because it is redundant. Illinois stated that since subsection (b)(1) states a requirement, it is unnecessary to adopt a rule—subsection (b)(2)—that says if you don't meet the requirement, then you must do what is necessary to meet the requirement. The Secretary agrees that such a requirement is unnecessary, given Illinois' authority to impose restrictions on the permittee (see comment number 100).

103. *30 CFR 816.65(a)(1) and 817.65(b)(1)*. ISP (ARN ILL-0412) commented that Illinois omits counterparts to these Federal rules allowing the regulatory authority to specify more restrictive blasting periods to protect the public from adverse noise. The Secretary believes that Illinois has the authority and means to restrict periods of blasting without this particular provision, given its authority to impose permit terms and conditions under 1786.27 and 1786.29.

104. *Rules 1816.65(a) and 1817.65(b)*. ISP (ARN ILL-0412) commented that the Illinois rules omit a requirement found in 30 CFR 816.65(a)(2)(ii) to provide oral notices to persons within one-half mile of the blasting site if blasting is to be conducted between sunset and sunrise. ISP noted that Illinois justifies this omission on the basis that it has not received any requests to blast between sunset and sunrise in the past three years. ISP submitted a copy of a request to blast at night dated March 10, 1980.

Illinois justifies its rule by explaining (in Volume R5) that special authorization by the IDMM is required before night blasting will be allowed, and such authorization will not be granted except when the public or mine employees will be endangered if the blast is not fired. This requirement is in contrast to the Federal rule which does not require advance approval for night blasting. ISP noted that OSM has found that oral notices are necessary to prevent abuses of the nighttime blasting provisions. However, no reference was provided to support this statement. The preamble to the Federal rules (44 FR 15187, March 13, 1979) states that controls must be imposed to ensure that the public is adequately warned of an

emergency blast. Illinois has stated that neighbors and/or local public safety agencies will be required to be notified, as circumstances warrant. Thus, Illinois has the authority to require oral notices if necessary. Moreover, operators are required under 1816.65(b) and 1817.65(c) to give warning and all-clear signals that are audible within one-half mile of the point of blast. Therefore, the Secretary finds that the requirements of advance authorization and warning signals and the authority to require oral notices makes the Illinois rule no less effective in meeting the requirements of the Act.

105. *Rule 1816.65(e) and 1817.65(f)*. ISP and KCB (ARN ILL-0412) commented that the Illinois rule fails to protect "people living at a mine permit perimeter" from flyrock because the State rule would contain flyrock on the permit area, not restricting its occurrence to half the distance to the nearest dwelling, as required by 30 CFR 816.65(g). The Secretary does not agree that the Illinois rule is less effective. Illinois rule 1816.65(d) provides that blasting shall not be conducted within 300 feet of a dwelling unless waived by the owner, and Illinois rules 1816.65(c) and (f) require that blasting shall be conducted to prevent injury to persons and damage to property.

106. *Rule 1816.65(g)*. ISP (ARN ILL-0412) commented that Illinois omits an air blast permissible limit of 109 decibels, C-weighted, slow response. The Secretary assumes that by deleting this standard, Illinois would not allow use of the C-weighted scale, which is the least accurate of the standards set forth in either the Federal or Illinois rule. The Illinois rule is therefore no less effective than its Federal counterpart, which allows use of this standard.

107. *Rule 1816.65(n)*. ISP (ARN ILL-0412) objected to the Illinois rule because it omits authority to require reduction of maximum peak particle velocity because of special geologic and hydrologic conditions or age and type of structures in the area. The Secretary notes, however, that the Illinois language, although dissimilar in wording, nevertheless authorizes the IDMM to reduce the maximum peak particle velocity to enable the protection of property, people and natural resources.

108. *Rule 1816.68*. ISP (ARN ILL-0412) commented that the Illinois rule on blasting records omits requirements to include information on weather conditions and number of persons in the blasting crew. Although the Secretary agrees that the inclusion of such information in the record would facilitate post-blast investigations, its inclusion is not mandatory. Section

515(b)(15)(B) requires that records be maintained detailing the location of the blast, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts. Therefore, the Secretary finds that the Illinois rule, which contains these requirements, is as effective as the Federal rule.

109. *Rule 1816.71*. ISP (ARN ILL-0412) objected to the classification of box-cut spoil as excess spoil and its inclusion in the Illinois excess spoil rule. ISP, apparently, wishes the box-cut spoil to be placed in the final cut—thus effecting a nearly complete return of the minesite to original contour. This request ignores the conventional and practicable area-mining method used in Illinois, in which the box cut and the last cut may be separated many miles in distance and years of time. The Secretary believes that the environmental performance standards of the Act are met, and can be met in the future, in this type of mining. The Illinois rule is consistent with SMCRA and is as effective as the Federal rules.

110. *Rule 30 CFR 816.83(a)*. ISP (ARN ILL-0412) commented that 30 CFR 816.83(a) requiring coal processing waste banks to include a subdrainage system was suspended only to the extent that it failed to provide an exemption if the operator can demonstrate that an alternative will ensure structural integrity of the waste bank and protect water quality. ISP states that Illinois has omitted this rule in its entirety. However, the Secretary finds that Rule 1816.83(d) supplies the necessary control and is identical to 30 CFR 816.83(a).

111. *Statute 3.25(a) and (b) and Rules 1816.100 and 1817.100*. ISP (ARN ILL-0412) commented that these Illinois provisions, concerning extension of time for reclamation, conflict with Section 102(e) of SMCRA and 30 CFR 816.100 and 817.100 which require reclamation as contemporaneously as practicable. The Secretary finds that extensions of time are consistent with 30 CFR 816.101, which expressly authorizes them, and the Illinois provisions are thus consistent with SMCRA and the Federal regulations.

112. *Rule 1816.101(a)(3)(ii)*. ISP (ARN ILL-0412) comments that this rule "affords operators a blanket exemption from contemporaneous reclamation requirements for as long as 26 months" and, furthermore, fails to assure erosion control on the fill during the interim period before final grading. The Secretary finds that the concept of separating rough and final grading is acceptable and that erosion can be controlled under the Illinois rule, if the

State administers the rule to require reclamation to be as "contemporaneous as practicable" (SMCRA 515(b)(16)). It is noteworthy that SMCRA uses the term *practicable* not *possible*. The rules of Illinois to evaluate and to enforce this standard are as effective as the Federal rule.

113. *Rule 1816.102*. ISP (ARN ILL-0412) asserts that this Illinois rule is less effective than Federal rules because it allows a highwall remnant to remain (unreduced to 50 percent gradient, as is the above-water strata) below the mean low water line. The Secretary disagrees, because the limnological characteristics of almost any water body can be improved by a deep water zone. The most efficient place in the artificial water body to provide storage and depth is on the highwall side of the lake. Such a condition would be subsurface and therefore not a highwall, *per se*. This interpretation is supported by the water quality and water use criteria of SMCRA 515(b)(8).

114. *Statute 3.11(c) and Rule 1816.103*. ISP (ARN ILL-0412) expresses several concerns about the Illinois rule allowing the covering of the pit floor and the highest coal seam with four feet of water. The Secretary has examined the professional literature thoroughly and has concluded that, if Illinois wishes to allow this practice it must assure that at least 33 feet (not 4 feet) of water cover the coal seam at all times. This depth will allow thermal stratification so that deep water in contact with acid-forming materials will be generally unsuitable for acid formation. The Secretary has directed OSM to work with Illinois to review the literature and develop a proposal which is consistent with the Federal provisions. See Finding 14.4 above, which conditions approval of the Illinois program on a revision to this rule.

115. *Rule 1816.105(b)(7)*. ISP (ARN ILL-0412) commented that "reference to final cut impoundments is improper . . . and should be disapproved." The Secretary disagrees, calling attention to language in the preamble allowing for last-cut lakes on prime farmland (44 FR 15087, March 13, 1979). See Finding 14.2 above.

116. *Rule 1816.115*. AMAX (ARN ILL-0412) commented on postmining land use as pasture, stating that the narrative requirement of actual "grazing" in Volume R2 is inconsistent with Rule 1816.115, which provides that the reclaimed land *may* be used for grazing but at a minimum must be restored to a condition *capable* of supporting the approved postmining land use of range

or pasture. This comment has been furnished to the State.

117. *Rule 1816.116(a)(3) and 1817.116(a)(3)*. ISP (ARN ILL-0412) expressed concern that Illinois does not require consultation with other appropriate State and Federal agencies before approval of a revegetation technique and that the rule equates 90% ground cover with equal productivity. ISP also commented that Illinois deletes the reference to productivity in the underground mining rule. The Secretary finds that the Illinois rules will provide for consultation on techniques to measure the success of revegetation, as such techniques are developed, and further finds that Illinois Rules 1816.116(a)(3) and 1817.116(a)(3) are identical to their Federal counterparts, 30 CFR 816.116(b)(3) and 817.116(b)(3).

118. *Rule 1816.116(b)(3)*. AMAX (ARN ILL-0403) commented on revegetation standards for success, suggesting that this rule be rewritten to change the reporting date from September to January and to begin the report period when the five-year period of responsibility begins. The Secretary finds that the suggestion, while it may be helpful, is not required of the State. The comment has been furnished to the State.

119. *Rule 1816.117(c)*. ISP (ARN ILL-0412) commented that rules for tree and shrub stocking are inconsistent with Federal standards and must be disapproved. The Secretary finds that Illinois, by requiring a minimum stocking of 250 trees or shrubs per acre, has provided for the use of stocking patterns that will achieve the desired edge effect and aesthetics when revegetating for wildlife management, recreation, and shelter belts, and that the minimum stocking does not preclude requiring more plants when necessary. Therefore, the Illinois rule is no less effective than the Federal rule.

120. *Rule 1816.117(d)*. ISP (ARN ILL-0412) commented that the rule establishes a vegetation sampling procedure to measure revegetation which shows an unwillingness to measure productivity as well as ground cover, and thus Illinois will be unsuccessful in measuring revegetation. Productivity of forest, wildlife, shelter belts, and recreational areas is assumed to be achieved when proper tree and shrub stocking and ground cover have been achieved. The Secretary finds that the Illinois rule is therefore no less effective than the Federal rule.

121. *Rule 1816.133*. ISP (ARN ILL-0412) objected to the lack of specific criteria for approving postmining land uses that are found in 30 CFR 816.133(c). ISP also commented that 1816.133(a)(2), which

provides that the regulatory authority will make the determination of consistency with land use policies and plans, deletes references to local land use policies. ISP also objected to the Illinois rule, which provides that the proposed use must not be a hazard or threat or be impractical or unreasonable, rather than requiring a detailed description of postmining land use achievement, as required by Section 508(a)(4) of SMCRA. ISP stated that Illinois' proposed procedure to determine capabilities of affected lands through SCS classifications will be ineffective for mined lands because the system fails to address land use type issues except in a slope and soil type framework which is not appropriate for a mining situation with changes of land configuration, the inclusion of non-agricultural type uses and the creation of new soil types with no SCS classifications. ISP also pointed out the Flannery decision upholding the majority of the Federal rules at 30 CFR 816.133 and the need for Illinois to comply with these regulations. ISP ended the discussion of the objection to the State's rule 1816.133 with specific details on Illinois' past practice in allowing alternative land uses and the impacts on local land use. ISP stated that the Illinois rule as proposed is insufficient to meet the requirements of the Federal program as it requires insufficient information to evaluate postmining land use, fails to provide the consultation with land owner or land management agency, does not require a written statement of the views of authorities with statutory responsibility for land use policies and plans and the professional certifications. Finally, ISP stated that the use of SCS handbooks for determining land capabilities for mined lands is also without technical support. The Secretary has addressed these concerns in Finding 14.8.

122. *Rule 1817.101(b)*. ISP (ARN ILL-0412) commented that this rule is less effective than 30 CFR 817.101(b) because it omits a requirement that affected surface areas be returned to approximate original contour. ISP also noted that 1817.101(b)(4) requires only that reclamation must "support" the postmining land use, which is less effective than the Federal rule. The Federal rule, 30 CFR 817.101(b)(2) uses the same word. The Federal counterpart, 30 CFR 817.101(b)(1), was suspended and Illinois is not required to include this provision until a final Federal rule is promulgated.

123. *Rule 1817.111*. ISP (ARN ILL-0412) asserted that this rule deletes the requirement that underground mining areas designated as prime farmlands

must comply with the standards of Part 1823; and that it omits the term "native" plants from the permanent vegetative cover standard. The Secretary disagrees that an exemption has been effected. In Illinois Rule 1784.20 all surface effects of underground mining are subjected to the prime farmland standards. On the subject of "native" plants; the use of an acceptable vegetative cover will be assured by Illinois through the permitting process. Therefore, the deletion of the word "native" is not considered critical.

124. *Rule 1817.112*. ISP (ARN ILL-0412) commented that Illinois does not require field trials for introduced species, as does 30 CFR 817.112. The Secretary finds that sufficient review is afforded permit applications to insure that the use of introduced species will be monitored judiciously.

125. *Rule 1817.116(a)(3)*. ISP (ARN ILL-0412) commented that Illinois has eliminated the productivity reference for equivalency of revegetation, improperly allowing a comparison of ground cover and productivity of the affected area with only the ground cover of the reference area. ISP stated that "Illinois must require that operators compare the productivity of the affected area with the productivity of a reference area or other reliable productivity data." The Secretary believes that standards of success for revegetation can best be developed on a State level and that the Illinois rule is supported by SMCRA 515 (b)(6) and (b)(19). See also responses to comments 117, 119 and 120.

126. *Rule 1823.1*. ISP (ARN ILL-0412) commented that Illinois exempts the applicability of prime farmland standards to underground mining operations and activities and to surface effects of underground mining that do not involve drilling, blasting, or mining. The District Court in *In re Permanent Surface Mining Regulation Litigation*, No. 79-1144 (D.D.C. 1980) remanded 30 CFR Part 823 to provide an exemption for surface facilities actively used over extended periods of time but which affect a minimal amount of land. Based on this remand, the Secretary finds that the Illinois rule is no less effective than the Federal rules.

127. *Rule 1823.11(a)*. ISP (ARN ILL-0412) commented that this rule limits the applicability of prime farmland permitting standards to prime farmlands due to alleged inadequacies in definitions. The Secretary believes that Illinois need not employ the same terms so long as they are equivalent to the Federal definitions. Viewed as a whole the Illinois terms and standards (as explained in Findings 30.4 and 30.5)

provide consistent coverage no less effective than the Federal rules.

128. *Rule 1823.14(c)*. KCB (ARN ILL-0412) commented that the term "excessive compaction" is not defined as it is in the Federal rule, 30 CFR 1823.14(c). The Federal rule was suspended insofar as it established a "moist bulk density" standard to define excessive compaction. Therefore, the Illinois rule is consistent with the existing Federal rule. Compaction as well as other soil reconstruction standards are to be developed by the Soil Conservation Service and the regulatory authority within each State.

129. *Rule 1823.15(b)*. ISP and KCB (ARN ILL-0412) objected to several differences in the Illinois rule as compared to the Federal rule: Adoption of the phrase "plant with common crops" in place of "use for common crops"; the use of final grading in lieu of rough grading; and options given to operators for determination of productivity measures. The Secretary disagrees, finding the Illinois rules different but no less effective in protecting prime farmland. See responses to Comments 119 and 120 and Findings 30.4 and 30.5.

130. *Rules 1825, 1825.11, and 1825.14*. ISP (ARN ILL-0412) raises many questions about the Illinois rule on high capability lands (for which there is no Federal counterpart). The Secretary finds that the explanations in resubmittal documents R5 (page 157) and R7 (page 322) demonstrate that the Illinois rule is no less effective than the Federal rules.

131. *Statute 8.02 and Rule 1840.2*. ISP (ARN ILL-0412) alleged that the Illinois rule undermines the requirement in Section 517(b)(1) that the regulatory authority impose monitoring and reporting obligations on the permittee by limiting the obligations to those instances where the Department deems it reasonable and necessary. The Secretary disagrees, finding that the Illinois rule in no way diminishes its authority or renders inconsistent or ineffective monitoring and reporting obligations of operators.

132. *30 CFR 842.11(b)(1)(i)*. ISP (ARN ILL-0412) commented that Illinois omits a counterpart to 30 CFR 842.11(b)(1), which requires an authorized representative of the Secretary to immediately conduct an inspection if there is reason to believe that a violation exists. The Secretary believes that 30 CFR 842.11(b)(1)(i) applies to Federal and not State inspections. First, Part 842 is entitled "Federal Inspections" while Part 840 is entitled, "State Regulatory Authority Inspection and Enforcement." 30 CFR 840.15

incorporates only the public participation provisions of Part 842 into Part 840. Second, 30 CFR 842.11(b)(1)(i) requires an immediate inspection when there is reason to believe that a violation exists rather than immediate issuance of a notice of violation or cessation order. The commenter failed to read this subsection in conjunction with subsection (ii), which subsection refers to the other preconditions that must exist prior to conducting an immediate Federal inspection. These preconditions are: (1) Federal enforcement in the State under the permanent program, (2) failure of the State to take action after a 10-day notification period has expired or (3) adequate proof that an imminent danger exists. These preconditions are clearly those where OSM is either enforcing the permanent program in a State, or overseeing the State's enforcement of its approved program. 30 CFR Parts 840, 843 and 845 contain the required inspection and enforcement aspects of a State program, and Illinois has demonstrated that the provisions of its program are no less effective than the Federal regulations.

133. *Rule 1843.12(a)(1)*. ISP (ARN ILL-0412) commented that 30 CFR 843.12(a)(1) prescribes those circumstances for which a notice of violation must be issued, including violations of "any condition of a permit or exploration approval imposed under (the State) program," and that the corresponding Illinois rule omits this language. However, Rule 1843.12(a)(1) does require issuance of a notice of violation for "a violation of the (Federal) Act, the State Act, or these regulations." Rule 1771.19 requires that "all persons shall conduct surface coal mining and reclamation operations under permits issued pursuant to Sections 1770-1778 of these regulations and shall comply with the terms and conditions of the permit and the requirements of the State Act, and these regulations, and the regulatory program." (Emphasis added.) Therefore, violation of a permit condition would mean violation of Rule 1771.19 and a notice of violation must be issued under 1843.12(a)(1). The Secretary finds the Illinois rule is no less effective than 30 CFR 843.12(a)(1) in meeting the requirements of Section 521(a)(3) of SMCRA.

134. *Rule 1843.12(a)(2)*. ISP and Old Ben (ARN ILL-0412) commented that the rule is confusing, as it appears to apply to Federal inspections. The Secretary has advised Illinois (ARN ILL-0443) that the provisions pertaining to Federal inspections are not required in the State rules and Illinois has agreed to delete this requirement. (ARN ILL-0451).

135. *Rule 1843.12(f)*. ISP (ARN ILL-0412) objected to the Illinois rule on extension of abatement beyond 90 days in enforcement actions. The Secretary has addressed this concern in Finding 21.3.

136. *Rule 1843.16(c)*. ISP (ARN ILL-0412) observed that the Illinois reference to paragraph (4) should be to paragraph (a). This comment has been furnished to the State.

137. *Rule 1843.17*. Old Ben (ARN ILL-0405) asked for clarification on whether the hearing on temporary relief may be combined with any hearing held under 1843.16 or 1845.19. The Secretary interprets the Illinois rules as not allowing a combining of hearings under 1843.17(1) and 1843.16 or 1845.19.

138. *Rule 1843.22*. Old Ben (ARN ILL-0405) stated that 1843.22(e)(1)(B) should be amended by adding "other" to the phrase "any proceeding" to clarify that subsection (B) does not encompass subsection (A). The Secretary does not believe that clarification is needed, as subsection (A) and (B) are separated by a semicolon and the disjunctive word "or".

139. *Rules 1843.22(e) and (f)*. ISP (ARN ILL-0412) commented that the Illinois program does not contain counterparts to Federal rules 43 CFR 4.1294(b) and 4.1295(b) providing for: (1) The award of costs and expenses "to any person other than a permittee or his representative from OSM, if the person initiates or participates in any proceeding under the Act upon a finding that the person made a substantial contribution to a full and fair determination of the issues," and (2) the award of costs incurred in seeking the award. Illinois rule 1843.22(e) provides that any person may be awarded costs from the permittee if the person made a substantial contribution to a full and fair determination of the issues. The Secretary therefore finds that the public will have access to award of costs that is no less effective than the Federal rules.

140. *Rule 1845.15(b)(2)*. ISP (ARN ILL-0412) commented that Illinois has omitted a provision for alternative enforcement after the 30-day penalty period has expired. The Illinois provisions for alternative enforcement were inadvertently omitted from the resubmission. However, the Illinois rule amendments dated January 4, 1982 (ARN ILL-0444) do provide for alternative enforcement action consistent with 845.15(b)(2).

141. *Narrative Volume R1, Tab B*. ISP (ARN ILL-0412) recommended that Illinois be required to certify the accuracy of current statutory references because of the time that has passed

since Illinois' original submission. The Secretary believes that Illinois has made a good faith effort to provide correct citations and a certification is not necessary.

142. *Narrative Volume R1, Tab E.* ISP (ARN ILL-0412) commented that under Section 554 of the Administrative Procedures Act, an employee who presides at a formal administrative hearing may not supervise an employee engaged in the performance of investigative or prosecuting functions for an agency. ISP objected that under the Illinois procedure, the attorneys for the IDMM would be reviewing the decisions of their supervisor, the head of the Land Reclamation Division. However, the Secretary finds that Illinois has adequately explained its administrative review procedures in Volume R2, Tab O.

143. *Narrative Volume R1, Tab F.* ISP (ARN ILL-0412) commented that Illinois had not submitted key interagency agreements under the permanent program. These agreements were submitted on April 13, 1982 (ARN ILL-0451) and OSM reopened the public comment period on them.

144. *Narrative Volume R1, Tabs I and J.* ISP (ARN ILL-0412) expressed concern that Illinois lacks an adequate inspection staff. The Secretary finds that the number of employees available to conduct inspections is adequate based on the number of inspectable units in Illinois.

145. *Narrative Volume R1, Tabs D and J.* ISP (ARN ILL-0412) commented that Illinois lacks the necessary staff to inspect and enforce water quality standards and has failed to specify procedures for the reporting of data to the IDMM by the Illinois EPA. The Secretary finds that the IDMM has adequate staff to inspect and enforce water quality standards (see comment No. 144 above) and has specified procedures in the interagency agreement with the Illinois EPA (ARN ILL-0451).

146. *Narrative Volume R2, Tab G.* ISP (ARN ILL-0412) commented that the description of proposed procedures on civil penalties is inconsistent with the Federal law because it fails to provide for a maximum \$5,000 penalty for each violation. However, Illinois rule 1845.14(a) provides for maximum penalties of \$5,000, in accordance with Section 518(a) of SMCRA. Accordingly, the Secretary finds that the Illinois provision is consistent with the Federal regulations.

147. *Narrative Volume R1, Tab J.* ISP (ARN ILL-0412) stated that for the price the State is paying for outside legal counsel, the IDMM could hire four to six in-house legal counsel which would

respond to the Secretary's original concern that Illinois in-house legal services were inadequate. The Secretary has found that Illinois will have adequate legal counsel and it is a matter of State discretion whether to use the services of outside legal counsel.

148. *Statute 1.03(25).* ISP and KCB (ARN ILL-0412 and 0402) stated that the use of definitions for both "toxic conditions" and "toxic materials," is confusing and that the weaker definitions for toxic materials should be deleted. Illinois rule 1701.5 defines both "toxic conditions" and "toxic materials" as those which will not support plant or animal life. The Secretary finds that the Illinois rule definition is no less effective than the Federal definitions.

149. *SMCRA 707.* ISP (ARN ILL-0412) commented that Illinois lacks a counterpart to Section 707 of SMCRA which is a severability clause that if any part of SMCRA is held invalid, preserves the remainder. The Secretary finds that the lack of such a clause is not significant, based on the explanation in the Attorney General's opinion (Volume 7 of the original submission) the Illinois State law provides that the remainder of a statute stands unless it is clear that the legislature would not have passed the statute without the stricken provision because it is such an integral part of the statute. (See ARN ILL-0103 and 0304).

150. *SMCRA 704.* ISP (ARN ILL-0412) commented that Illinois has failed to provide for protection for State employees. The Secretary disagrees, based on the information submitted by Illinois. See Finding 27.

151. *Statute 3.04.* ISP (ARN ILL-0412) commented that because the definition of "affected land" excludes surface over underground mine workings, Section 3.04 requiring backfilling and grading of "affected land" is inconsistent with Section 515(b)(3) of SMCRA. The Secretary has examined the definition and use of all terms relating to underground coal mining to ensure conformance with 30 CFR and SMCRA. See Findings 30.4 and 30.5 above. In this context the difference in definition of "affected land", and certain related terms, renders the Illinois rule no less effective than the Federal rules.

152. *Statute 3.04(c).* ISP (ARN ILL-0412) commented that the Illinois statute broadens the exemption from approximate original contour requirements of Section 513(b)(3) of SMCRA in order to treat overburden as excess spoil and allow last-cut lakes. The Secretary has approved the Illinois practice of leaving last-cut lakes. See Findings 14.2 and 14.4.

153. *Statute 3.15(b).* ISP (ARN ILL-0412) objected to the Illinois rule not conditioning the starting of the five-year period on the date of initial planting. The Secretary disagrees and finds the Illinois statute consistent with SMCRA. (See Comments on rules 1816.117(d), 1817.116(a)(3), and 1825).

154. *Statutes 3.15(b) and 7.01(b).* ISP (ARN ILL-0412) requested that the Illinois law be construed such that Section 3.16(b) which appears to authorize mining within 100 feet of a road, "does not override Section 7.01(b), which requires an opportunity for a public hearing and a written finding before mining may take place within 100 feet of a road." The Secretary has already found the Illinois statute to be consistent (See Finding 22.1 of the October 31, 1980 Federal Register).

155. *Statute 9.01(h).* ISP (ARN ILL-0412) commented that the Illinois statute provides that adopted rules shall be effective 30 days after filing of a rule unless a later date is specified, but no provision is made for compliance with 30 CFR 732.17, which requires submission to and approval by OSM before amendments are effective. The Secretary finds that express reference to compliance with 30 CFR 732.17 is not an element required to be included in a State program.

156. *Statute 9.01(h).* ISP (ARN ILL-0412) states that the Illinois statute is inconsistent with SMCRA because it prohibits the adoption of retroactive rules. The Secretary disagrees after careful review of this subject with Illinois (ARN ILL-0443). Illinois explained that the provision means that Illinois rules are effective prospectively and will be applicable to all permittees. Based on this assurance, the Secretary finds that the Illinois provision is consistent with SMCRA.

157. *Statute 8.05(c) and 8.07(f).* ISP (ARN ILL-0412) commented that Sections 8.05(c) and 8.07(f) authorizing awarding costs and expenses on the basis of the importance of the proceeding and participation of the parties in the efficient and effective enforcement of the Act is inconsistent with SMCRA. However, the Secretary finds that Illinois rule 1843.22 provides for award of costs in accordance with SMCRA and the Federal regulations. See comment number 139.

158. *Statute 8.04(e).* ISP (ARN ILL-0412) commented that the criminal sanctions of Section 8.04(e) are inconsistent with Section 518(e) of SMCRA, because they omit sanctions for violations of court orders. In addition, the Secretary notes that several Illinois cases, *In re Baker*, 71 Ill.

2d 480 (1978), and *People ex rel Chicago Power Assn. v. Barasn*, 21 Ill. 2d 407 (1961), have held that criminal contempt penalties are discretionary with the court and may include imprisonment and fines. These penalties are consistent with Section 518(e) of SMCRA. Therefore, the Secretary finds Section 8.04(e) of the Illinois statute is in accordance with SMCRA.

159. *Statute 8.05*. ISP (ARN ILL-0412) commented that Illinois must include a right of intervention in citizen suits consistent with Section 520(b)(1)(B). However, Section 520(b)(1)(B) provides that no citizen suit may be commenced "if the Secretary or the State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act, or any rule, regulations order, or permit issued pursuant to this Act, but in any such action in a court of the United States any person may intervene as a matter of right." (emphasis added). The Secretary finds that Congress by specifying a right of intervention in Federal court, did not intend to require intervention in State courts.

160. *Statute 8.06(b) and (c)*. ISP (ARN ILL-0412) commented that the Illinois statute is inconsistent with SMCRA because it provides that an operator may seek immediate injunctive relief from enforcement action without first exhausting administrative remedies. The Secretary has addressed this concern in Finding 28.2.

161. *Statute 8.07(a)*. ISP (ARN ILL-0412) commented on administrative review of enforcement actions, noting that "This problem appears to have been resolved by Illinois' rules at 1843.16(a) \* \* \*". The Secretary agrees.

162. *Statute 9.06*. ISP (ARN ILL-0412) commented that the Illinois statute applies the conflict of interest provisions of Section 517(g) only to employees of the IDMM, although other State employees have duties under the Act. ISP notes that Illinois states that it requires all employees exercising duties under the State Act to file financial interest statements, but ISP requests further assurances that the definition of employee in 1701.5 and penalties for violation be specified in the program. The Secretary finds that Section 9.04 and 9.06 of the Illinois statute, when taken together, are consistent with SMCRA. Section 9.04 provides that the IDMM may delegate to or contract with other State agencies to perform duties under the State Act. Section 9.06 provides that no person employed by the IDMM shall have a direct or indirect financial interest in mining operations in violation of the Federal Act. Further,

rule 1701.5 defines employee as any person employed by the IDMM who performs any duty or function under the Act. This definition is identical to the definition of employee in 30 CFR 705.5. Therefore, the Secretary finds that Illinois applies the conflict of interest provisions of Section 517(g) of SMCRA consistent with the Federal requirements in 30 CFR Part 705.

#### E. Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. SMCRA calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the States in becoming the primary regulators under SMCRA. To enable the States to achieve that primacy, the Secretary has undertaken many activities, of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations, such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups, OSM has frequently met with State regulatory authority personnel to discuss informally how SMCRA should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them.

The Secretary has dispensed over \$8.5 million in program development grants and over \$54.8 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances, OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet SMCRA's environmental protection standards.

Equally important, the Secretary structured the State program approval process to assist the States in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each State program to identify needed changes and to allow them to be made without penalty to the State. The Secretary adopted a special policy to insure that communication between him and the States remained open and uninhibited at all times (44 FR 54444; September 19, 1979). This policy was

critical to avoiding a period of enforced silence between OSM and a State after the close of the public comment period on its program and has been a vital part of the program review process.

The Secretary has also developed in his regulations the critical ability to conditionally approve a State program. Under 30 CFR 732.13 of the Secretary's regulations, conditional approval gives full primacy to a State even though there are minor deficiencies in a program. This power is not expressly authorized by SMCRA; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 201(c), 501(b), and 503(a)(7).

SMCRA expressly gives the Secretary only two options—to approve or disapprove a State program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result, and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to conditionally approve a program.

Conditional approval has a vital effect for States whose programs are approved. It results in the implementation of the permanent program in a State months earlier than might otherwise be anticipated. It also avoids the costly and cumbersome problem of implementing Federal programs where the State submittal was deficient in only minor respects. While this may not be significant in States that already have comprehensive surface mining regulatory programs, in many States earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the State's willingness to make good faith efforts to effect the necessary changes. Without the State's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations states, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems

required by SMCRA and these regulations" (44 FR 14961; March 13, 1979). That is, a State must be able to operate the basic components of the permanent program: The designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition, there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be granted.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular State in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete, because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of SMCRA that the deficiency would probably be major.

The granting of conditional approval is not and cannot be a substitute for the adoption of an adequate program. The purpose of the conditional approval authority is to assist States in achieving compliance with SMCRA, not to excuse them from compliance.

#### F. The Secretary's Decision

As indicated above under "Secretary's Findings," there are minor deficiencies in the Illinois program which the Secretary requires be corrected. In all other respects, the Illinois program meets the criteria for approval. The deficiencies identified in prior findings are summarized below and an explanation is given to show why the deficiency is minor, as required by 30 CFR 732.13(i).

1. As discussed in Finding 14.3, Illinois rules allow up to 25 pounds of explosives to be detonated before requiring publication of an operator's blasting schedule or before requiring notice to surface owners of any surface blasting event during underground mining operations. This deficiency is minor because few blasts of less than 25 pounds are detonated. Also, during the interim period until Illinois can amend these regulations, most operations will

be operating under permits issued under the interim regulatory program which requires a blasting schedule be published in which blasts using more than 5 pounds of explosives are to be detonated and requires surface owners to be notified of any surface blasting event associated with underground mining operations.

2. As discussed in Finding 14.4, the Illinois regulations allow for covering the pit floor and highest coal seam with four feet of water. This deficiency is minor because during the period until Illinois can amend these regulations most operators will be operating under permits issued under the interim regulatory program, which does not allow for covering with water. Furthermore, Illinois has agreed not to use its authority to approve covering with less than 10 meters of water.

3. As discussed in Finding 14.7, Illinois regulations would allow variances from the requirement of a sedimentation pond if an operator demonstrates that the best technology currently available in a given situation is a siltation structure other than a sedimentation pond. This deficiency is minor because Illinois has agreed to send any such proposal to OSM for review and approval pending revision of the program.

4. As discussed in Finding 19.2, the Illinois regulation does not expressly guarantee the right of the surface owner to accompany the IDMM inspector on the bond release inspection. This deficiency is minor because during the short period before the regulation is amended, the Illinois rules do provide that the landowner must be notified of the application for bond release and by registering a written objection and requesting a hearing, the IDMM may arrange for access to the mining area.

5. As discussed in Finding 21.3, Illinois regulations on extensions of the 90-day abatement period on violations are inconsistent with the Federal rules. This deficiency is minor because Illinois rules 1843.12(f)(1) and (f)(6), among other provisions, require that extensions can be granted only when abatement within 90 days would: (1) Clearly cause more environmental harm than it would prevent; or (2) create an imminent danger or be expected to cause imminent environmental harm. The Secretary knows of no situation where more environmental harm would be created by abatement except when abatement would be affected by climatic conditions. Furthermore, extensions are not mandatory and the Secretary is confident that Illinois will not grant any extensions that would be inconsistent with the Federal regulations.

Given the nature of the deficiencies set forth in the Secretary's findings and their magnitude in relation to all the other provisions of the Illinois program, the Secretary of the Interior has concluded that they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of such a size and nature as to render no part of the Illinois program incomplete;
2. All other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII;
3. These deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;
4. Illinois has initiated and is actively proceeding with steps to correct the deficiencies; and
5. Illinois has agreed, by letter dated May , 1982, to correct three of the regulation deficiencies by December 1, 1982. Two other deficiencies, one of which relates to a policy interpretation of the IDMM only, will be corrected by June 1, 1983.

Accordingly, the Secretary is conditionally approving the Illinois program. If the deficiencies are not corrected by the above dates, the Secretary will take appropriate steps under 30 CFR Part 733 to terminate the State program. This conditional approval is effective on June 1, 1982. Beginning on that date, the Illinois Department of Mines and Minerals shall be deemed the regulatory authority in Illinois and all Illinois surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Illinois shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Illinois, the permanent regulatory program consists of the State program approved by the Secretary. Following this approval, in accordance with Section 523(c) of SMCRA, Illinois may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State.

The Secretary's approval of the Illinois program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Illinois has submitted a State

reclamation plan. Now that its permanent program has been approved, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

#### Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354), the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities.

#### List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, 30 CFR Chapter VII is amended by adding a new Part 913 as set forth herein.

Dated: May 17, 1982.

James G. Watt,  
Secretary of the Interior.

#### PART 913—ILLINOIS

##### Secs.

913.1 Scope.

913.10 State regulatory program approval.

913.11 Conditions of State regulatory program approval.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

##### § 913.1 Scope.

This part contains all rules applicable only within Illinois that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

##### § 913.10 State regulatory program approval.

The Illinois State program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, as resubmitted on December 22, 1981, and clarified in a meeting with OSM on March 18 and 19, 1982, in material submitted April 13, 1982, and in the letter to the Director of OSM, is conditionally approved effective June 1,

1982. Beginning on that date, the Department of Mines and Minerals, Division of Land Reclamation shall be deemed the regulatory authority in Illinois for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Illinois permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Mines and Minerals agreeing to the conditions of 30 CFR 913.11, are available at:

Illinois Department of Mines and Minerals,  
Division of Land Reclamation, 227 South  
7th Street, Suite 204, Springfield, Illinois  
62706

Illinois Department of Mines and Minerals,  
Division of Land Reclamation, Southern  
District Field Office, Route 6, Box 140A,  
Marion, Illinois 62959

Office of Surface Mining, Federal Building  
and U.S. Courthouse, Fifth Floor, Room 510,  
46 East Ohio Street, Indianapolis, Indiana  
46204

Office of Surface Mining, Administrative  
Record, Room 5315, 1100 "L" Street, NW.,  
Washington, D.C.

##### § 913.11 Conditions of State regulatory program approval.

The approval of the Illinois State program is subject to the State revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, the regulations, the program narrative, or the Attorney General's opinion. This Section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by December 1, 1982, copies of promulgated regulations or otherwise amends its program to: (1) Allow only five pounds of explosives or less to be detonated without publishing notice of the operator's blasting schedule as

required in 30 CFR 816.64(a)(1); and (2) require that surface owners or residents be notified of any surface blasting event as required by 30 CFR 817.65(a).

(b) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by June 1, 1983, copies of promulgated regulations or otherwise amends its program to require a cover of the pit floor and highest coal seam with a minimum of ten meters (33 feet) of water. Furthermore, pending completion of the above, Illinois may not use its authority to approve covering with less than 10 meters of water or the approval will terminate immediately.

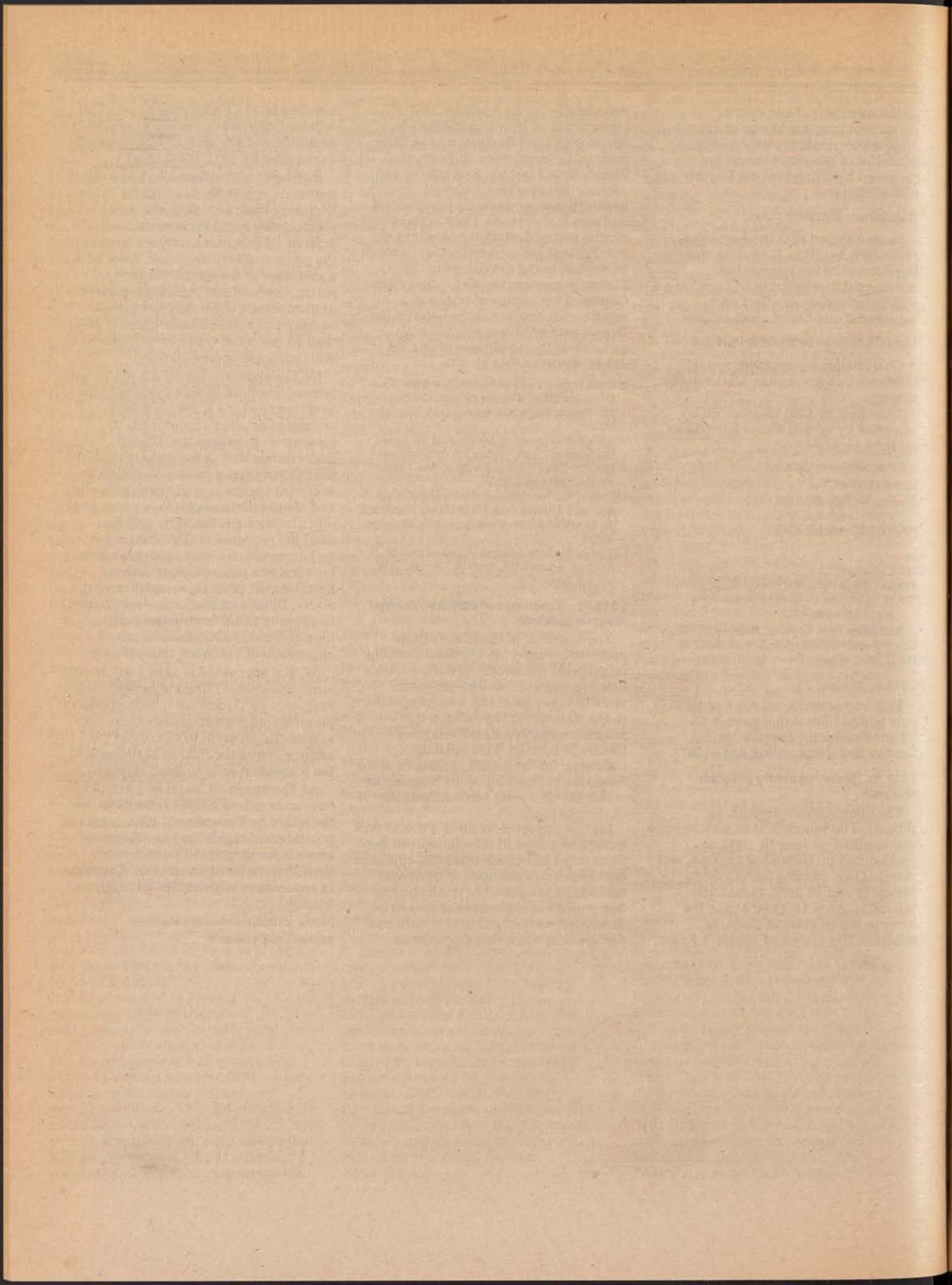
(c) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by June 1, 1983, a policy statement or otherwise amends its program to the effect that Illinois understands that at the present time, the best technology currently available for sediment control is sedimentation ponds and should Illinois wish to approve any other technology, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. Furthermore, pending completion of the above, Illinois may not use its authority to approve siltation structures other than sedimentation ponds or the approval will terminate immediately.

(d) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by December 1, 1982, copies of promulgated regulations or otherwise amends its program to guarantee the surface owner the right to participate in the inspection prior to bond release.

(e) The approval found in § 913.10 will terminate unless Illinois submits to the Secretary by December 1, 1982, copies of promulgated regulations or otherwise amends its program to provide more than 90 days for abatement of violations in accordance with 30 CFR 843.12(f) and 843.12(j).

[FR Doc. 82-14022 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-05-M



# **Federal Register**

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**Tuesday  
June 1, 1982**

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**Part III**

## **Department of the Interior**

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**Office of Surface Mining Reclamation and  
Enforcement**

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**Approval of the Abandoned Mine Land  
Reclamation Plan for the State of Illinois  
Under the Surface Mining Control and  
Reclamation Act of 1977**

## DEPARTMENT OF THE INTERIOR

## 30 CFR Part 913

## Approval of the Abandoned Mine Land Reclamation Plan for the State of Illinois Under the Surface Mining Control and Reclamation Act of 1977

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule.

**SUMMARY:** On July 22, 1980, the State of Illinois submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932-49952, October 25, 1978). After opportunity for public comment and review of the Plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Illinois Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's Regulations. Accordingly, the Assistant Secretary has approved the Illinois Plan.

Final promulgation of this rule was delayed because Illinois did not have an approved State regulatory program under Title V of SMCRA and was enjoined from submitting its program. Under Section 405(c) of the SMCRA, the Department cannot approve a State abandoned mine land reclamation program unless that State has an approved State regulatory program pursuant to Section 503 of the SMCRA. The State of Illinois received such approval on May 17, 1982.

**EFFECTIVE DATE:** This rule is effective June 1, 1982.

**ADDRESSES:** Copies of the full text of the Illinois Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region III, Administrative Records Center, Public Review Facility, Room 512, Federal Building and U.S. Court House, 46 East Ohio Street, Indianapolis, Indiana 46204

Illinois Department of Mines and Minerals, 704 Stratton Building, 400 South Spring Street, Springfield, Illinois 62706

The Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20005

**FOR FURTHER INFORMATION CONTACT:** Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-7951.

**SUPPLEMENTARY INFORMATION:****General Background of the Abandoned Mine Land Reclamation Program**

Title IV of the SMCRA establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49947-49949, October 25, 1978). Under these regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit

to the Office on an annual basis a grant application for funds to be expended in that State on specific reclamation projects. These funds are necessary to implement the State reclamation plan as approved. The annual grant requests shall be made by the State and reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T to 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950. Provisions relating to Illinois are found in 30 CFR Part 913.

**Background on the Illinois Abandoned Mine Plan Land Reclamation Submission**

On August 17, 1979, a cooperative agreement between the Illinois Department of Mines and Minerals, Abandoned Mine Lands Reclamation Council (AMLRC) and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Illinois Abandoned Mine Land Reclamation Plan would be assembled.

On April 11, 12, 18, and 21, 1980, the AMLRC held public meetings in Pinckneyville, Marion, Springfield, and Galesburg, Illinois for comments on the Plan.

On July 22, 1980, the State of Illinois submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

On August 13, 1980, Illinois submitted additions and revisions to the Illinois Abandoned Mine Land Reclamation Plan as a result of public comments and discussions between representatives of Illinois and OSM. These additions and revisions are specifically identified in the letter from the Executive Director, AMLRC, to the Regional Director, Region III, OSM, dated August 13, 1980.

The Assistant Secretary has determined that these additions and revisions are insignificant in nature and, accordingly, require no further public comment.

All of the documents mentioned above are available for public inspection at the offices of OSM and at the Illinois Department of Mines and Minerals listed above under "Addresses."

Notice of receipt of the submission initiating the Plan review was published July 28, 1980 (45 FR 49958-49959). The announcement established a public comment period until August 27, 1980,

and scheduled a public hearing. On August 27, 1980, a public hearing was held by OSM in Springfield, Illinois and there were no public comments.

On October 24, 1980 (45 FR 70480-70481), OSM extended the public comment period on the Illinois Plan while a final decision by the Secretary on the Illinois permanent surface mining regulatory program was pending. This comment period was closed on January 4, 1982, 47 FR 57-58. On September 8, 1980, the Regional Director and on December 22, 1981, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Illinois Reclamation Plan.

The administrative record on the Illinois Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, Region III, at the address listed above in "Addresses."

#### *Assistant Secretary's Findings*

1. In accordance with Section 405 of SMCRA the Assistant Secretary finds that Illinois has submitted a Plan for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) The Illinois Department of Mines and Minerals, Abandoned Mines Lands Reclamation Council has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

It should be noted the State of Illinois on page 30 of the Plan limits the expenditure of funds to abandoned coal mined lands for the five year period discussed in the Plan. The Assistant Secretary understands this provision to mean Illinois will not request funds for noncoal projects unless the Plan is amended to provide for noncoal reclamation projects consistent with Section 409 of SMCRA and the Secretary's regulations.

Further, it is understood that the funds available for use in carrying out noncoal reclamation are limited to those funds which must be allocated to the State under the provisions of subsection 402(g).

3. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14(a)(2). These agencies include: United States Geological Survey (USGS), Bureau of Indian Affairs (BIA), United States Fish and Wildlife Service (FWS), United States Corps of Engineers (COE), Heritage Conservation and Recreation Service (HCERS) now a part of the National Park Service (NPS), Soil Conservation Service (SCS), and U.S. Forest Service (USFS).

#### *Disposition of Comments*

The following comments received on the Illinois Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Illinois Plan as indicated.

1. The BIA commented that "Indian mounds and other historical sites" should be mentioned. OSM's response is that the Abandoned Mine Land Reclamation Program Final Rules (30 CFR 884.13(f)(5)(iii)) require a general narrative description of significant esthetic, historic, cultural and recreation values. Page 122 of the Illinois Plan discusses historic sites. As specific projects are developed each site will be examined as required by the National Environmental Policy Act (NEPA) for archaeological significance. OSM is satisfied that BIA's concern will be addressed in the project selection and review process which will occur under the Plan.

2. The COE commented that many abandoned mines in Illinois occupy areas adjacent to streams and wetlands which will require review to determine if a section 404 permit is required for excavation or redispersion of materials in the waterways and wetlands. OSM's response is that the State of Illinois is aware of the need for permits in the above situations and has provided for coordination with affected agencies in the development and review of proposed projects through the State Abandoned Mine Land Reclamation Council.

3. The USFS commented that the professional skills of personnel to be utilized to plan, supervise and perform the reclamation work is vague. OSM's response is that the Illinois Plan in the section on "Coordination of Reclamation Activities" (pp 39-43), provides for the formal participation of seven State agencies and direct program assistance to the AML Reclamation Council staff. These agencies include: The Department of Mines and Minerals, The Department of Conservation, The Department of Agriculture, The

Department of Commerce and Community Affairs, The Institute of Natural Resources, the Environmental Protection Agency and the Capital Development Board. OSM is satisfied that the necessary professional personnel to carry out the reclamation program are available to the AML Reclamation Council.

4. The USFS commented that it is not clear how reclamation on Federal lands will be conducted under the Plan. OSM's response is that Illinois has indicated that reclamation projects on Federal lands will be done as part of the State Program following the priorities of the SMCRA and the State Plan.

5. The FWS commented that the Illinois Plan did not discuss how the State will comply with the Endangered Species Act as well as other acts under the FWS. OSM's response is that the Illinois Plan provides for the formal participation of the Department of Conservation in the review of all projects through membership on the Reclamation Council and through the A-95 review process. The Plan also provides for review of the annual grant by circulation to appropriate State and Federal agencies for review and comment and provides that the grant application will be submitted only after public comments have received full consideration. Moreover, the OSM and the FWS signed a Memorandum of Understanding on June 10, 1980 that provides for formal consultation on those projects which may affect threatened or endangered species. OSM is satisfied that provisions for addressing endangered species in the Illinois Plan are adequate.

6. The FWS commented that it was unclear if environmental assessments would be required for reclamation projects. OSM's response is that compliance with the National Environmental Policy Act (NEPA) is an OSM responsibility. It should be noted that an environmental analysis or environmental impact statement will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886. The State of Illinois will provide input to the NEPA process through the development of environmental assessments as provided in step 6 of the State project selection process.

7. The SCS raised the need for certain technical corrections relative to wind and water erosion and the soils map included in the Plan. OSM's response is that these technical corrections have been brought to the attention of the AML Reclamation Council. The Council

will make these corrections when it updates or amends its Plan.

8. The HCRS commented that low priority projects which reclaim land for public use should be given additional consideration. OSM's response is that Section 403 of Pub. L. 95-87 sets forth the reclamation priorities of Title IV and the development of publicly owned lands is the lowest priority. When the State reaches the point in its program where it is considering these projects it may give additional weight to shared cost reclamation projects. The present Plan does not consider this because the Plan is for a period of five years and it is not anticipated that reclamation projects on the first five reclamation priorities will be completed in five years.

9. The HCRS commented that the Illinois Department of Conservation should be consulted during step 3 of the project selection process for their views regarding public recreation and conservation use. OSM's response is that the Illinois Plan provides for such input in step 5 of the project selection process, the same point at which all land uses and site potentials will be considered. The OSM is satisfied that the opportunity for consideration of recreation and conservation use exists and will be considered in the evaluation of proposed reclamation projects.

10. The HCRS commented that projects with water related and urban recreation potential be given special consideration in the Plan. OSM's response is that the Illinois Plan provides for projects to be selected in accordance with Pub. L. 95-87 and provides for flexibility in the selection process as conditions change. The OSM is satisfied that projects will be selected with consideration of all potential site uses, including water related and urban recreation.

11. The HCRS commented that during each year there should be at least one reclamation research and demonstration project with a recreation or conservation related component. OSM's response is that research and demonstration projects are priority #4 and provided for in the Illinois Plan. It should be noted that all multiple use projects will have recreation and conservation values as a component in the project selection process.

12. The HCRS commented that discretionary funds of the Program be allocated to the maximum extent possible for reclamation projects serving high priority recreation and conservation purposes. OSM's response is that the allocation of discretionary funds (Interior Reclamation Funds) is in accordance with the priorities established by the Act (SMCRA) and the

Abandoned Mine Land Reclamation Program Regulations. Projects selected for funding will involve a mix of priority projects to the extent of fund availability.

13. The HCRS commented that AML funds should be utilized to improve conditions on the three Illinois Department of Conservation sites which have been surface mined for coal. OSM's response is that the State ranking and selection procedure in the Plan must be utilized to identify the highest priority projects for funding. When the above projects meet the ranking and selection criteria, and the State requests funding, the projects will be accomplished.

14. The HCRS commented that the Lake Central Regional Office of HCRS should be included in the reclamation planning stage of project selection. OSM's response is that Chapter 9 of the Illinois Plan specifically provides for review of projects by appropriate State and Federal agencies prior to submission of annual grant requests. The OSM is satisfied that this procedure provides adequate opportunity for the input of HCRS and other Federal agencies.

15. The Ohio River Basin Commission commented that the Illinois Plan is consistent with the Commission's 1980 Regional Priorities Report. This Priorities Report recommends the expeditious submission and approval of State programs and prompt release of funds accumulated for State grants under Title IV of the Surface Mining Control and Reclamation Act of 1977.

#### Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have 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 export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number

of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Illinois Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Plan. Therefore, under the Department of the Interior Manual, DM 516.2.3(A)(1), the Assistant Secretary's decision on the Illinois Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. An environmental analysis or an EIS will be prepared for the approval of grants for abandoned mine land reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation programs; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

#### List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 17, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Daniel N. Miller, Jr.,

Assistant Secretary—Energy and Minerals.

#### PART 913—ILLINOIS

Therefore, Part 913 is amended by adding § 913.20 to read as follows:

#### § 913.20 Approval of Illinois Abandoned Mine Land Reclamation Plan.

The Illinois Abandoned Mine Land Reclamation Plan, as submitted on July 20, 1980, is approved. Copies of the approved Plan are available at:

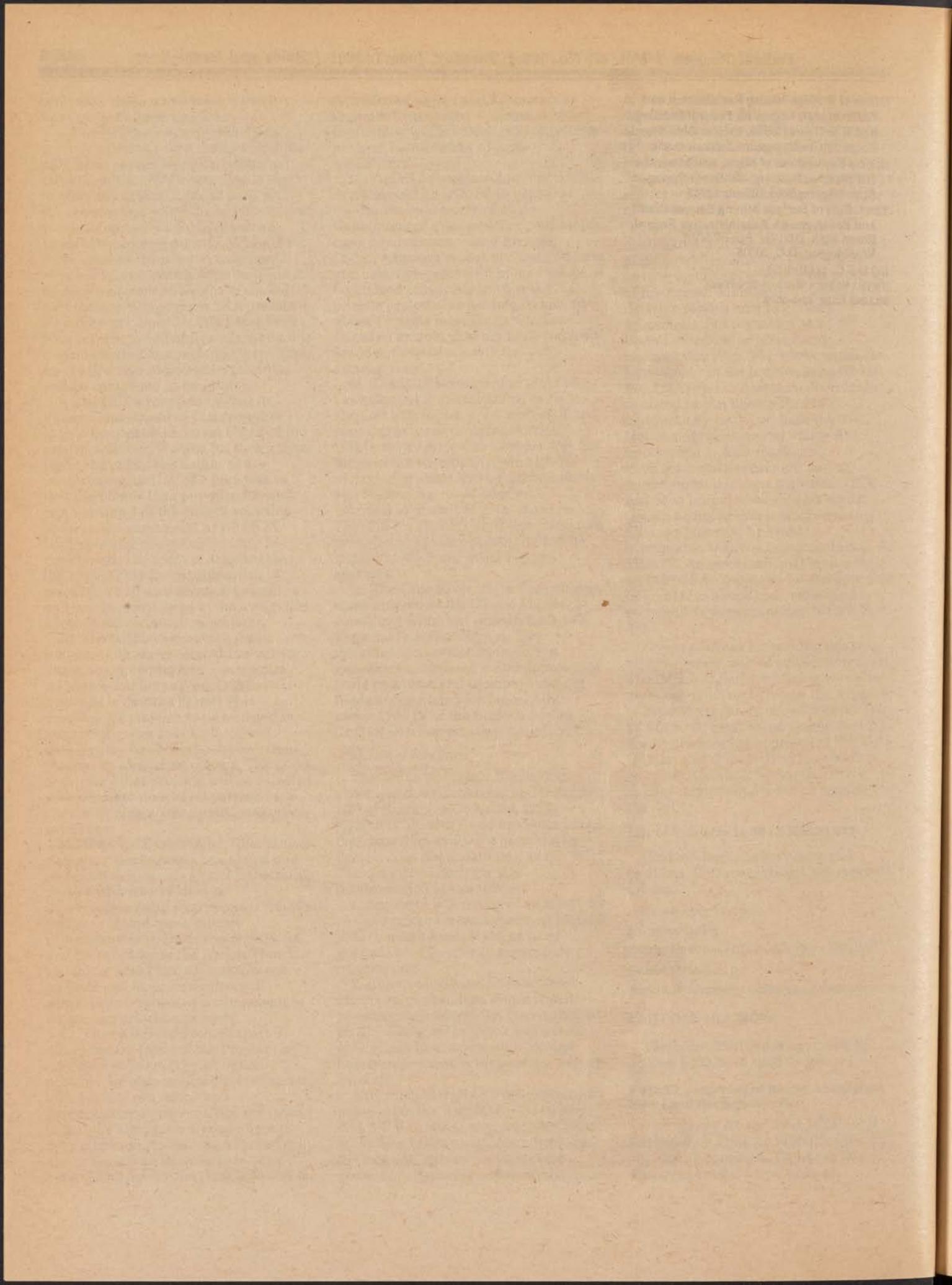
Office of Surface Mining Reclamation and  
Enforcement, Region III, Federal Building  
and U.S. Court House, 46 East Ohio Street,  
Room 520, Indianapolis, Indiana 46204  
Illinois Department of Mines and Minerals,  
704 Stratton Building, 400 South Spring  
Street, Springfield, Illinois 62706

The Office of Surface Mining Reclamation  
and Enforcement, Administrative Record,  
Room 5315, 1100 "L" Street, NW.,  
Washington, D.C. 20005.

(30 U.S.C. 1211(c)(2))

[FR Doc. 82-14023 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-05-M



# Federal Register

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Tuesday  
June 1, 1982

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## Part IV

### Department of Energy

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#### Western Area Power Administration

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Proposed Power Rates and Public  
Information and Public Comment Forums;  
Loveland-Fort Collins Area; and Colorado  
River Storage Project, Collbran Project,  
Provo River Project, and Rio Grande  
Project Post-1989 Marketing Plans

## DEPARTMENT OF ENERGY

## Western Area Power Administration

## Proposed Power Rates and Public Information and Public Comment Forums—Loveland-Fort Collins Area

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Proposed power rates and public information and public comment forums; Loveland-Fort Collins Area.

**SUMMARY:** The Western Area Power Administration (Western) is proposing a rate adjustment for sales of long-term firm capacity with energy, seasonal, or monthly capacity with energy and nonfirm energy from the Resource Coordination Program.

The Resource Coordination Program is a power pooling arrangement in which capacity in the Federal hydroelectric system is integrated with surplus offpeak energy generated by preference customers' thermal generation facilities. The purpose of this integration is to store and shape surplus energy to maximize its availability for the displacement of oil- and gas-fired peaking generation.

In this rate adjustment, Western proposes that the prices for the long-term firm capacity with energy, seasonal and monthly capacity with energy, and most classes of nonfirm energy made available through the Resource Coordination Program be set at a split-savings rate between the purchaser's avoided costs and the Resource Coordination Program's costs. Spot sales of nonfirm energy will be made using the Western Systems Coordinating Council Economy Energy Broker System.

**DATES:** Western will explain the basis of the proposed rate adjustment and will entertain questions about the rate adjustment at a public information forum which will be held on June 24, 1982, beginning at 9 a.m. and ending no later than 12 m.

Interested parties will be given the opportunity to make oral comments on the proposed rate adjustment at a public comment forum which will be held on July 22, 1982, beginning at 10:30 a.m. and ending no later than 4 p.m.

Written comments on the proposed rates are due in the office of the Area Manager of Western's Loveland-Fort Collins Area Office, at the address given below, by September 1, 1982.

**ADDRESSES:** The public information and public comment forums will be held at the Holiday Inn Denver-Northglenn, located north of Denver at the intersection of 120th Avenue and I-25 (Exit 223), in Northglenn, Colorado.

Documents used in developing the proposed rates will be available for inspection in Western's Loveland-Fort Collins Area Office at the address given below.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, Department of Energy, P.O. Box 2650, Fort Collins, CO 80522, Phone: (303) 224-7201

Mr. Harold E. Hood, Director, Division of Marketing and Rates, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, Phone: (303) 231-1545

**SUPPLEMENTARY INFORMATION:****A. Regulatory Procedural Requirements**

Western's power rates are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*); as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, (53 Stat. 1194, 43 U.S.C. 485h(c)); and the acts specifically applicable to the project or system involved. The Secretary of Energy delegated to the Assistant Secretary of Resource Applications, by Delegation Order No. 0204-33 (43 FR 60636, December 28, 1978), the authority to develop, acting by and through the Administrator of Western, and to confirm, approve, and place in effect on an interim basis, power and transmission rates for Western. The Delegation Order also gave the Federal Energy Regulatory Commission the authority to make a final decision either confirming and approving, disapproving, or remanding such rates.

On March 19, 1981, Delegation Order No. 0204-33 was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Applications" (46 FR 25426, May 7, 1981).

Procedures for public participation in rate adjustments for power marketed by Western are found at 10 CFR Part 903.

**1. Regulatory Flexibility Analysis**

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate

adjustment for the P-SMBP relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P-SMBP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

**2. Environmental Evaluation**

In compliance with the National Environmental Policy Act of 1969 (NEPA) and Department of Energy (DOE) regulations published in the Federal Register on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. According to section D of the DOE regulations, no formal NEPA documentation is necessary for this proposed rate. Section D indicates that contracts for short-term allocation of excess power, which this proposed rate covers, normally do not require either an environmental assessment or environmental impact statement. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made that no further documentation under NEPA is required.

**3. Determination Under Executive Order 12291**

DOE has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). In addition, Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

**B. Background**

Western was established on December 21, 1977, under the Department of Energy Organization Act.

Western's Loveland-Fort Collins Area Office markets power generated at 16 federally owned and built hydroelectric powerplants located in Colorado, Wyoming, and Montana. Fifteen of these powerplants comprise the Pick-Sloan Missouri Basin Program-Western Division (P-SMBP-WD) power system.

Western proposes to dedicate approximately 69 MW of excess P-SMBP-WD firm capacity without energy in the summer season and 62 MW in the winter season, as well as any excess P-SMBP-WD seasonal capacity that may be available from time to time, for use in the Resource Coordination Program.

The Resource Coordination Program is a power pooling arrangement in which the participants integrate their individual generation resources to displace oil- and gas-fired peaking generation by converting offpeak surplus energy to onpeak use, and converting excess hydroelectric capacity and surplus offpeak energy to capacity with energy available during onpeak hours of high demand. The Resource Coordination Program participants consist of Western and non-Federal preference entities that own thermal generation facilities which can be used to serve offpeak firm power loads otherwise served by Federal hydroelectric resources.

A more detailed description of the Resource Coordination Program can be found in the notice of Western's proposed plan for marketing excess P-SMBP-WD capacity, also published in this *Federal Register* issue. As stated in that notice, Western proposes to make available excess firm P-SMBP-WD capacity and seasonal excess capacity for use in the Resource Coordination Program. In doing this, the Federal hydroelectric capacity can be integrated with the surplus energy of the non-Federal Resource Coordination Program participants and converted into long-term firm capacity with energy, seasonal, or monthly capacity with energy and nonfirm energy.

### C. Resource Coordination Program Rates

Western proposes that the selling price for long-term firm capacity with energy, seasonal, or monthly firm capacity with energy and most classes of nonfirm energy sold through the Resource Coordination Program will be based on a split-savings rate between the purchaser's avoided cost and the Resource Coordination Program's costs. The Resource Coordination Program costs associated with the long-term and seasonal or monthly firm capacity with energy include the approved P-SMBP-WD capacity rate and thermal energy generation cost. The Resource Coordination Program cost associated with the nonfirm surplus energy is the energy producers' generation costs.

Spot sales of nonfirm energy will be made using the Western Systems Coordinating Council Economy Energy Broker System, where the price is set at a split-savings rate between the buyer's purchase quote and the Resource Coordination Program's sell quote. The Resource Coordination Program's operating agent will enter sell quotes based, in general, on the thermal energy generation costs and current hydrology conditions and system restraints.

These rates have been designed to be low enough to be competitive with the costs of energy produced by oil- and gas-fired peaking plants, in order to reduce consumption of oil and natural gas, and yet high enough to yield revenues sufficient to assure recovery of production costs, including repayment of P-SMBP-WD project costs.

Issued in Washington, D.C., May 25, 1982.

Ronald K. Greenhalgh,  
Assistant Administrator for Washington  
Liaison.

[FR Doc. 82-14717 Filed 5-28-82; 8:45 am]

BILLING CODE 6450-01-M

### Proposed Power Marketing Plan for Excess Capacity and Public Comment Forum; Loveland-Fort Collins Area

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Proposed power marketing plan and public comment forum—Loveland-Fort Collins Area.

**SUMMARY:** On January 19, 1982, the Loveland-Fort Collins Area Office of the Western Area Power Administration (Western) held a public information forum to discuss four alternatives for marketing approximately 80 MW of previously unallocated firm capacity with energy available through 1989 from powerplants of the Pick-Sloan Missouri Basin Program—Western Division (P-SMBP-WD). Western has studied these alternatives, analyzed the comments received, and is now proposing to implement two of the alternatives discussed.

Western proposes to offer 10 MW of the long-term firm capacity without energy for sale to certain existing P-SMBP-WD firm power customers having sufficient existing P-SMBP-WD firm energy entitlements to support the additional allocation of capacity without energy. Western proposes to utilize the remainder of the excess firm capacity, together with seasonal excess capacity, to facilitate a Resource Coordination Program in the area managed by Western's Loveland-Fort Collins Area Office.

The Resource Coordination Program operationally integrates Federal hydroelectric generating resources with preference customer thermal generation resources to convert firm hydroelectric capacity and surplus thermal energy to firm capacity with energy, and offpeak surplus thermal energy to onpeak use in order to displace oil- and gas-fired peaking generation.

As stated previously, a public information forum has been held at which representatives of Western

explained and answered questions concerning the excess capacity, the Resource Coordination Program, and four marketing alternatives. Since the marketing plan proposed today simply incorporates two of the alternatives discussed at that public information forum, Western will not hold another public information forum to discuss the proposed marketing plan. A public comment forum will, however, be held at which oral comments on the proposed marketing plan will be received.

**DATES:** The public comment forum will be held on June 24, 1982, beginning at 1 p.m. and ending no later than 4 p.m.

Written comments on the proposed marketing plan must be received by the Area Manager of Western's Loveland-Fort Collins Area Office, at the address given below, by July 1, 1982, to be assured of consideration.

**ADDRESS:** The public comment forum will be held at the Holiday Inn Denver-Northglenn, located north of Denver at the intersection of 120th Avenue and I-25 (Exit 223), in Northglenn, Colorado.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Peter G. Ungerman, Area Manager,  
Loveland-Fort Collins Area Office,  
Western Area Power Administration,  
Department of Energy, P.O. Box 2650,  
Fort Collins, CO 80522, Phone: (303)  
224-7201

Mr. Harold E. Hood, Director, Division  
of Marketing and Rates, Western Area  
Power Administration, Department of  
Energy, P.O. Box 3402, Golden, CO  
80401, Phone: (303) 231-1545.

#### SUPPLEMENTARY INFORMATION:

##### 1. Statutory Basis of Marketing Plan

The marketing plan for the excess capacity is being developed by Western pursuant to the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101, *et seq.*), and the Reclamation Act of 1902 (32 Stat. 388, 43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly by section 9c of the Reclamation Project Act of 1939 (53 Stat. 1194, 43 U.S.C. 485h(c)).

##### 2. Background

Western's Loveland-Fort Collins Area Office markets power generated at 16 hydroelectric powerplants in Colorado, Wyoming, and Montana to 56 customers in a 200,000-square-mile service area. Fifteen of these powerplants comprise the P-SMBP-WD power system. The resource available for marketing through the 1989 summer billing season is 79 MW of excess P-SMBP-WD firm capacity in the summer season and 72

MW in the winter season, plus excess seasonal capacity, as available.

At a public information meeting held on January 19, 1982, Western presented four alternatives for marketing the excess capacity. The four alternatives were: (1) To sell excess firm capacity without energy to existing P-SMBP-WD firm power customers who can use it with their existing P-SMBP-WD firm energy entitlements; (2) to sell excess firm capacity without energy to preference entities who would be required to return the energy; (3) to sell firm capacity with energy—Western would purchase the necessary firming energy; and (4) to sell firm capacity with energy and seasonal capacity with energy, as available, through the Resource Coordination Program, using the P-SMBP-WD excess capacity and surplus energy supplied by non-Federal Resource Coordination Program participants owning coal-fired generation facilities.

### 3. Comments and Decisions on the Four Alternatives

Western has received and analyzed written comments submitted by interested parties in response to the four marketing alternatives. Based on the comments, Western recognizes the unique capacity shortage situation of a few existing P-SMBP-WD firm power customers who favored alternative 1. In response to this specific need, Western proposes to make available a small amount of the excess firm capacity without energy to P-SMBP-WD firm power customers whose seasonal usage of P-SMBP-WD firm energy is less than their existing entitlement.

Alternative 2 was not accepted because so little interest in its adoption was expressed.

Alternative 3 was also rejected on the grounds that the energy purchases needed for firming would have to be funded either by advance payments by customers for energy purchases or with congressional appropriations.

Essentially, alternative 3 is the same as alternative 4—the end products are the same. Furthermore, alternative 4 evoked the most favorable responses. The preference entities owning surplus thermal generation are willing to sell it. However, these entities prefer to retain the management involvement offered under alternative 4. Preference entities not owning generation facilities have a greater need for firm capacity with energy than capacity without energy. For these reasons, Western feels that alternative 4 is preferable to alternatives 2 and 3.

In summary, Western proposes to implement a marketing plan based on a

combination of alternatives 1 and 4; i.e., to offer 10 MW of long-term capacity without energy to certain existing P-SMBP-WD firm power customers and to dedicate the remaining long-term capacity together with seasonal excess capacity for use in the Resource Coordination Program through the 1989 summer billing season.

### 4. The Proposed Marketing Plan

#### A. Long-Term Capacity Without Energy to Existing P-SMBP-WD Customers—Alternative 1

Western proposes to offer 10 MW of long-term firm capacity without energy for sale on a two-season basis through the 1989 summer season.

To be eligible for an allocation, applicants must have existing P-SMBP-WD firm energy entitlements in each season sufficient to support the additional allocation of the capacity without energy. Successful applicants will have load patterns such that they are presently unable to utilize their full seasonal entitlement of up to 2550 kilowatt-hours per kilowatt of their existing P-SMBP-WD firm Contract Rate of Delivery (CROD). This firm capacity without energy will enable such allottees to utilize a greater amount of their seasonal entitlement of energy, but will not increase such entitlement.

There is no provision for return of energy.

If the offering is oversubscribed, the capacity will be apportioned based on the ratio of each applicant's existing P-SMBP-WD CROD to the total CROD of all eligible applicants. Any undersubscription, and any of this capacity allocated but not contracted for within a reasonable time, will become available for use in the Resource Coordination Program.

The term of the contracts will be through the 1989 summer season.

The price for this firm capacity without energy shall be the price for P-SMBP-WD peaking capacity given in rate schedule LM-FP2, or any superceding rate schedule, as of its effective date.

Transmission will be made to the same delivery points and under the same conditions as under the customer's existing contract for firm P-SMBP-WD power.

#### B. The Resource Coordination Program Offering—Alternative 4 Resource Coordination Program Information

The resource Coordination Program operationally integrates non-Federal thermal generation resources with Federal Hydroelectric resources to maximize the availability of firm

capacity with energy and nonfirm onpeak energy and thus to displace the use of oil- and gas-fired peaking generation resources. Operationally, this Resource Coordination Program is founded on the following principles:

1. Thermal generation plants are most economically operated flat-loaded around the clock, at their designed output level;

2. Unlike thermal generation facilities, hydroelectric generators can be operated over a very broad range or turned off completely without suffering a significant cost penalty;

3. Onpeak energy has more value in the marketplace than offpeak energy; and

4. When onpeak energy can be made available on a firm basis, it has a capacity component as well as an energy component.

Therefore, the operational objective of resource coordination is to operate the thermal plants flat-loaded around the clock at their most efficient rate of capacity. To the extent that such operation of the thermal units generates more energy than required to meet the load obligations of the thermal plant owners during daily and seasonal low-load periods, the excess is used to supply Federal load obligations. The Federal generators are backed-off an equivalent amount.

Backing-off Federal hydroelectric generation keeps stored the water which would have been used to generate the energy needed to meet the Federal load obligation. This stored water is then used to generate surplus energy during daily and seasonal high-load periods when the energy is most valuable.

The enhanced value of this offpeak energy converted to nonfirm onpeak energy, firm capacity with energy, and seasonal capacity with energy by the hydrothermal integration process is split between Western's P-SMBP-WD project repayment account and the contributors of the thermal surplus energy. To the extent that the owners of thermal surplus energy are also allottees of P-SM-WD power, they enjoy a dual benefit—direct income from sales of the converted and enhanced energy, and a lower rate for their P-SMBP-WD allocation than they would otherwise have to pay.

#### Resource Coordination Program—Proposed Marketing Program

As stated previously, Western proposes to dedicate 69 MW of excess P-SMBP-WD firm capacity in the summer season and 62 MW in the winter season, as well as any excess capacity not allocated under alternative

1, together with any seasonal excess capacity that might be available from time to time, for use in the Resource Coordination Program through the 1989 summer season.

The excess P-SMBP-WD capacity will be integrated, through the Resource Coordination Program, with surplus thermal generation such that the Resource Coordination Program participants will be able to market long-term firm capacity with energy, seasonal, or monthly capacity with energy, and nonfirm energy.

The contracts for the long-term firm capacity with energy will be offered through the summer season of 1989. The amount of the energy entitlement that will be associated with the firm capacity with energy will vary during the term of the contracts depending, in part, on commitments from energy suppliers, prior contractual commitments of the energy suppliers, and the limits on the capability of Western's hydro-system to shape offpeak energy to on peak use. It is anticipated that the energy suppliers will be able to provide 3-year rolling commitments of energy.

The long-term firm capacity with energy and seasonal capacity with energy will first be offered to preference entities in the Loveland-Fort Collins Area Office market area. If the offering is oversubscribed, sales will be apportioned based on the ratio of each eligible applicant's requested CROD to the total unallocated and available P-SMBP-WD CROD. Any undersubscription will be offered next to other preference entities and to nonpreference entities.

Any that is allocated but not contracted for within a reasonable time may be reallocated as described in the preceding paragraph.

The long-term firm capacity with energy will be offered on a two-season basis. The summer season will be from the beginning of the April billing period through the end of the September billing period. The winter season shall be from the beginning of the October billing period through the March billing period.

Details of the proposed prices for sales of firm capacity with energy and nonfirm energy by the Resource Coordination Program's operating agent can be found in the notice of Western's proposed rate adjustment published in this same issue of the *Federal Register*.

#### Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory

flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the P-SMBP relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P-SMBP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

#### Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the *Federal Register* on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western will make an evaluation and determination of the possible environmental impacts of the proposed power marketing plan. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made of what level documentation under NEPA is required.

#### Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 CFR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Issued in Washington, D.C. May 25, 1982.

**Ronald K. Greenhalgh,**

*Assistant Administrator for Washington Liaison.*

[FR Doc. 82-14718 Filed 5-28-82; 8:45 am]

**BILLING CODE 6450-01-M**

#### Colorado River Storage Project, Collbran Project, Provo River Project, and Rio Grande Project Post-1989 Marketing Plans

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Announcement of public information forum on the development of post-1989 marketing plans for the Colorado River Storage Project, the Collbran Project, the Provo River Project, and the Rio Grande Project (also

includes any future projects constructed in the designated area).

**SUMMARY:** The Western Area Power Administration (Western) has scheduled a public information forum on June 10, 1982, at 10 a.m. at the Hotel Utah (Grand Ballroom No. 1) in Salt Lake City, Utah, to discuss development of post-1989 marketing plans for the Colorado River Storage Project (CRSP), the Collbran Project, the Provo River Project, and the Rio Grande Project, as well as any future projects which may be constructed in the marketing area. Topics will include marketing alternatives for the above-noted projects and participating projects, present and future. The possibility of integrating or consolidating individual project marketing plans for the marketing of the power from these resources as if from a single resource will also be discussed. A brief description of the projects follows:

1. Colorado River Storage Project (Glen Canyon, Morrow Point, Flaming Gorge, Blue Mesa, Crystal, and Fontenelle Dams). Authorized in 1956, the Colorado River Storage Project addresses the development and use of water resources of the Upper Colorado River. Encompassing the Upper Colorado River Basin (an area equal to about one-twelfth of the continental area of the United States), CRSP storage units equalize the erratic flows of the Colorado River and its tributaries so that water delivery commitments to the Lower Basin States, as well as to farmers, municipalities, and industries in the Upper Basin, can be met.

Delivery of this water to consumers is accomplished through the participating projects. Several participating projects, such as the Paonia Project in Colorado, have been completed, and others, such as the Central Utah Project, are under construction. Additional units may be built in coming years.

The installed capacity of the CRSP powerplants is currently 1,476.0 megawatts. The average annual generation is 5,360,000 megawatt-hours.

2. Collbran Project (Upper Molina and Lower Molina Dams). Authorized in 1952 and in service since 1962, the output of the Collbran Project is sold to Colorado-Ute Electric Association.

The installed capacity of the Collbran Project powerplants is presently 13.5 megawatts. The average annual generation is 55,000 megawatt-hours.

3. Provo River Project (Deer Creek Dam). Construction of the Deer Creek Powerplant was authorized by the Secretary of the Interior in 1951. The plant went into service in 1958. The Deer

Creek Dam spans the Provo River in central Utah.

The installed capacity of the Deer Creek Powerplant is 4.95 megawatts. The average annual generation is 24,000 megawatt-hours.

4. Rio Grande Project (Elephant Butte Dam). The Rio Grande Project was authorized in 1905. Elephant Butte Powerplant went into service in 1940. Elephant Butte Dam is located on the Rio Grande River in southern New Mexico.

The installed capacity of the Elephant Butte Powerplant is 24.3 megawatts. The average annual generation is 60,000 megawatt-hours.

The public information forum will provide an opportunity for questions and answers concerning development of a post-1989 marketing plan, including available power resources, electric service arrangements, allocations, etc.

**DATES:** The public information forum will be held on June 10, 1982, beginning at 10 a.m. at the Hotel Utah (Grand Ballroom No. 1) in Salt Lake City, Utah.

Following the public information forum, additional public meetings will be scheduled for the purpose of continuing consultation with interested parties in the development of post-1989 marketing plans. All such meetings will be scheduled and announced in advance.

**ADDRESSES:** For further information concerning the public information forum contact: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524-5493

**SUPPLEMENTARY INFORMATION:** Written comments concerning the post-1989 marketing plan may be submitted on or before August 9, 1982 to: Mr. Albert M.

Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524-5493

Copies of comments will be available from the following Western offices:  
Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005

Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522  
Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147  
Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

Issued at Golden, Colorado, May 20, 1982.

William H. Clagett,  
Deputy Administrator.

[FR Doc. 82-14716 Filed 5-28-82; 8:45 am]

BILLING CODE 6450-01-M

# Federal Register

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Tuesday  
June 1, 1982

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Part V

## Department of the Interior

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Office of Surface Mining Reclamation and  
Enforcement

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Surface Coal Mining Reclamation  
Operations on Federal Land Under the  
Permanent Program; State-Federal  
Cooperative Agreements; New Mexico

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 931

## Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; New Mexico

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to adopt a cooperative agreement (Agreement) between the Department of the Interior and the State of New Mexico for the regulation of surface coal mining operations on Federal lands in New Mexico under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

**DATES:** The public comment period on this proposed rule will extend until August 2, 1982. The public hearing will be held at the location shown in "ADDRESSES," below, on July 20, 1982 beginning at 9:30 a.m. local time. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under "FOR FURTHER INFORMATION CONTACT" by July 1, 1982.

**ADDRESSES:** Written comments must be mailed to: Administrative Record R&I-06, Office of Surface Mining, Room 5315-L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Written comments may be hand carried to: Office of Surface Mining, Administrative Record R&I-06, Room 5315, 1100 L Street, NW., Washington, D.C.

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of New Mexico, Energy and Minerals Department, Mining and Minerals Division, 525 Camino de los Marquez, Santa Fe, New Mexico 87501;

Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C. 20005.

The public hearing will be held at the State of New Mexico Energy and

Minerals Department Conference Room, 525 Camino de los Marquez, Santa Fe, New Mexico 87501. If no person has contacted OSM by July 1, 1982, to express an interest to participate in the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Andrew DeVito, Office of Surface Mining, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343-5866.

**SUPPLEMENTARY INFORMATION:****I. Procedural Matters***A. Public Hearing*

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

*B. Public Meetings*

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. In order to schedule or attend such meetings, contact the individual listed under "FOR FURTHER INFORMATION CONTACT." OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

*C. Contacts with State Representatives*

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs," published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that

the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to preserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on each proposed cooperative agreement. This record will include a summary of the discussions and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation,

provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

#### D. Public Comments

Written and oral comments should be as specific as possible. Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by reasoning. OSM requests that five copies of written comments be submitted.

All written comments must be received by OSM by 5:00 p.m. EST on the date the comment period closes. OSM cannot ensure that written comments received after that hour, or delivered during the comment period to locations other than those specified above, will be considered and included in the Administrative Record. Notices of meetings, summaries of all meetings and telephone conversations, all public comments received, and a transcript of the public hearing will be made available for public review in the Office of Surface Mining at the address noted above.

## II. Background

The purpose of this proposed rulemaking is to adopt a permanent program cooperative agreement between the Department of the Interior and the State of New Mexico which will give New Mexico primacy in the administration of its approved permanent regulatory program on Federal lands in that State. The State of New Mexico submitted a request for a permanent program cooperative agreement on February 9, 1981. Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 allow for the State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining operations.

Consistent with Congress' intent that implementation of the Act be accomplished in two phases, section 523(c) of the Act provides for two kinds of State-Federal cooperative agreements: initial program cooperative agreements and permanent program cooperative agreements. Initial program cooperative agreements are authorized by the second sentence of section 523(c), which provides that "States with cooperative agreements existing on the date of enactment of this Act, may elect

to continue regulation on Federal Lands within the State, prior to approval by the Secretary of their State program, or imposition of a Federal program, provided that such existing cooperative agreement is modified to fully comply with the initial regulatory procedures set forth in section 502 of this Act." 30 U.S.C. 1273(c). Six States had cooperative agreements with the Department of the Interior prior to August 3, 1977. (Wyoming, Utah, New Mexico, North Dakota, Montana and Colorado.) On August 11, 1980, New Mexico's pre-August 3, 1977, cooperative agreement was modified to fully comply with the initial regulatory program promulgated pursuant to section 502 of the Act. 30 U.S.C. 1252. It was published in the *Federal Register* on August 11, 1980 (45 FR 53128) and codified at 30 CFR 211.77(c).

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c) (Emphasis added). The State of New Mexico has a State program which was conditionally approved by the Secretary and became effective upon publication in the *Federal Register* on December 31, 1980 (45 FR 86459).

In entering into a permanent program cooperative agreement with the State of New Mexico, the Secretary will be implementing two other requirements of section 523 of the Act. These statutory requirements are (1) consideration of the diverse and unique characteristics of Federal lands in New Mexico, if any, and (2) incorporation of the requirements of the approved State program into the Federal lands program in New Mexico. See 30 U.S.C. 1273(a).

### III. The State of New Mexico's Application

The State of New Mexico submitted its request for a permanent program cooperative agreement on February 9, 1981, along with proposed terms and the information required by the regulations at 30 CFR Part 745. Revisions to those terms were submitted on June 16, 1981. A Notice of Intent containing the June 16, 1981, version was published in the *Federal Register* on August 6, 1981 (46 FR 40050) with a request for comments

from interested parties. On April 2, 1982, representatives from the State of New Mexico and OSM met to discuss the August 6, 1981, Notice of Intent. The full text of the proposed permanent program cooperative agreement resulting from that meeting appears at the end of this notice.

The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745. Sections 745.11(b)(1) through (8) of OSM's regulations require that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the New Mexico Division of Mining and Minerals, was described as appearing in New Mexico's Proposed Permanent Coal Program Text. See 30 CFR 745.11(b)(1), (2), (3), (4), (5) and (6). In addition the State submitted a written certification from the General Counsel of the Mining and Minerals Division that no State statutory, regulatory or other legal constraint exists which would limit the capability of the State of New Mexico to fully comply with section 523(c) of the Act, as implemented by 30 CFR 745. See 30 CFR 745.11(b)(8).

## IV. The Text of the Proposed Agreement

A summary of the proposed cooperative agreement appears below. OSM emphasizes that the proposed permanent program cooperative agreement is subject to further change because of public comments and/or as a result of further discussion with the State of New Mexico.

### Article I: Introduction and Purpose

This article would set forth the legal authority for the cooperative agreement which is contained in section 523 of the Act. The purposes of the agreement would also be listed.

### Article II: Effective Date

This article would provide that the agreement would be effective following signing by the Secretary and the Governor, and upon publication as a final rule in the *Federal Register*. It would remain in effect until terminated as provided in Article XII.

### Article III: Scope

Article III would provide that the laws, regulations, terms and conditions of New Mexico's State program are applicable to Federal lands in New Mexico except as otherwise stated in

the agreement, the Act, 30 CFR 745.13, or other applicable Federal laws. The effect of this provision would be to adopt the New Mexico State program as substantive Federal law on Federal lands, enforceable by the State and the United States. This provision would also specifically implement section 523(a) of the Act, which provides that "[w]here Federal lands in a State with an approved State program are involved, the Federal lands program shall, at a minimum, include the requirements of the approved State program." 30 U.S.C. 1273(a). Expressly excluded from the scope of the Agreement are the authorities and responsibilities reserved for the Secretary pursuant to the Act and 30 CFR 745.13.

#### *Article IV: Responsibilities*

This article would specify that the responsible agency in the State of New Mexico for purposes of administering this agreement would be the Mining and Minerals Division (Mining and Minerals), which has and must continue to have authority under State law to carry out this Agreement. Comments are invited on whether Mining and Minerals has sufficient authority to carry out the terms of this Agreement. See 30 CFR 745.11(f).

This article would obligate the State to have the necessary personnel to implement the provisions of the proposed agreement. It would also specify that the State would assume primary responsibility for the review and analysis of the permit application packages. The term "permit application package," used throughout the cooperative agreement, is a new term. It would include the requirements of the Mineral Leasing Act of 1920 (MLA), implemented by the 30 CFR Part 211 regulations of the Minerals Management Service, and the requirements of SMCRA for a surface coal mining permit, implemented by 30 CFR Part 741. Comments are invited on use of the term "permit application package." A definition of the term "permit application package" will be proposed soon in a notice of proposed rulemaking to amend the Federal lands regulations in 30 CFR Part 740-745.

#### *Article V: Funding*

Article V would provide that the State may be reimbursed pursuant to section 705(c) of the Act if the Agreement has been implemented and if necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a

State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and Mining and Minerals will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the State program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A-102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income).

#### *Article VI: Reports, Fees and Equipment*

The article would deal with reports, permit application fees, and the availability of equipment and laboratories. The proposed provisions are short and self-explanatory.

#### *Article VII: Permit Application Package*

Under this article, an operator on Federal lands would be required by Mining and Minerals and the Director of OSM to submit a permit application package in an appropriate number of copies to Mining and Minerals. The permit application package is to be in the form required by Mining and Minerals and contain any supplemental information, such as data pertaining to the life of the mine, which may be required by the Department of the Interior. At a minimum, the permit application package must include the information necessary for Mining and Minerals and the Department to make a determination of compliance with the State program, applicable terms and conditions of the Federal coal lease, and applicable requirements of other Federal laws and regulations. Comments are invited on whether more specificity is required under subsection 11(e) of this Article regarding the State program and other Federal laws and regulations which may be applicable.

Article VII also would describe the procedures for the cooperative review and analysis of permit applications on Federal lands. The proposed agreement would identify Mining and Minerals as primarily responsible for the analysis and review of the permit application package on Federal lands in New

Mexico. OSM would assist the State in carrying out its responsibility for the analysis and review. However, this would not preclude an independent determination by the Department of the Interior with respect to those statutory requirements and decisions which the Secretary cannot by statute delegate to the State.

In assuming primary responsibility for review and analysis of the permit application package, Mining and Minerals would also be the primary point of contact for operators on behalf of both the State and the Department. All joint State-Federal determinations would be channeled to the operator through Mining and Minerals. However, this would not preclude the Secretary from contacting the operator independently of the State to carry out his statutory responsibilities. Copies of any correspondence with the applicant as well as any information OSM receives from an applicant would be provided to Mining and Minerals.

In addition, this Article refers to Appendix B. The exact procedures to be followed in processing the permit application package or application for a permit revision would be listed in Appendix B, and in summary they would be:

A. Mining and Minerals would be the primary point of contact and would coordinate communications with the applicant. Mining and Minerals would receive copies of the permit application package or the application for a permit revision in an appropriate number. OSM would be required to transmit an appropriate number of copies to the appropriate Federal land management agency, Minerals Management Service, and other appropriate Federal agencies specified by the Secretary for their review.

Mining and Minerals would determine the completeness of the permit application package, coordinate the technical review of the permit application package, develop the decision document, and issue the permit or permit revision for surface coal mining operations. The Secretary would be required to review and approve the elements of the package relating to the MLA and other requirements of the permit application package such as cultural resources and post-mining land use which are required by Federal law and cannot be delegated to the State. Even though the permit is issued by the State, Federal lands may not be affected until the Secretary approves the mining plan pursuant to the requirements of the MLA as required by section 523(c) of the Act and complies with the requirements

of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* Because of the timing requirements of NEPA, it is possible that the permit will be issued before the mining plan is approved by the Secretary. If a permit is issued prior to Secretarial approval, Mining and Minerals would reserve the right to modify the permit to conform with the Secretary's decision.

B. OSM, at the request of Mining and Minerals, would assist as possible in the review of the permit application package or application for a permit revision and provide technical assistance to Mining and Minerals. OSM also would coordinate with Mining and Minerals to incorporate NEPA requirements into the decision document. Responsibility for compliance with NEPA would remain with OSM.

C. The Minerals Management Service would assist Mining and Minerals as arranged and would be the point of contact with the applicant on issues concerned exclusively with its regulations codified at 30 CFR Part 211.

D. The appropriate Federal land management agency would assist Mining and Minerals as arranged and would determine whether the permit application or application for a permit revision provides for post-mining land use consistent with its land use plan and whether it provides sufficient protection for resources not covered by the Federal coal lease.

E. Other agencies specified by the Secretary would review the permit application package or application for a permit revision in regard to their responsibilities under Federal law.

Coal Exploration. The original cooperative agreement proposed by the State and published in the *Federal Register* on August 6, 1981 (46 FR 40050), contained an Article dealing with the regulation of coal exploration on Federal lands. This Article (formerly Article VIII) has been deleted pending further consideration of the proper roles of OSM, Minerals Management Service, Bureau of Land Management, and the State.

#### Article VIII: Inspections

This article would specify that Mining and Minerals must conduct inspections on Federal lands and prepare and file inspection reports in accordance with its approved State program.

Administrative provisions of this article include designation of Mining and Minerals as the primary point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection.

The right of Federal and State agencies to conduct inspections for

purposes outside the scope of the proposed cooperative agreement would not be affected. In particular, this article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR 743 and 842. The article would also reserve the Secretary's right to conduct inspections without prior notice to the State to carry out his responsibilities under the Federal Act.

#### Article IX: Enforcement

Proposed Article IX would set forth the enforcement obligations and authorities of OSM and Mining and Minerals. Mining and Minerals would have primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the approved State program.

This article also would specify that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act would be preserved, as would OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM would apply the performance standards contained in the approved State program, but would use the Federal procedures and penalty system.

#### Article X: Bonds

Under this article, Mining and Minerals would require each operator to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States, if required by regulation. Mining and Minerals would be required to obtain the consent of the Department prior to releasing or forfeiting an operator's performance bond. In addition to a performance bond, an operator still would be required to furnish a lease bond and a lessee protection bond. Bonding requirements of the MLA and other Federal laws appear at 30 CFR Part 742 and 43 CFR Part 3474.

#### Article XI: Designation of Lands as Unsuitable

This article would describe the roles of Mining and Minerals and OSM in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations on adjacent Federal and non-Federal lands. The authority to designate Federal lands as unsuitable would be reserved to the Secretary or his designated representative. See 30 CFR 745.13. Petitions for designation on Federal lands must be filed in accordance with 30 CFR Part 769.

#### Article XII: Termination of Cooperative Agreement

Article XII would provide for termination of the proposed permanent program cooperative agreement in accordance with 30 CFR 745.15.

#### Article XIII: Reinstatement of Cooperative Agreement

Article XIII would provide for reinstatement of the Agreement under 30 CFR 745.16.

#### Article XIV: Amendment of Cooperative Agreement

Article XIV would provide that the proposed permanent program cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

#### Article XV: Change in State or Federal Standards

This article would recognize that the Secretary or the State may, from time to time promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures, necessitating corresponding changes to the cooperative agreement. Changes made by the State would be made in accordance with 30 CFR Part 732 in order to be consistent with State program regulations. Changes made by the Secretary would be made in accordance with section 501 of the Act.

#### Article XVI: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article would require the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the Agreement.

#### Article XVII: Definitions

This article would specify which definitions would apply. Basically, it would adopt the definitions presently in force in the Act, OSM's permanent regulatory program and the State program. In the case of conflict, the State definition would apply except in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

#### Article XVIII: Reservation of Rights

Article XVIII would recognize that the Act, 30 CFR 745.13 and other authorities prohibit the Secretary from delegating certain authorities to the State.

Article XVIII would state that the Agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the Agreement or available to the parties under the authorities cited in Appendix A.

Pursuant to 30 CFR 745.13 and the terms of this Article, the Secretary would reserve authority and responsibility for several MLA functions (e.g., release of lease bonds). Under section 523 of the Act and 30 CFR 745.13(i), the Secretary must retain authority to approve mining plans or significant modifications thereto on Federal lands.

Section 745.13 of OSM's regulations lists other specific responsibilities reserved to the Secretary. Among these responsibilities is the designation of Federal lands as unsuitable for surface coal mining operations and the termination of such designations.

#### *Other Reservations*

The Department of the Interior also would reserve the authority and responsibility for several specific functions which are an integral part of the permit application package review procedures discussed earlier. These items include, but are not limited to, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*; compliance with the consultation requirements of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470f.

#### *Compliance with NEPA*

The Department and its member offices and bureaus must comply with NEPA, its implementing regulations and the Department's own guidelines. See 40 CFR 1500 *et seq.* (regulations of the Council on Environmental Quality) and 45 FR 27541 (April 23, 1980) (Department of the Interior Notice of Final Revised Procedures). See also 45 FR 10043 (February 14, 1980) (Notice of Proposed Revised Instructions for the Office of Surface Mining). These authorities require the Department, prior to a decision on a permit application package on Federal lands, to prepare an environmental assessment or environmental impact statement. The current regulations at 30 CFR 745.13(b) do not allow the Secretary to delegate his NEPA duties to the States. However, the Secretary believes that this regulation does allow States to assist in preparation of NEPA documents (see 40 CFR 1506.2), with final action reserved to the Secretary.

The Department invites comment on whether the procedures for compliance with NEPA and its implementing regulations and guidelines are adequately addressed in the proposed cooperative agreement.

#### *The Endangered Species Act (16 U.S.C. 1536)*

This Federal law requires that the Department take such steps as are necessary to insure that actions authorized, funded, or carried out by Federal departments and agencies do not jeopardize the continued existence of an endangered species, or result in the destruction or modification of a species critical habitat. 16 U.S.C. 1536. See 50 CFR Part 402 (regulations on interagency cooperation under the Endangered Species Act). OSM's regulations at 30 CFR 745.13(m) provide that the Secretary's obligation to consult under section 7(a) of the Endangered Species Act regarding actions on Federal lands may not be delegated to a State.

#### *The National Historic Preservation Act (16 U.S.C. 470f)*

Compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) is mandatory where the approval of mining on Federal lands may adversely affect sites, buildings, objects or districts which are listed on, or eligible for listing on, the National Register of Historic Places. Compliance is achieved through early consultation with and involvement of State Historic Preservation Officers and, in some cases, consultation with the Advisory Council on Historic Preservation.

OSM and the Department must also comply with Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (May 13, 1971). Executive Order 11593 contains two principal requirements. First, with respect to properties not owned by the Federal government, agencies and departments must establish procedures for consultation with the Advisory Council on Federal plans and programs affecting such properties.

Second, the Order requires all Federal agencies and departments to inventory and nominate historic sites, buildings, districts and objects that are on Federal property and that may be eligible for inclusion on the National Register of Historic Places.

Pending completion of the inventory and nomination process, Federal agencies and departments must take measures to ensure that eligible properties are not substantially altered, and no action affecting an eligible

property may be taken without first providing the Advisory Council on Historic Preservation an opportunity to comment. The Archeological and Historic Preservation Act of 1974, 16 U.S.C. 469a-1, provides a means for private parties or the Federal government to actually recover archeological materials and data through, for example, surveys, excavation and removal to a museum. See Statement of Program Approach of the Heritage Conservation and Recreation Service at 44 FR 18117 (March 26, 1979).

These responsibilities would be reserved to the Secretary under the proposed cooperative agreement since they are not "expressly addressed" (Article XVI).

#### *Floodplain Management and Wetland Protection*

The Office of Surface Mining has published a general statement of policy which describes the existing procedural mechanisms for compliance with Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977). See 45 FR 49872 (July 25, 1980). Secretarial approval of surface coal mining operations on Federal lands is discussed in that Federal Register notice at 45 FR 49872-73. As noted therein, the method and responsibility for compliance with these two orders is to be a subject of the permanent program cooperative agreements under 30 CFR 745.

Since the proposed cooperative agreement with New Mexico would not directly discuss compliance with these Orders, the obligation for compliance with them would remain with the Secretary and would not be delegated to New Mexico.

#### *Recordkeeping and Reporting Requirements*

The proposed rule was listed in the Department's October 30, 1981, Semiannual Agenda of rules scheduled for review and development.

There are recordkeeping and reporting requirements in the proposed rules which are the same as and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

#### *Location of Requirement and OMB Clearance Number*

Article VI.9, (Required by 30 CFR Part 735), 1029-0013

Article VII.11, (Required by 30 CFR Part 741), 1029-0026

Article VII.14, (Required by 30 CFR Part 786), 1029-0041

Article VIII.18, (Required by 30 CFR Part 840), 1029-0051

Article X.27, (Required by 30 CFR Part 800), 1029-0043

*Statement of Economic Effects and of Environmental Impact*

In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Law.

The Department has reviewed this determination in light of recent changes in the regulatory process brought about by Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96-354); and the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirement to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

**List of Subjects in 30 CFR Part 931**

Coal mining, Intergovernmental relations, Surface mining, Underground Mining.

For the reasons set forth herein, it is proposed to amend 30 CFR Part 931.

Dated: May 11, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

**PART 931—NEW MEXICO**

1. Section 931.30 is added to read as follows:

**§ 931.30 State-Federal Cooperative Agreement.**

The State of New Mexico (State) acting through the Governor and the Department of the Interior (Department) acting through the Secretary enter into a Cooperative Agreement (Agreement) to read as follows:

*Article I: Introduction and Purpose*

1. This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an agreement with the Secretary for the regulation and control of surface coal mining and reclamation operations on Federal lands and by section 69-25A-27 NMSA 1978 of the Surface Mining Act (State Act).

The Agreement provides for State regulation of surface coal mining and reclamation operations on Federal lands within the State consistent with the State and Federal Acts, the State program (Program) (30 CFR 931) and the Federal lands program (30 CFR Parts 740-745). The term "Federal lands" is defined in the Federal Act and State and Federal regulations.

2. The purpose of this Agreement is to (a) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations; (b) eliminate intergovernmental overlap and duplication; and (c) provide uniform and effective application of the State and Federal lands programs in New Mexico.

*Article II: Effective Date*

3. This Cooperative Agreement is effective following signing by the Secretary and the Governor, and upon publication as a final rule in the *Federal Register*. This Agreement shall remain in effect until terminated as provided in Article XII.

*Article III: Scope*

4. This Agreement makes the laws, regulations, terms and conditions of the Program conditionally approved effective December 31, 1980 (30 CFR 931), or as hereinafter amended in accordance with 30 CFR 732.17, applicable to Federal lands within the State except as otherwise stated in this Agreement, the Act, 30 CFR 745 or other applicable Federal laws.

*Article IV: Responsibilities*

5. The Mining and Minerals Division (Mining and Minerals) of the New Mexico Energy and Minerals Department is and shall continue to be the sole agency responsible for administering this Agreement on behalf of the

Governor on Federal lands throughout the State. Mining and Minerals has and shall continue to have authority under State law to carry out this Agreement. The Office of Surface Mining of the Department of the Interior (OSM) shall administer this Agreement on behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII.

6. To eliminate duplication and overlap, the State will assume the primary responsibility for the review and analysis of permit application packages subject to legal restrictions including those limitations in 30 U.S.C. 1272(b) and 1273 and in 42 U.S.C. 4321-4335. The State shall have the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal Act and the Program.

*Article V: Funding*

7. The State will devote adequate funds to the administration and enforcement of this Agreement on Federal lands within the State. If this Agreement has been carried out, and subject to appropriations, the Department shall provide the State with funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in 30 U.S.C. 1295(c) and 30 CFR 735.16. Reimbursement shall be in the form of annual grants, and applications for said grants shall be processed and awarded in a timely and prompt manner.

If sufficient funds have not been appropriated to OSM, OSM and Mining and Minerals shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget (OMB) Circular A-102, Attachment E.

*Article VI: Reports, Fees and Equipment*

8. Mining and Minerals shall make annual reports to OSM containing information respecting its compliance with the terms of this Agreement pursuant to 30 CFR 745.12(c). The State and OSM shall exchange, upon request, except where prohibited by Federal law, information developed under this Agreement. OSM shall provide Mining and Minerals with a copy of any evaluation report prepared concerning State administration and enforcement of this Agreement.

9. The amount of the fee accompanying an application for a permit shall be determined in accordance with State Rule 80-1, Part 5-25. All permit fees shall be retained by the State and deposited with the State Treasurer in the Oil and Gas Conservation Fund. The Financial Status Report submitted pursuant to 30 CFR 735.26 shall include a report of the amount of fees collected during the prior State fiscal year.

10. Mining and Minerals will assure itself access to equipment, laboratories and facilities with which all inspections, investigations, studies, tests and analyses can be performed, and which are necessary to carry out the requirements of this Agreement.

*Article VII: Permit Application Package*

11. Mining and Minerals and OSM shall require an operator on Federal lands to submit a permit application package or an application for a permit revision in an appropriate number of copies to Mining and Minerals. Any documentation or information submitted by the operator for the sole purpose of complying with the 3-year requirement of section 7(c) of the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, will be forwarded to the Minerals Management Service (MMS). If such documentation is submitted as part of a permit application package, a copy will be forwarded to MMS by Mining and Minerals.

The permit application package or application for a permit revision shall be in the form required by Mining and Minerals, shall satisfy the requirements of 30 CFR 741.12(b) and 30 CFR 741.13, and shall include the information required by, or necessary for, Mining and Minerals and the Secretary to make a determination of compliance with:

- (a) Section 69-25A-1, *et seq.*, NMSA 1978;
- (b) New Mexico Coal Surface Mining Commission Rule 80-1;

(c) Applicable terms and conditions of the Federal coal lease;

(d) Applicable requirements of the MMS's 30 CFR Part 211 regulations pertaining to the Mineral Leasing Act requirements; and

(e) Applicable requirements of the approved Program, and of other Federal laws, including, but not limited to, those listed in Appendix A.

12. Mining and Minerals shall assume the primary authority pursuant to section 523(c) of the Federal Act for the analysis and review of the permit application package or application for a permit revision according to the standards of the Program. OSM shall assist Mining and Minerals in the analysis of the permit application package or application for a permit revision according to the procedures set forth in Appendix B. The Department shall concurrently carry out its responsibilities under the Mineral Leasing Act (MLA), as amended, the National Environmental Policy Act (NEPA), and other public laws (including but not limited to those in Appendix A) that cannot, under the Act, be delegated to the State, according to the procedures set forth in Appendix B. The Secretary shall evaluate the Mining and Minerals analysis and conclusions as conducted pursuant to the Program and this Agreement as necessary to determine independently whether the Secretary concurs in Mining and Minerals' proposed decision. Based upon the information in the decision document, as described in Appendix B, and any other information which the Secretary is required to consider, the Secretary shall approve or disapprove the proposed mining operation.

13. Mining and Minerals shall be the primary point of contact with the operator. The Department will independently initiate contacts with the applicant regarding permit application packages or applications for a permit revision only where necessary to carry out its statutory responsibilities. When such action may generate correspondence with the applicant, a copy of all correspondence with the applicant that may have a bearing on

decisions regarding the mining operation shall be sent to Mining and Minerals.

14. Mining and Minerals shall maintain a file of all original correspondence with the applicant and any information received from the applicant which may have a bearing on decisions regarding the permit application package or application for a permit revision. At the request of the Secretary or his designated agents, Mining and Minerals shall make available the Mining and Minerals files and send copies of such correspondence and information when requested to do so.

15. To the fullest extent allowed by State and Federal law, OSM and Mining and Minerals shall cooperate so that duplication will be eliminated in conducting the review and analysis of the permit application package or application for a permit revision.

16. Mining and Minerals will review permit application packages under sections 11-11 through 11-29 of the State of New Mexico Surface Coal Mining Regulations, Rule 80-1.

*Article VIII: Inspections*

17. Mining and Minerals shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with its Program.

18. Mining and Minerals shall, subsequent to conducting any inspection on Federal lands, file with OSM on a timely basis, an inspection report adequately describing (1) the general conditions of the lands; (2) the manner in which the operations are being conducted; and (3) whether the operator is complying with applicable performance and reclamation requirements.

19. Mining and Minerals will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as describe hereinafter. Nothing in this Agreement shall prevent Federal inspections by authorized Federal agencies for purposes other than those covered by this Agreement.

20. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 743.

21. Except as provided below, the Secretary shall give Mining and Minerals reasonable notice of his intent to conduct an inspection in order to provide State inspectors an opportunity to join in the inspection. The Secretary reserves the right to conduct inspections without prior notice to Mining and Minerals to carry out his responsibilities under the Federal Act.

*Article IX: Enforcement*

22. Mining and Minerals shall be the primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority of the Secretary under other laws and orders including, but not limited to, those listed in Appendix A is reserved to the Secretary.

23. During any joint inspection by OSM and Mining and Minerals, Mining and Minerals shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation and assessment of penalties. OSM and

Mining and Minerals shall consult prior to issuance of any decision to suspend or revoke a permit.

24. Mining and Minerals and OSM shall promptly notify each other of all violations of applicable laws, regulations, orders, approved mining and reclamation plans and permits subject to this Agreement and of all actions taken with respect to such violations.

25. During any inspection made solely by OSM or any joint inspection where Mining and Minerals and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the performance standards included in the regulations of the approved Program, and the procedures and penalty system contained in 30 CFR Parts 843 and 845. This Agreement does not limit the Department's authority to enforce violations of standards and requirements which are authorized by Federal laws other than the Act.

26. Personnel of the State and the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

*Article X: Bonds*

27. For all surface coal mines on Federal lands, Mining and Minerals and the Secretary shall require all operators to submit a single performance bond to cover the operator's responsibilities under the Act and the Program, payable to the State and the United States, if required by regulation. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law and release of the bond shall be conditioned upon compliance with all applicable State and Federal requirements. If the cooperative agreement is terminated, all bonds will revert to being payable only to the United States. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Part 3474 or a lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of the Act.

28. Prior to releasing the operator from an obligation required under the Program under the performance bond for any Federal lands, Mining and Minerals shall obtain the consent of OSM. Mining and Minerals shall also advise OSM of adjustments to the performance bond.

29. The operator's performance bond shall be subject to forfeiture with the consent of the Department, in accordance with the procedures and requirements of the Program.

*Article XI: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining*

30. Mining and Minerals and the Director will cooperate with each other in the review and processing of petitions to designate lands as unsuitable for surface coal mining operations. When either agency receives a petition that could impact adjacent Federal and non-Federal lands, the agency receiving the petition shall (1) notify the other of receipt and of the anticipated schedule for

reaching a decision; and (2) request and fully consider data, information and the views of the other.

The authority to designate Federal lands as unsuitable for mining is reserved to the Secretary or his designated representative.

**Article XII: Termination of Cooperative Agreement**

31. This Agreement may be terminated by the State or the Department under the provisions of 30 CFR 745.15.

**Article XIII: Reinstatement of Cooperative Agreement**

32. If this Agreement has been terminated in whole or in part it may be reinstated under the provision of 30 CFR 745.16.

**Article XIV: Amendments of Cooperative Agreement**

33. This Agreement may be amended by mutual agreement of the State and the Department. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after Federal rulemaking in accordance with 30 CFR 745.11. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

**Article XV Changes in State or Federal Standards**

34. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the State Program, and under the procedures of section 501 of the Federal Act for changes to the Federal lands program.

35. The State and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

**Article XVI: Changes in Personnel and Organization**

36. The State and the Department shall, consistent with 30 CFR 745.12, advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions and persons within their organizations. Each shall promptly advise the other in writing of changes in key personnel, including the heads of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the Program. The State and the Department shall advise each other in writing of changes in the location of offices, addresses, telephone numbers and changes in the names, locations and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

**Article XVII: Definitions**

Terms and phrases used in this Agreement which are defined in the Federal Act, 30 CFR 700, 701, and 740, and defined in the New Mexico Surface Mining Act (69-25A-1, *et seq.*, NMSA 1978) and the rules and regulations promulgated pursuant to that Act, shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved Program will apply, except in the case of a term which defines the Secretary's continuing responsibilities under the Federal Act and other laws.

**Article XVIII: Reservation of Rights**

38. In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

\_\_\_\_\_  
Governor of New Mexico

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary of the Interior

\_\_\_\_\_  
Date

**Appendix A**

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701, *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.*, and implementing regulations including 30 CFR Part 211.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and implementing regulations including 40 CFR 1500 *et seq.*
4. The Endangered Species Act, 16 U.S.C. 1531, *et seq.*, and implementing regulations including 50 CFR 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*, and implementing regulations including 36 CFR 800.
6. The Clean Air Act, 42 U.S.C. 7401, *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, as amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469, *et seq.*
10. Executive Order 11593, Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 for Flood Plain Protection. Executive Order 11990 for Wetlands Protection.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351, *et seq.*, and the implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*

14. The Constitution of the United States.
15. The Constitution of the State and State law.

**Appendix B**

**Procedure for Cooperative Review of Permit Application Packages and Applications for Permit Revisions for Federal Mines in New Mexico**

**I: Point of Contact and Coordination During the Review of Permit Application Packages and Applications for Permit Revisions**

A. The New Mexico Mining and Minerals Division (Mining and Minerals) will:

1. Be the point of contact and coordinate communications with the applicant on issues concerned with the development, review and approval of the permit application packages or applications for permit revisions, except on issues concerned with the requirements of the Mineral Leasing Act (MLA) or National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and the requirements of other Federal laws not addressed in the applications.
2. Communicate with the applicant on issues of concern to the appropriate Federal land management agency (FLMA) and immediately advise FLMA and the Office of Surface Mining (OSM) of such issues and communication.
3. Communicate with the applicant on issues of concern to OSM, and immediately advise OSM of such issues and communications.
4. Communicate with the applicant on issues of concern to the Minerals Management Service (MMS) and immediately advise MMS and OSM of such issues and communications as they pertain to the application.
5. Communicate with the applicant on issues of concern to other agencies within the Department of the Interior, as appropriate, and immediately advise such agencies of such issues and communications.
6. Provide OSM with a copy of each apparent completeness review upon completion.

B. MMS will:

1. Receive any documentation required by the 30 CFR Part 211 regulations.
  2. Be the point of contact with the applicant on issues concerned exclusively with the 30 CFR Part 211 regulations.
  3. Provide Mining and Minerals and OSM with copies of pertinent correspondence.
- C. OSM will:

Be responsible for ensuring that any information OSM receives which has a bearing on decisions regarding the permit application package or application for a permit revision is sent promptly to Mining and Minerals.

**II: Receipt and Distribution of Permit Application Packages and Applications for Permit Revisions**

A. Mining and Minerals will:

1. Receive the permit application package, the application for a permit revision or the correspondence from the applicant and transmit an appropriate number of copies to FLMA, MMS, OSM and other agencies

specified by the Secretary after the application has been filed. Such transmittal will include a request for a conference on the submissions, as needed.

2. Identify an application manager responsible for coordinating the review and notify OSM, MMS and FLMA as necessary.

3. Upon receipt of an application, meet with OSM to discuss the application and agree upon a schedule, and, when Mining and Minerals requests assistance, also agree upon a work plan with OSM.

**B. OSM, MMS and FLMA will:**

Identify an application manager upon receipt of the application and notify Mining and Minerals of the identity of the application manager.

**III: Determination of Completeness**

**A. Mining and Minerals will:**

1. Determine the completeness of a permit application package or application for a permit revision.

2. Issue public notice of the availability of complete applications for the public to review in accordance with the public review procedure set forth in Part II CSMC Rule 80-1.

**IV: Determination of Preliminary Findings of Substantive Adequacy**

**A. Mining and Minerals will:**

1. Consult with MMS, FLMA, OSM, and other Federal agencies specified by the Secretary to review the filed application for preliminary findings of substantive adequacy (henceforth "preliminary findings") and to assess the need for additional data requirements in their respective areas of responsibility.

2. Arrange meetings and field examinations with the interested parties as necessary to determine the preliminary findings.

3. Advise the applicant of the preliminary findings upon the advice and consent of FLMA, MMS, OSM and other Federal agencies specified by the Secretary.

4. Transmit the letter(s) informing the applicant of the preliminary findings with copies to FLMA, OSM, MMS and other agencies specified by the Secretary.

5. Furnish the Director with copies of correspondence with the applicant and all information received from the applicant as requested.

**B. OSM will:**

1. At the request of the Mining and Minerals, assist, as possible, in the review of the permit application package or application for a permit revision for preliminary findings and provide technical assistance to Mining and Minerals.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision with specified requirements for additional data.

3. No later than 30 days from notification of completeness, initiate NEPA compliance procedures.

4. Participate, as arranged, in meetings and field examinations.

**C. FLMA will:**

1. Review the permit application package or application for permit revision for preliminary findings as to whether the

applicant's proposed post mining land use is consistent with FLMA's land use plan, and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

**D. MMS will:**

1. Review the permit application package or application for a permit revision in regard to MLA requirements addressed in the application.

2. Furnish Mining and Minerals with the preliminary findings within 45 calendar days of receipt of the permit application package or application for a permit revision with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

**E. Other agencies specified by the Secretary will:**

1. Review the permit application package or application for a permit revision for preliminary findings in regard to their responsibilities under law.

2. Furnish Mining and Minerals with preliminary findings within 45 calendar days of receipt of the application with specific requirements for additional data.

3. Participate, as arranged, in meetings and field examinations.

**V: Findings of Technical Adequacy and NEPA Compliance**

**A. Mining and Minerals will:**

1. Develop and coordinate the technical review of permit application packages or application for a permit revision. The review will include representatives of Mining and Minerals, MMS, FLMA, OSM and other agencies specified by the Secretary as appropriate.

2. Coordinate with OSM, for the purpose of eliminating duplication, and provide to OSM a complete technical analysis pursuant to the Federal Act and the Program as approved by the Secretary that will serve as the technical base for an Environmental Analysis (EA) or an Environmental Impact Statement (EIS) as may be necessary to determine NEPA compliance for each permit application package or application for a permit revision.

3. Coordinate, for the purpose of eliminating duplication, with MMS to conduct a technical analysis that will assist the MMS in making findings as may be necessary to determine compliance with the MLA.

4. Coordinate, for the purpose of eliminating duplication, with FLMA to conduct a technical analysis of issues regarding postmining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the lease.

5. Coordinate, for the purpose of eliminating duplication, with other agencies specified by the Secretary, to conduct a technical analysis of issues within their jurisdiction.

**B. OSM will:**

1. At the request of Mining and Minerals assist as possible in the review of the permit

application package or application for a permit revision for technical adequacy in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with OSM.

2. As soon as possible after receipt of the permit application package or application for a permit revision, determine the need for an EA or an EIS, pursuant to NEPA, with the assistance of FLMA, MMS, Mining and Minerals and other appropriate agencies, as arranged.

3. Publish notices of NEPA documents as required by Federal law and regulations.

4. Take the leadership role for the development of the EA and/or EIS including identification of areas where additional data is necessary.

**C. MMS will:**

1. Review the permit application package or application for a permit revision for compliance with 30 CFR Part 211.

2. Furnish Mining and Minerals findings on compliance with 30 CFR Part 211 in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with MMS.

3. Participate, as arranged, in meetings and field examinations.

**D. FLMA will:**

1. Determine whether the permit application package or application for a permit revision provides for post mining land use consistent with FLMA's land use plan and determine the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Furnish Mining and Minerals its determination on the technical adequacy in a timely manner as set forth by a schedule developed by Mining and Minerals in cooperation with FLMA.

3. Participate, as arranged, in meetings and field examinations.

**E. Other agencies specified by the Secretary will:**

1. Review the permit application package or application for a permit revision in regard to their responsibilities under law.

2. Furnish Mining and Minerals findings on compliance with other applicable Federal laws and regulations in a timely manner as set forth by a schedule developed in cooperation with Mining and Minerals.

3. Participate, as arranged, in meetings and field examinations.

**VI: Preparation of the Decision Document and Transmittal**

**A. Mining and Minerals will:**

1. Transmit copies of drafts of the decision document to MMS, FLMA and OSM.

2. Prepare the decision document for the permit application package or application for a permit revision, unless the work plan and schedule agreed upon provides otherwise. The decision document will be in a format approved by the Secretary. This decision document shall contain the following:

a. A brief but comprehensive discussion of the need for the proposal and alternatives to the proposal;

b. A preliminary draft analysis of the environmental impacts of the proposal and alternatives to the proposal prepared in

conformance with NEPA, the Council on Environmental Quality regulations and OSM's NEPA compliance handbook;

c. A finding of compliance with the Program as approved by the Secretary and the regulations promulgated thereunder, which will consist of an analysis of critical issues raised during the course of the review and the resolution of those issues;

d. All other specific written findings required under section 69-25A-14 NMSA 1978;

e. The incorporation of the NEPA findings of compliance, as may be necessary, into the decision document in cooperation with OSM;

f. The incorporation of the determinations and recommendations of FLMA;

g. The memorandum of recommendation from the MMS to the Assistant Secretary of the Interior for Energy and Minerals, with regard to MLA requirements;

h. The incorporation of the comments of other agencies specified by the Secretary, as appropriate.

3. Consider the comments of OSM, MMS and FLMA and transmit the final decision document for surface coal mining and reclamation operations approval to OSM.

**B. OSM will:**

1. Independently review the NEPA compliance document. Provide Mining and Minerals with an approved NEPA compliance finding and incorporate the finding into the decision document.

2. Evaluate the draft decision document and promptly inform Mining and Minerals of suggested changes that should be made.

3. Provide written comment to Mining and Minerals on the decision document within 30 days of receipt.

**C. FLMA will:**

1. Coordinate with Mining and Minerals to incorporate findings regarding postmining land use and the adequacy of measures to protect Federal resources not covered by the rights granted by the Federal coal lease.

2. Evaluate the draft decision document and promptly inform Mining and Minerals of suggested changes that should be made pertinent to FLMA's area of responsibility.

3. Provide written concurrence in the final decision document to Mining and Minerals with a copy to OSM with regard to postmining land use and the adequacy of measures to protect Federal resources not covered by rights granted by the Federal coal lease.

**D. MMS will:**

1. Provide Mining and Minerals with findings regarding its responsibilities under the MLA.

2. Evaluate the draft decision document and promptly inform Mining and Minerals of suggested changes that should be made pertinent to MMS responsibilities.

3. Provide written concurrence in the final decision document to Mining and Minerals with a copy to OSM with regard to its responsibilities.

**E. Other agencies will:**

1. Provide Mining and Minerals with findings regarding their responsibilities under law.

2. Evaluate the draft decision document and promptly inform Mining and Minerals in writing of suggested changes, if any, that should be made pertinent to their responsibilities.

3. Provide written concurrence in the final decision document to Mining and Minerals with a copy to OSM with regard to their responsibilities.

**VII: Decision and Permit Issuance**

**A. The Secretary will:**

1. Evaluate the analysis and conclusions as necessary to determine whether he concurs in the decision document insofar as it relates to his statutorily required decisions.

2. Inform Mining and Minerals immediately of his decision. Where the Secretary decides not to approve, the reasons for not approving shall be specified and recommendations for remedy shall be specified.

**B. Mining and Minerals will:**

1. Issue the permit or revised permit for surface coal mining and reclamation operations after making a finding of compliance with the approved Program and this Agreement.

2. Prohibit the operator from affecting Federal lands under the permit or revised permit until after the Secretary's approval of the mine plan has been received; if Mining and Minerals has issued a permit or revised permit prior to receipt of the Secretary's decision, reserve the right to modify the permit or revised permit to conform with the Secretary's decision.

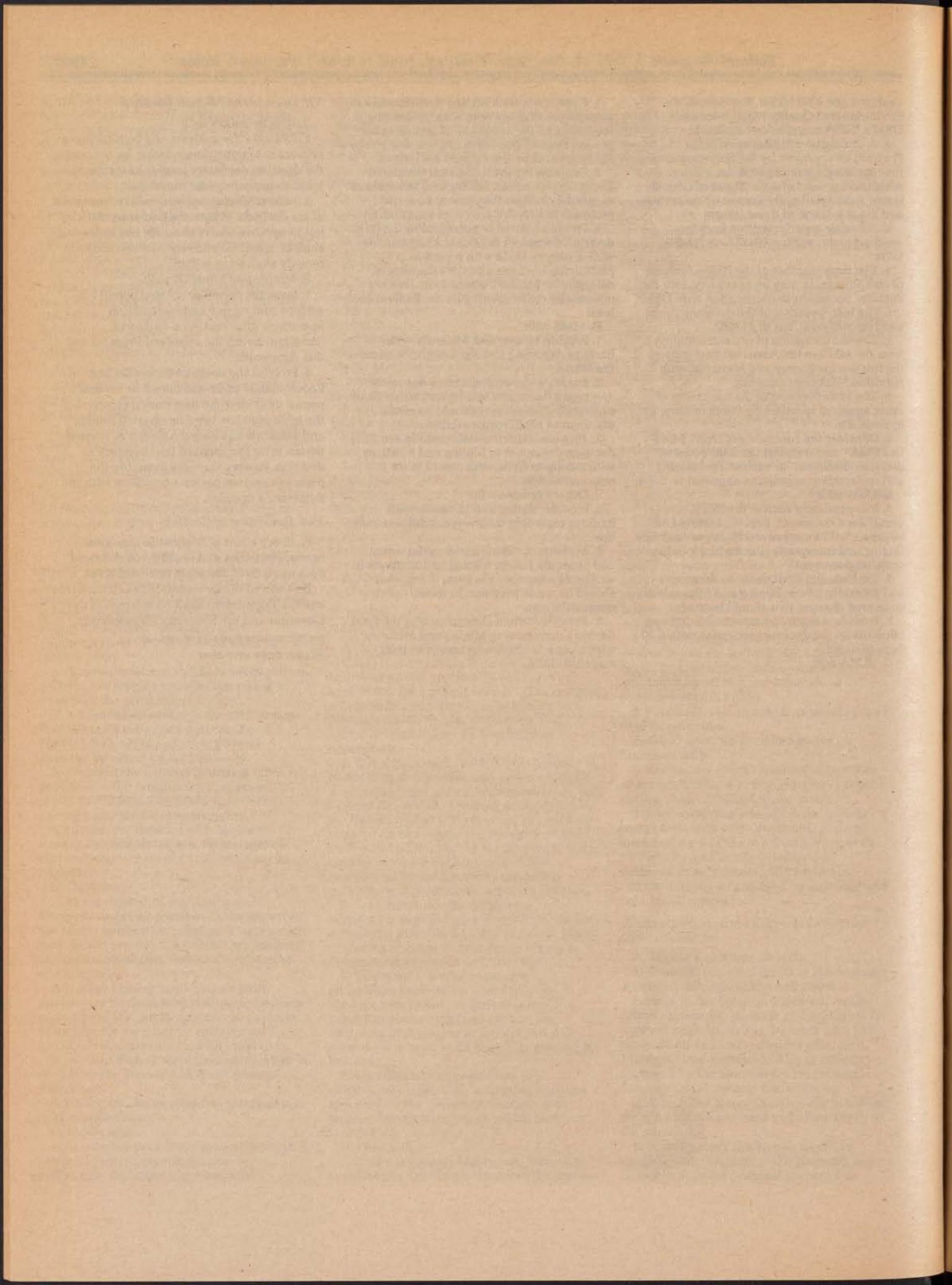
**VIII: Resolution of Conflict**

A. Every effort will be made to resolve errors, omissions and conflicts on data and data analysis at the State and field level.

B. Areas of disagreement between the State and the Department shall be referred to the Governor and the Secretary for resolution.

[FR Doc. 82-14789 Filed 5-28-82; 8:45 am]

BILLING CODE 4310-05-M



# Federal Register

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Tuesday  
June 1, 1982

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## Part VI

### Department of Agriculture

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Agricultural Marketing Service

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Federally Licensed Warehouses;  
Marketing Transactions and Financial  
Statement Requirements

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 102

Federally Licensed Warehouses;  
Marketing Transactions and Financial  
Statement Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action makes final regulations relating to (1) minimum net asset requirements and (2) financial statement requirements for grain warehousemen licensed or applying for license under provisions of the U.S. Warehouse Act (7 U.S.C. 268).

The requirement for specified statements will enable the Agricultural Marketing Service analysts to make additional tests and provide ratios of value in determining a warehouseman's financial strength as well as to determine net asset position.

**EFFECTIVE DATE:** July 1, 1982.

**FOR FURTHER INFORMATION CONTACT:** Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3616).

**SUPPLEMENTARY INFORMATION:** This action was reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981, and was classified "nonmajor" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, determined that the action would not have a significant impact on a substantial number of small business entities because licensing is an elective of the applicant and use of the services is voluntary.

On June 9, 1981, the Department of Agriculture published proposed regulations 46 FR 30620 amending 7 CFR Part 102. The purpose of the proposed regulations was to suggest for comment new regulations defining marketing transactions. Also, changes in existing regulations relating to bonding and net asset requirements, applicable to warehousemen licensed or applying for license under provisions of the U.S. Warehouse Act (7 U.S.C. 268) were specified. The comment period was scheduled to expire August 10 but was reopened to expire August 31, 1981. Fifty-five written responses were received with regard to the minimum net asset requirements, 7 comments indicated that the proposal should be

substantially increased. One comment stated that the regulations should not be changed. The remaining 47 letters were either in favor of the proposal or did not offer any comment. The \$10,000 minimum net asset requirement has been in effect at least since 1974. Increasing commodity values and apparent frequency of insolvencies argue for the increase to \$25,000. Requirements at Agricultural Stabilization and Conservation Service approved warehouses was raised to this level some time ago. Therefore we conclude this proposal is reasonable at federally licensed warehouses.

This action addresses only that portion of the proposed rules establishing an increase from \$10,000 to \$25,000 in the requirement for minimum net assets; other regulations proposed in 46 FR 30620 will be considered as appropriate and when the effect of these changes and those in financial requirements as specified below can be evaluated.

On December 7, 1981, the Department of Agriculture published proposed regulations 46 FR 59930 amending 7 CFR Part 102. The purpose of the proposed regulations was to suggest for comment a requirement that grain warehousemen licensed and/or applying for license under provisions of the U.S. Warehouse Act (7 U.S.C. 268) provide the Secretary with an annual financial statement that had been audited by a certified public accountant. The comment period expired December 31, 1981, but on January 6, 1982, was extended to January 15, 1982. Fifty-nine written comments were received; 45 were opposed to the proposal as published. Opposition to the proposal was based on (1) limitation to auditing by Certified Public Accountants, (2) higher costs for warehousemen due to auditing procedures, and (3) possible ineffectiveness of such requirements to forecast, prevent or minimize bankruptcies any more than existing requirements.

The Department has carefully considered each written comment and the revised regulations reflect answers in part to some objections. The limitation of an audit using certified public accountants exclusively has been revised. Several comments recommended that statements reviewed or audited by independent public accountants which include Certified Public Accountants would provide the Department with sufficient financial information to satisfy its needs. The difference would be in the amount of verification rather than information furnished. The use of Certified Public Accountants could be overly restrictive

adding to the cost and perhaps the immediate ability of warehousemen to comply. Statements may now be "reviewed" or "audited" by an independent public accountant, as well as an audit by a Certified Public Accountant, if the warehouseman subjects himself to an additional on-site examination by the Secretary and to an audit by the Secretary. This has the potential for reducing costs to the warehouseman. To ease the effect of the regulation on licensees who may not be able to rearrange their accounting commitments in time to make the July 1 effective date, the Secretary will be authorized to grant temporary waivers for good and sufficient reason. This also will benefit applicants for license who cannot meet the requirements at time of application or licensing.

The requirement for specified statements will enable the Agricultural Marketing Service analysts to make additional tests and provide ratios of value in determining a warehouseman's financial strength as well as to determine net asset position. This periodic review or audit of a warehouseman's financial position and condition by an independent public accountant will supplement the Department's examination program, together enhancing the value of warehouse receipts and assuring depositors of increased safety in dealing with warehousemen licensed under the Act.

**List of Subjects in 7 CFR Part 102**

Administrative practice and procedures, Grains, Surety bonds, Warehouses.

Said parts and regulations, therefore, are amended or revised as described below:

**PART 102—GRAIN WAREHOUSES**

1. Section 102.6 (7 CFR 102.6) is amended by adding new paragraphs (a), (b) and (c) and redesignating existing paragraphs (a) through (d) to read (d) through (g) as follows:

**§ 102.6 Financial requirements.**

(a) Each warehouseman conducting a warehouse licensed, or for which application for a license has been made under the regulations in this part, shall maintain complete, accurate and current financial records.

(b) Each warehouseman conducting a warehouse for which application for license is made shall provide with this application and each warehouseman licensed under these regulations annually, or more frequently if required, shall furnish to the Secretary financial

statements from the records required in paragraph (a) of this section prepared according to generally accepted accounting principles. Such statements shall include but not be limited to (1) balance sheet, (2) statement of income (profit and loss), (3) statement of retained earnings, and (4) statement of changes in financial position. The chief executive officer for the warehouseman shall certify under penalties of perjury that the statements as prepared accurately reflect the financial condition of the warehouseman as of the date named and fairly represent the results of operations for the period named.

(c) Each warehouseman conducting a warehouse licensed under these regulations shall have the financial statements required in paragraph (b) audited by an independent certified public accountant. Alternatively, financial statements audited or reviewed by an independent public accountant will be accepted with the understanding that the warehouseman will be subject to an additional on-site examination by the Secretary and to an

audit by the Secretary. Audits and reviews by independent certified public accountants and independent public accountants specified in this section shall be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on such statements, if any, shall be furnished along with the statements. Licensees who cannot immediately meet these requirements may apply to the Secretary for a temporary waiver of this provision. The Secretary may grant such waiver for a temporary period not to exceed 180 days if the licensee can furnish evidence of good and substantial reasons therefor.

2. Section 102.6 old paragraph (a) now (d) is amended by changing "\$10,000" wherever used to "\$25,000."

3. Section 102.6 old paragraph (b) now (e) is amended to refer to in the final sentence (d) rather than (a).

4. Section 102.6 old paragraph (c) now (f) is amended to refer to (d) and (e) rather than (a) and (b).

**§ 102.7 [Amended]**

5. Section 102.7 is amended by changing "\$10,000" to "\$25,000."

**§ 102.9 [Amended]**

6. Section 102.9(a) is amended by changing "\$10,000" to "\$25,000."

**§ 102.14 [Amended]**

7. Section 102.14(a) is amended to refer to in the final sentence § 102.6(d) rather than 102.6(a).

8. Section 102.14(c) is amended by changing "\$10,000" to "\$25,000."

**§ 102.58 [Amended]**

9. Section 102.58 (a) and (b) are amended to refer to § 102.6(d) rather than § 102.6(a).

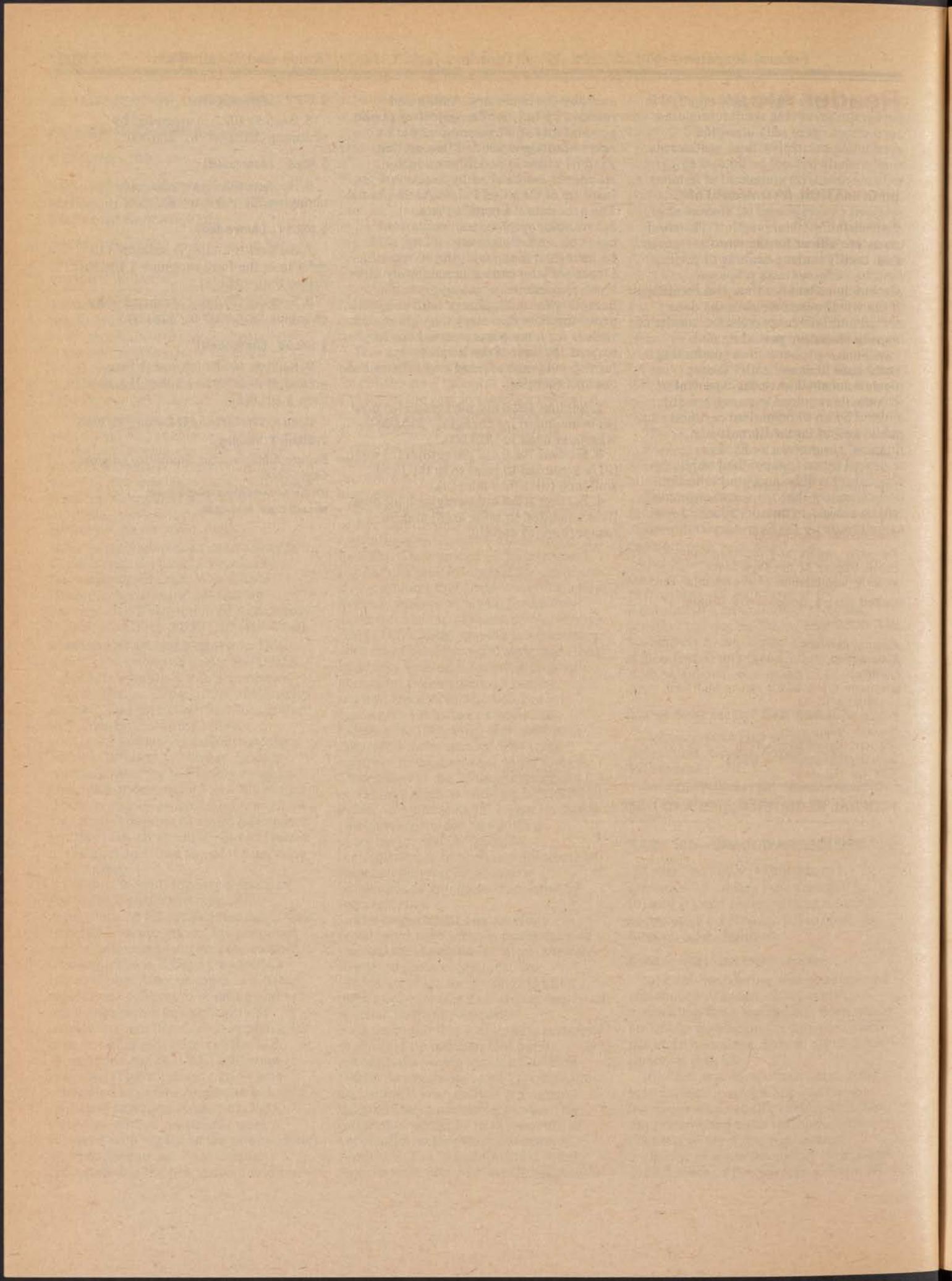
Done at Washington, D.C., May 25, 1982.

William T. Manley,

*Deputy Administrator, Marketing Program Operations.*

[FR Doc. 82-14798 Filed 5-28-82; 8:45 am]

BILLING CODE 3410-02-M



# Reader Aids

Federal Register

Vol. 47, No. 105

Tuesday, June 1, 1982

## INFORMATION AND ASSISTANCE

### PUBLICATIONS

#### Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

#### Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

#### Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

#### Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

#### United States Government Manual

523-5230

### SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

## FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912.....1

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the

Day-of-the-Week Program Coordinator,  
Office of the Federal Register,  
National Archives and Records Service,  
General Services Administration,  
Washington, D.C. 20408.

## TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production. In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday,

the next Federal business day is used (see 1 CFR 18.17).

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
June 1	June 16	July 1	July 16	August 2	August 30
June 2	June 17	July 2	July 19	August 2	August 31
June 3	June 18	July 6	July 19	August 2	September 1
June 4	June 21	July 6	July 19	August 3	September 2
June 7	June 22	July 7	July 22	August 6	September 7
June 8	June 23	July 8	July 23	August 9	September 7
June 9	June 24	July 9	July 26	August 9	September 7
June 10	June 25	July 12	July 26	August 9	September 8
June 11	June 28	July 12	July 26	August 10	September 9
June 14	June 29	July 14	July 29	August 13	September 13
June 15	June 30	July 15	July 30	August 16	September 13
June 16	July 1	July 16	August 2	August 16	September 14
June 17	July 2	July 19	August 2	August 16	September 15
June 18	July 6	July 19	August 2	August 17	September 16
June 21	July 6	July 21	August 5	August 20	September 20
June 22	July 7	July 22	August 6	August 23	September 20
June 23	July 8	July 23	August 9	August 23	September 21
June 24	July 9	July 26	August 9	August 23	September 22
June 25	July 12	July 26	August 9	August 24	September 23
June 28	July 13	July 28	August 12	August 27	September 27
June 29	July 14	July 29	August 13	August 30	September 27
June 30	July 15	July 30	August 16	August 30	September 28

## CFR CHECKLIST; 1981-82 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981/82.

New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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## CFR Unit (Rev. as of Jan. 1, 1982):

Title	Price		
1-2	\$5.50	900-1899	6.50
4	7.50	1900-1910	9.00
		1911-1919	6.00
		1920-end	8.50
<b>5 Parts:</b>		<b>30 Parts:</b>	
1-1199	8.00	0-199	8.50
1200-end	6.00	200-end	9.00
<b>7 Parts:</b>		<b>31 Parts:</b>	
210-299	8.00	0-199	7.00
300-399	6.50	200-end	8.00
400-699	7.50	<b>32 Parts:</b>	
700-899	7.50	1-39, Vol. I (rev. Aug. 1, 1981)	9.00
900-999	9.50	1-39, Vol. II (rev. Aug. 1, 1981)	13.00
1000-1059	7.50	1-39, Vol. III (rev. Aug. 1, 1981)	9.50
1060-1119	7.50	40-399	13.00
1120-1199	8.50	400-699	10.00
1200-1499	7.50	700-799	8.50
1500-1899	6.50	800-999	8.00
1900-1944	8.50	1000-end	7.00
<b>8</b>	6.00	<b>33 Parts:</b>	
<b>9 Parts:</b>		1-199	9.50
1-199	7.50	200-end	8.50
<b>10 Parts:</b>		<b>34 Parts:</b>	
0-199	8.50	1-399	14.00
200-399	7.50	400-end	8.50
400-499	8.00	<b>35 (Rev. 12/31/81)</b>	6.50
<b>12 Parts:</b>		<b>36 Parts:</b>	
1-199	6.50	1-199	6.50
300-499	7.00	200-end	7.50
<b>14 Parts:</b>		<b>37</b>	6.50
1-59	8.00	<b>38 Parts:</b>	
140-199	6.50	0-17	8.00
200-1199	8.50	18-end	7.00
1200-end	6.50	<b>39</b>	6.50
<b>15 Parts:</b>		<b>40 Parts:</b>	
0-299	6.50	0-51	8.50
300-399	7.50	<b>52</b>	9.50
400-end	7.50	53-80	9.00
<b>16 Parts:</b>		81-99	9.50
0-149	7.00	100-149	12.00
150-999	7.00	150-189	7.50
1000-end	7.50	190-399	13.00
<b>CFR Index</b>	9.50	400-424	8.00
<b>CFR Unit (Rev. as of Apr. 1, 1982):</b>		425-end	8.00
<b>21 Parts:</b>		<b>41 Chapters:</b>	
1-99	7.00	1 (1-1 to 1-10)	8.00
<b>CFR Unit (Rev. as of July 1, 1981):</b>		1 (1-11 to App.)-2	7.50
<b>28 (Rev. 11/1/81)</b>	8.00	3-6	8.50
<b>29 Parts:</b>		7	5.25
0-99	9.50	8	5.00
100-499	6.50	9	8.00
500-899	9.00		

10-17	7.50	30-40	5.50
18 (Volume I)	8.00	41-69	7.50
18 (Volume II)	9.50	70-89	6.00
18 (Volume III)	8.00	90-109	6.50
19-100	8.00	140-155	6.50
101	9.00	156-165	7.00
102-end	7.00	166-199	6.50
		200-399	8.00
		400-end	8.00

## CFR Unit (Rev. as of Oct. 1, 1981):

<b>42 Parts:</b>		<b>47 Parts:</b>	
1-60	7.50	0-19	7.50
61-399	6.50	20-69	9.50
400-end	9.00	70-79	8.00
		80-end	8.50
<b>43 Parts:</b>		<b>49 Parts:</b>	
1-999	7.00	1-99	6.00
1000-3999	8.50	100-177	9.00
4000-end	6.50	178-199	8.00
<b>44</b>	7.50	200-399	7.50
<b>45 Parts:</b>		400-999	8.00
1-199	7.00	1000-1199	7.50
200-499	6.00	1200-1299	8.00
500-1199	7.50	1300-end	7.00
1200-end	7.00	<b>50 Parts:</b>	
<b>46 Parts:</b>		1-199	6.50
1-29	5.50	200-end	8.00

NOTE: ABOVE PRICES REFLECT RECENT GPO INCREASE.

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